SECOND AGREEMENT WITH CITY OF IRVINE AS ADJACENT LANDOWNER

This SECOND AGREEMENT WITH CITY OF IRVINE AS ADJACENT LANDOWNER (this "Agreement") is dated as of November 26, 2013 ("Effective Date"), by and between HERITAGE FIELDS EL TORO, LLC, a Delaware limited liability company ("Heritage Fields"), and THE CITY OF IRVINE, a California charter city (the "City"). Heritage Fields and City are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. The City, the former Irvine Redevelopment Agency, and 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" on December 27, 2010 ("Original ARDA"). The Original ARDA was approved by the City Council of the City of Irvine ("City Council") pursuant to Ordinance No. 09-09 on September 8, 2009, and has been supplemented by those certain letter agreements dated December 27, 2010 and September 13, 2011 (the "ARDA Letter Agreements"). The Original ARDA, as supplemented by the ARDA Letter Agreements, is hereinafter referred to as the "ARDA" and pertains to the development of a new master-planned community on property owned by Heritage Fields and known as the "Great Park Neighborhoods"; and

B. The City and Heritage Fields entered into an agreement entitled "Amended and Restated Master Implementation Agreement" on December 27, 2010 (the "Original ARMIA"). The Original ARMIA has been supplemented by that certain letter agreement dated December 27, 2010 (the "ARMIA Letter Agreement"). The Original ARMIA, as supplemented by the ARMIA Letter Agreement, is hereinafter referred to as the "ARMIA"; and

C. Pursuant to the terms of the ARDA, the City acknowledged and agreed that it would construct a park on the Great Park Property (as defined in the ARDA) substantially in compliance with the Orange County Great Park Master Plan 00434337-PMP (the **"OCGP Master Plan"**), as it may be amended from time to time; and

D. The City and Heritage Fields entered into an agreement entitled "Agreement with City of Irvine as Adjacent Landowner" on September 13, 2011 (the "First ALA") regarding mutual commitments for the cooperative implementation of the Orange County Great Park (the "Great Park"), the Great Park Neighborhoods projects, and associated backbone infrastructure improvements; and

E. The City is the owner of that certain real property generally depicted in orange on **Exhibit A** attached hereto and incorporated herein by reference, and through the implementation of this Agreement, the City may become the owner of that certain real property generally depicted in orange with green cross-hatching on **Exhibit A** attached hereto and incorporated herein by reference (the areas depicted in orange, and in orange

with green cross-hatching are together hereinafter referred to as the "OCGP Improvement Area"); and

F. Heritage Fields filed applications with and/or submitted requests to the City for the Entitlements (as defined below); and

G. The City, as an adjacent landowner, has identified certain matters it would like to see addressed and implemented in connection with the proposed development of the property owned by Heritage Fields and the OCGP Improvement Area, and Heritage Fields and the City have mutually agreed to address those matters through, among other things, this Agreement; and

H. Heritage Fields has committed to construct or cause the construction of a portion of the Great Park which development represents an investment in public amenities and improvements that would otherwise have been borne by the public, and has further committed to fund up to \$2 million for planning, feasibility and related technical studies for future development of the Cultural Terrace area of the Great Park, and has further committed to fund and undertake, if feasible and desirable, up to \$2 million for Terraforming (defined below), hydroseeding and irrigation of all or some portion of the remaining undeveloped portions of the Great Park that are not part of the OCGP Improvement Area to be developed with the Great Park Improvements (defined below), upon the terms and conditions more particularly set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in view of the foregoing recitals and in consideration of the following terms, conditions and covenants, it is agreed as follows:

1. Definitions.

(a) The term "Acquisition Agreement" means that certain Acquisition Agreement by and between City, on behalf of itself and on behalf of City of Irvine Community Facilities District No. 2013-3 (Great Park), and Heritage Fields, dated as of March 26, 2013, as the same may be amended or modified from time to time.

(b) The term "Additional Allowance Fund" shall mean an amount equal to Fifteen Million Five Hundred Thousand and No/100 Dollars (\$15,500,000.00), which aggregate amount is broken down by Subareas as described in the Design Package.

(c) The term "Costs" means actual costs and expenses incurred by Heritage Fields and its Licensed Affiliate (defined below) in connection with the design, permitting, and construction of the Great Park Improvements (defined below), including without limitation, the following: (i) all payments to contractors, subcontractors, consultants, suppliers, vendors, insurers and sureties; (ii) costs incurred with respect to soils and geotechnical testing and analysis; (iii) surveying; (iv) the preparation of plans and specifications; (v) construction costs, including those that relate to grading, paving, planting, fencing, building structures, maintenance and warranty work; (vi) labor,

material and equipment costs; (vii) premiums for insurance covering worker's compensation, liability, course of construction, and other insurance incurred or reasonably allocable to the Great Park Improvements (defined below); (viii) application, grading, building, permitting, plan check, inspection, and/or utility connection, hook-up, or other fees or costs; (ix) engineering costs; (x) bond premiums; (xi) fees and costs of architects, engineers and any other design consultants; and (xii) costs to comply with state, local and federal governmental and regulatory requirements, including without limitation any erosion control and stormwater requirements with respect to drainage and erosion control.

(d) The term "Design Package" shall mean the Design Package described on Exhibit B and incorporated herein by reference.

(e) The term "Entitlements" means all of the following entitlements (or amendments/modifications to existing entitlements, as applicable), and the environmental review connected with such entitlements:

i. The City's certification of the Second Supplemental Environmental Impact Report (SCH #2002101020) and adoption of a Mitigation Monitoring and Reporting Program, pursuant to City Council Resolution No. 13-132;

ii. The City's adoption of an Ordinance No. 13-07, approving Zone Change 00537029-PZC as modified by the errata presented at the November 26, 2013 meeting ("Zone Change");

iii. The City's adoption of General Plan Amendment 00537028-PGA, pursuant to City Council Resolution No. 13-133;

iv. The City's formal approval of the Irvine Wildlife Corridor Plan (Glenn Lukos Associates 2013) ("Wildlife Corridor Plan"), it being acknowledged that reference to the Wildlife Corridor Plan in the findings of approval of the Zone Change or in a condition of approval shall evidence formal approval;

v. The City's approval of a Second Amendment to the Great Park Neighborhoods Master Affordable Housing Plan, in the form attached hereto as Schedule 1(a)-1;

vi. The City's approval of a Second Amendment to the Density Bonus Agreement, in the form attached hereto as **Schedule 1(a)-2**; and

vii. The City's approval of the Design Package as a "Park Design" in accordance with Irvine Municipal Code Section 2-22-5, together with related findings determining consistency between the Design Package and the OCGP Master Plan, or to the extent the City Council initiates a modification or amendment to the Design Package during the Initial Review Period in conformance with the provisions of Section 2(c) of this Agreement, approval of the revised Design Package as a "Park

Design" together with related findings determining consistency between the Design Package and the OCGP Master Plan.

(f) The term "Entitlements are Deemed Approved" means that each of the Entitlements has been approved by the Planning Commission (where applicable) and the City Council (where applicable) and that no legal action or challenge is commenced against the City by any party other than Heritage Fields or any of its parents, subsidiaries or affiliates (including without limitation, all of the entities listed in the Heritage Fields signature block to this Agreement), to set aside or challenge the validity or enforceability of the Entitlements (in whole or in part) within ninety (90) days of the final action of the City Council. If any such action or challenge is commenced within ninety (90) days of final City Council action, then the "Entitlements are Deemed Approved" when the action or challenge has been dismissed or otherwise settled and resolved in a manner mutually approved by Heritage Fields and the City.

(g) The term "Governmental Authority(ies)" means all federal, state and local governmental and quasi-governmental agencies, bodies, entities, boards and authorities having jurisdiction over the OCGP Improvement Area, the furnishing of utilities or other services to the OCGP Improvement Area, or the subdivision, improvement, development, occupancy, sale or use of any portion of the OCGP Improvement Area.

(h) The term "Great Park Property" shall have the meaning set forth in the ARDA.

(i) The term "Hazardous Materials" means 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, petroleumbased 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.

(j) The term "Subarea(s)" means those certain subareas designated in Subsection 1.2a of the Design Package, namely, the Bosque, Golf Course, Agriculture, Sports Park, Upper Bee, and Wildlife Corridor areas. To the extent the boundary modifications described in <u>Section 7</u> of this Agreement occur, the 3.2 acre area designated as "Heritage Fields El Toro (HFET) Property (Orange County Great Park Improvement Area)" shall become part of the Bosque and Upper Bee Subareas, with the acreage allocated as follows: approximately 2.6 acres added to the Upper Bee Subarea, and approximately 0.6 acres added to the Bosque Subarea.

(k) The term "**Uniform Construction Codes**" collectively refers to the most recent versions of the Irvine Municipal Code, the California Building Code, the California Electric Code, the California Plumbing Code, the California Mechanical Code,

the Uniform Solar Energy Code, the Uniform Swimming Pool, Spa and Hot Tub Code, the Uniform Housing Code, the Uniform Administrative Code and the California Fire Code (including amendments thereto by the Orange County Fire Authority), as adopted by official action of the City, and effective as of January 1, 2014.

2. <u>Construction of Great Park.</u>

(a) <u>Obligation to Construct</u>.

Subject to the terms and conditions of this Agreement and (i) following the date the Entitlements are Deemed Approved, Heritage Fields shall have the right and obligation to fund, oversee, and cause the phased construction of those improvements to the Great Park on the OCGP Improvement Area, consistent with the Design Package (the "Great Park Improvements"). To the extent that, concurrent with the City's approval of this Agreement, the City does not approve the Design Package as a "Park Design" that is consistent with the OCGP Master Plan, then the City shall initiate, and shall expeditiously process, an amendment to the OCGP Master Plan so as to permit approval of the Design Package. Upon completion of construction, Heritage Fields shall provide the City with documented Costs reflecting an aggregate investment by Heritage Fields and its affiliates of at least One Hundred Seventy-Two Million Dollars (\$172,000,000) (the "Minimum Improvement Investment Amount") to design, obtain permits for and construct the Great Park Improvements (including that portion of the Great Park Improvements defined herein below as "Additional Backbone Infrastructure"). If upon completion of the Great Park Improvements the Minimum Improvement Investment Amount has not been expended by Heritage Fields and its Licensed Affiliate, the City and Heritage Fields shall meet and confer in good faith and reasonably agree upon additional improvements to be constructed within the Great Park Improvement Area and/or other portions of the Great Park and/or for other uses mutually agreed upon in writing by Heritage Fields and the City, the cost or payment for which shall be made by Heritage Fields such that the total amount invested by Heritage Fields and its affiliates equals the Minimum Improvement Investment Amount. Heritage Fields shall have the right to receive reimbursement of up to Forty Million Dollars (\$40,000,000.00) (the "Supplementary ALA CFD Limit") of such documented Costs from the City of Irvine Community Facilities District No. 2013-3 (Great Park) ("CFD") with respect to the items of Great Park Improvements that are designated as "Additional Backbone Infrastructure" in accordance with Section 4 below.

(ii) But for the commitment of Heritage Fields to construct the Great Park Improvements as set forth herein, the City, would otherwise be committed by the terms of the ARDA to constructing a park on the Great Park Property (as that term is defined in the ARDA) substantially in compliance with the Great Park Master Plan (as that term is defined in the ARDA), as it may be amended from time to time. Pursuant to the terms and conditions of this Agreement, the Great Park Improvements are now being constructed by Heritage Fields on behalf of the City, and although this Agreement provides for Heritage Fields to receive reimbursement of certain costs to construct the Great Park Improvements from the CFD in accordance with <u>Section 4</u> below, in each case these are costs that would normally be borne by the City on behalf of the public.

Because the City, as landowner, would not be required to pay fees to itself with respect to a public improvement, neither Heritage Fields nor any contractor or subcontractor constructing the Great Park Improvements on behalf of the City in accordance with this Agreement shall be required to pay any application, grading, building, permitting, plan check, inspection, and/or utility connection, hook-up, or other fees or costs to the City associated with the design, permitting or construction of the Great Park Improvements, whether customary, extraordinary, deferred, or otherwise. The City represents and warrants that it has not paid all of the utility connection/hook-up or other development or impact fees and costs payable to Irvine Ranch Water District ("IRWD"), Southern California Edison ("SCE") and/or other third-parties that are associated with the Great Park Improvements. Three Million and No/100 Dollars (\$3,000,000.00) from the Additional Allowance Fund (the "Permit and Regulatory Fees Contribution") shall be applied toward the payment of the utility connection/hook-up and other development or impact fees and costs payable to IRWD, SCE and/or other third-parties that are associated with the Great Park Improvements, and the City shall be responsible to pay all such fees and costs in excess of the Permit and Regulatory Fees Contribution as and when due to the applicable third-party.

(b) Selection of Design Professionals; Licensed Affiliate. The Parties acknowledge that design, engineering and construction services required by this Agreement shall be performed by design and engineering professionals selected by Heritage Fields. The contractual obligations of such professional persons or entities shall be undertaken and performed under the direction of Heritage Fields (or its Licensed Affiliate, as described below), or another entity wholly-owned or Controlled directly or indirectly by any direct or indirect member of Heritage Fields (or any authorized assignee of Heritage Fields pursuant to Section 15(n) below) that holds a California contractors' license (as applicable, a "Licensed Affiliate"), as the party to whom Heritage Fields may assign and delegate its duties under this Agreement that require a California contractor's license, including Heritage Fields El Toro Contractor G.P., Inc. ("HF Contractor"). 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.

(c) Design Standards and Process. Prior to the submittal of improvement plans for each Subarea of the OCGP Improvement Area, the parties shall follow the "implementation process for improvements within the OCGP" set forth on Sheet 0.0a of the Design Package. Final construction drawings and plans submitted to the City for approval shall comply with the Uniform Construction Codes, and substantially conform (as that determination is typically made by the City with respect to projects as they move from the design approval stage to construction drawings) to the Design Package and any Logical Evolution thereto, unless otherwise approved in accordance with this Section 2(c). "Logical Evolution," for the purpose of this Agreement, is defined as a refinement or amplification of the previously approved design documents that (x) is not a Program Change (defined below) and (y) substantially conforms to (as that determination is typically made by the City with respect to projects as they move from the design approval stage to construction drawings) and flows naturally and foreseeably from the previously approved design documents and is in

accordance with custom and practice in the field of architectural and engineering design and the construction industry in Southern California, code requirements, applicable plan check, permit conditions and the timely availability of materials. A Logical Evolution shall include (but is not limited to) the movement or modification of a feature or program element by Heritage Fields in order to accommodate site conditions, utility constraints, easements, rights-of-way, or other property restrictions. The City may require Logical Evolutions as part of its regulatory review process.

A modification to the Design Package that reduces or adds to the program elements specified in Section 1.5 of the Design Package shall be considered a program change ("Program Change"). Any Logical Evolution (whether initiated by the City or by Heritage Fields) shall be considered consistent with the Design Package and shall not require any further approval by the City of a modification to the approved park design or Design Package ("Design Refinement"). Any Program Change, including but not limited to a Program Change that is proposed as part of any value engineering process, shall require approval by Heritage Fields, if proposed by the City, or require approval by the Director of Community Development (or his/her designee), if proposed by Heritage Notwithstanding the foregoing, the City shall have the right (but not the Fields. obligation) during the period beginning on the Effective Date and ending on March 15, 2014 (the "Initial Review Period") to require Program Changes and/or Design Refinements with respect to only the following program elements: (i) sand volleyball, parking and sports courts within the Sports Park Subarea; and (ii) the dog park and miniamphitheater programming within the Bosque Subarea; provided, however, that (1) sufficient funds exist in the applicable Subarea's share of the Additional Allowance Fund (net of the Section 11 Reserve (as defined below)) to cover the cost of implementing all such Program Changes and/or Design Refinements (as reasonably determined in good faith by Heritage Fields) including without limitation the costs of revising the Design Package to make any design adjustments necessary to accommodate such Program Changes and/or Design Refinements, (2) any such Program Change and/or Design Refinement must be initiated at the direction of the City Council during the Initial Review Period, and (3) either (a) the City approves such Program Change and/or Design Refinement as being consistent with the OCGP Master Plan or (b) the City shall initiate, and shall expeditiously process, an amendment to the OCGP Master Plan so as to permit approval of such Program Change and/or Design Refinement as being consistent with the OCGP Master Plan. Until a Park Design consistent with the OCGP Master Plan (as the same may have been modified pursuant to the foregoing procedures, to the extent such procedures are triggered) has been approved, Heritage Fields shall not have any obligation to complete the Great Park Improvements or continue to the next level of design for the same.

During the Initial Review Period, the City shall also have the right (but not the obligation) to choose to allocate up to \$10,500,000 of the Additional Allowance Fund to fund improvements within or serving the OCGP Improvement Area ("Additional Improvements"); provided, however, that (1) sufficient funds exist in the Additional Allowance Fund (net of the Section 11 Reserve (as defined below) and of the Permit and Regulatory Fees Contribution) to cover the cost of the Additional Improvements together with all Program Changes and/or Design Refinements requested during the Initial Review

Period (as reasonably determined in good faith by Heritage Fields), including, without limitation, the costs of revising the Design Package to make any design adjustments necessary to accommodate such Program Changes and/or Design Refinements and (2) the request to allocate funding for any such Additional Improvements must be made at the direction of the City Council during the Initial Review Period. The Additional Allowance Funds utilized for Additional Improvements as determined during the Initial Review Period shall be subtracted from each Subarea in proportion to each Subarea's "Remaining Allocation" as set forth in **Schedule 11**. If the City Council does not allocate any funding for Additional Improvements during the Initial Review Period, then the available Additional Allowance Funds for each Subarea shall remain as set forth on **Schedule 11**.

Any Program Change or Design Refinement requested by the City in order to comply with the Uniform Construction Codes shall be at Heritage Fields' cost and expense if and only to the extent that the code section(s) cited by the City as requiring the Program Change or Design Refinement sets forth express standards or criteria for compliance, specifically applicable to the park improvements, that have not been met ("Mandated Code Change"). In addition, if state or federal law expressly mandates that any final construction drawings and/or plans must comply with a building or construction requirement ("State Construction Requirement"), then the cost of complying with such State Construction Requirement shall be at Heritage Fields' expense. The City may not require any Program Change or Design Refinement other than a State Construction Requirement or a Mandated Code Change (whether in the Initial Review Period, regulatory process or otherwise) that would cause the aggregate estimated cost of all Program Changes and City-initiated Design Refinements with respect to a given Subarea to exceed such Subarea's share of the Additional Allowance Fund (net of the Section 11 Reserve (as defined below) allocated to such Subarea) as set forth on Schedule 11 attached hereto (e.g., the Sports Park or the Upper Bee Subareas), unless Heritage Fields is provided the opportunity, and is in fact able, to identify value engineering opportunities to reduce the aggregate estimated cost of all Design Refinements and Program Changes for that particular Subarea to an amount that does not exceed such Subarea's share of the Additional Allowance Fund. To the extent that after completion of construction and acceptance by the City of a Subarea Heritage Fields determines there are unallocated Additional Allowance Funds with respect to that Subarea, the Parties shall collaborate to allocate the remaining funds to a Subarea or areas that have not yet been completed.

For each Program Change and each City-initiated Design Refinement, that is not a State Construction Requirement or a Mandated Code Change, Heritage Fields shall deliver written notice to the City which notice shall set forth in reasonable detail (i) the estimated costs of the Program Change or Design Refinement, and (ii) Heritage Fields' proposed course of action, if any, including the nature of any value engineering to be undertaken. To the extent that the City determines that it does not want to accept the proposed course of action, and there is a sufficient amount in the remaining Additional Allowance Fund for such Subarea (net of the Section 11 Reserve (as defined below) allocated to such Subarea) to cover the cost of the requested Program Change or Design Refinement as reasonably determined by Heritage Fields, then the City may require the requested Program Change or Design Refinement to be implemented. Heritage Fields and the City shall collaborate in good faith to identify mutually acceptable value

engineering opportunities to maximize opportunities to implement requested Program Changes and Design Refinements.

In connection with the preparation of construction drawings for the Great Park Improvements, Heritage Fields shall cause the architects and engineers to (i) utilize and conform to Uniform Construction Codes, and (ii) to commence the design in a manner consistent with the Great Park Improvements Phasing Plan & Schedule (as such document may be amended or modified from time to time).

Warranties. The consulting agreements Heritage Fields (or its (d) Licensed Affiliate) executes with architects or engineers who prepare any construction drawings for the Great Park Improvements shall name the City as an additional benefited party to any warranties provided in such contracts. Heritage Fields shall not be responsible or liable for the architectural or engineering design or quality of the Great Park Improvements, provided that the foregoing does not imply that the City waives its regulatory authority to approve (or decline to approve) the construction drawings for the improvements 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 Great Park Improvements to confirm whether it has been completed substantially in accordance with the approved construction drawings or any rights the City may have as a benefited party for any warranties from such architects or engineers. City further agrees that Heritage Fields shall not be liable to the City for damages (whether direct, consequential, special, punitive or otherwise) for or as a result of (i) the budget or schedule for the Great Park Improvements, (ii) any breach or default by any architect, engineer, contractor, subcontractor or consultant under their respective contracts for the Great Park Improvements, or (iii) any defective work of or defective design by any architect, engineer, contractor, subcontractor or consultant in connection with the Great Park Improvements. If Heritage Fields or the City discovers any defect in design by any architect, engineer or consultant in connection with any portion of the Great Park Improvements prior to the date on which the City (or other applicable utility provider) has accepted or deemed to have accepted the same. Heritage Fields shall cause the defect to be corrected. After the Great Park Improvements or particular Subarea thereof have/has been accepted or deemed to have been accepted by the City (or other applicable utility provider), Heritage Fields shall have no further responsibility for such portion or Subarea of the Great Park Improvements and the City shall look to the warranty provided by (or other remedies it may have against) the applicable architect, engineer or contractor to correct the same, except for any portion of the Great Park Improvements 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, Heritage Fields shall remain responsible for the correction of any construction defect discovered during such one-year warranty period.

(e) <u>Contractor Supervision</u>. Heritage Fields (or its Licensed Affiliate) shall provide all services reasonably necessary or appropriate to arrange, supervise, manage and enforce the construction agreements for performance of construction of the Great Park Improvements with contractors and/or design-build contractors consistent with the Design Package and the then-applicable Great Park Improvements Phasing Plan

& Schedule. Performance of construction of the Great Park Improvements shall be subject to City's rights of inspection consistent with City's normal inspection processes through its Public Works department, through its Building Department and/or by the City Engineer, as applicable. Without limiting the foregoing, Heritage Fields 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 Agreement 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 Additional 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 response 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 Heritage Fields and the other parties in interest, would be acceptable to City.

Construction contracts for the Great Park Improvements shall include (i) performance of services in accordance with the approved Design Package (as amended or modified from time to time), (ii) insurance naming Heritage Fields, City and their respective designees as additional insureds, and (iii) retention amounts.

The Parties agree that Heritage Fields shall cause the construction contracts to address the following matters:

A. Payment of prevailing wages if, and to the extent, required by applicable laws and compliance with the City's Living Wage Ordinance;

B. Identification and handling of Hazardous Materials discovered during the course of construction activities on the OCGP Improvement Area, but with Heritage Fields agreeing to provide the contractor relevant and current information of those areas actually known by Heritage Fields to contain Hazardous Materials;

C. Insurance obligations of the contractor and its contractors, subcontractors and agents;

D. Subject to Section 11(b), obligations of the contractor to indemnify, reimburse, defend and hold harmless Heritage Fields 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 contractor on the OCGP Improvement Area or in connection with performance of its obligations under the construction contract;

E. Obligations of the contractor to complete services on a lienfree basis and in accordance with the terms of its contract;

F. Obligations of the contractor to comply with all applicable laws and code restrictions, licenses, policies, permits and certificates required in connection with performance of its services;

G. The City being named as an additional benefited party to all express warranties provided in such contracts;

H. Obligations of the 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);

I. Rights of the City as a third party beneficiary under such contracts;

J. An obligation of the contractor to cause a Defect Bond to be issued for such contractor's work; and

K. The obligation of the contractor to follow the Protocol Plan (as more particularly set forth in Section 11(c)).

For all purposes under this Agreement (including Heritage Fields' obligation, through its Licensed Affiliate, to construct the Great Park Improvements), nothing in this Agreement or in the relationship between City and Heritage Fields shall constitute a partnership, joint venture, agency or any other similar relationship. Notwithstanding that the Great Park Improvements will be located and constructed on the OCGP Improvement Area, the Parties agree that Heritage Fields is an independent contractor, that the contract for construction of the Great Park Improvements is not being awarded by the City, and that the City is not a party to the construction contract for the Great Park Improvements. and thereafter the construction shall not be considered a public work under Municipal Code Section 6-10-101. Subject to Heritage Fields' obligation to enforce the terms of the Great Park Improvements contracts as provided above, 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 contractor with respect to performance of the work on the Great Park Improvements for which such contractor is responsible (including, without limitation, disputes regarding the quality of such work and/or defects in the performance of such work), after the acceptance in accordance with Section 2(0) below, by the City of such portion of the Great Park Improvements, the City shall look solely to such contractor for redress and/or resolution of such dispute (including enforcing the warranty or third party beneficiary rights afforded to the City in such contracts) and shall not seek redress or resolution from the other Party to this Agreement, except for any portion of the Great Park Improvements for which a Defect Bond is required. If such a one-year Defect Bond is required, Heritage Fields shall

remain responsible for the correction of any construction defect discovered during such one-year warranty period.

Phasing. The Great Park Improvements will be designed and (f)constructed in phases over a period of years in accordance with a phasing schedule (as such schedule may be amended or modified from time to time in writing by mutual written agreement of the Parties, the "Great Park Improvements Phasing Plan & Heritage Fields shall diligently pursue preparation and submittal of Schedule"). improvement plans in accordance with the process described in Subsection 0.0a of the Design Package to facilitate construction of each of the Great Park Improvements in the applicable years shown on the Great Park Improvements Phasing Plan & Schedule. The current Great Park Improvements Phasing Plan & Schedule is attached hereto as Exhibit C-1 and will be extended day for day for each day the Entitlements are not Deemed Approved after the date the Parties execute this Agreement. Subject to compliance with the then-approved Great Park Improvements Phasing Plan & Schedule and the provisions of this Agreement, Heritage Fields shall have ultimate decision-making authority with respect to, but shall confer with the City regarding, the precise schedule (including precise timing) for the construction of the Great Park Improvements on the portions of the OCGP Improvement Area, including commencing and/or completing all or portions of the Great Park Improvements earlier than contemplated in the Great Park Improvements Phasing Plan & Schedule. In conferring with the City with regard to the precise schedule for the construction of the Great Park Improvements, Heritage Fields shall seek to avoid, to the extent reasonably feasible, disruption to the then-existing permanent improvements at the Great Park that are otherwise open to the public and the City shall seek to avoid planning programs or events that would interfere with the planned construction activities.

(g) <u>Meet and Confer</u>. Heritage Fields and City shall organize and administer quarterly meetings with each Party in order to review progress on the design and construction of the Great Park Improvements and to consider any adjustments to the Great Park Improvements Phasing Plan & Schedule, subject to each Party's approval rights set forth in <u>Section 2(f)</u> above. At these meetings, Heritage Fields shall update the City as to the estimated completion dates of the Great Park Improvements that has commenced prior to such meetings.

(h) <u>Designation of Representative</u>. Heritage Fields shall perform such other related business functions pertaining to the Great Park Improvements as reasonably agreed to between Heritage Fields and City. Heritage Fields 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.

(i) <u>Cooperation with Further Approvals</u>. City shall, at its own expense, act expeditiously and in good faith to process any applications, documents, approvals, permits, and/or entitlements submitted by Heritage Fields and/or any utility providers to City in connection with the development and construction of the Great Park Improvements in accordance with the approval process outlined in Subsection 0.0a of the Design Package. 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 and shall, to the extent permitted by law, process all such matters separate and apart from any other matters relating to the Great Park. The City shall accomplish the processing of the Great Park permits and approvals without impacting the timing for processing approvals for adjacent private development. To that end, at all times during the course of construction of the Great Park Improvements and the construction of the project contemplated by the Entitlements, each of the City and Heritage Fields (and/or its License Affiliate) shall maintain sufficient staffing levels to expeditiously process any approvals contemplated herein to avoid schedule delays. Additionally, City hereby agrees to take commercially reasonable steps to support any effort by Heritage Fields consistent with this Agreement and resolutions and ordinances adopted by the City (including transmitting letters and/or by attending meetings at the request of Heritage Fields) in order to secure from all other applicable Governmental Authorities, the approvals necessary in connection with the Great Park Improvements, including without limitation executing service applications or equivalent documents with utility providers to facilitate utility connections and service for the Great Park Improvements. Heritage Fields will keep the City informed of its progress with regard to such approvals and provide the City with copies of any applications or permits related to same as reasonably requested, and Heritage Fields shall invite the City (with reasonably advanced notice) to any significant meetings regarding the same.

(j) <u>Access to Environmental Documentation</u>. City hereby agrees to grant Heritage Fields 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 OCGP Improvement Area; *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*.

LIFOC Cooperation Obligation. The Parties acknowledge that (k) portions of the OCGP Improvement Area may be owned by the United States Department of the Navy (the "Navy") and leased to City (the "LIFOC Area(s)") pursuant to a Lease in Furtherance of Conveyance (a "LIFOC"). Heritage Fields 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. Heritage Fields 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 Heritage Fields involving a LIFOC Area located within the OCGP Improvement Area (a "City Objected-To Action"), then Heritage Fields, at Heritage Fields' election, shall develop and implement an alternative action plan with respect to the City Objected-To Action, subject to approval by the City, which approval shall not be unreasonably withheld, conditioned or delayed, provided that Heritage Fields shall not be required to implement an alternative action plan that materially increases the costs it would have incurred for the original proposed City Objected-to-Action, unless the bases of the City's objection involve a violation of law or a breach of a term or condition

of a LIFOC or an express Navy requirement, and the increased costs are necessary to avoid or address such violation.

(1) <u>No Payment, Performance or Other Bonds</u>. The Parties agree further that no payment, performance or other bonds shall be required from Heritage Fields in connection with the construction of the Great Park Improvements, except if a Defect Bond is required as described above.

Easements/Rights of Way. City hereby agrees to grant and convey (m)(at no cost or expense to Heritage Fields) such easements, rights and rights-of-way over the Great Park Property to utility providers, governmental or quasi-governmental authorities that are required by any utility provider, governmental authority or quasigovernmental authority in connection with the construction of the Great Park Improvements. To the extent the proposed location or alignment of any such easements. rights and rights-of-way over the Great Park Property do not substantially conform to the location described in the Design Package, such alignment shall be subject to City's approval, not to be unreasonably withheld, conditioned or delayed, it being understood that the City shall have no approval right over the precise alignment of any such easements, rights and rights-of-way generally depicted in the Design Package. 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 leases, easements, rights and rights-of-way as may be required by any utility provider, governmental or quasigovernmental authority in connection with the construction of the Great Park Improvements in accordance with the time periods contemplated in the Great Park Improvements Phasing Plan & Schedule, or as may be required to implement the improvements and development contemplated by the Design Package, including but not limited to the land conveyances described in Section 6 of this Agreement; provided, however, nothing contained herein shall compel the City to exercise its power of eminent domain.

City represents and warrants that as of the date hereof, Schedule 2(m) attached hereto and incorporated herein by reference is a true, correct, and complete list of all existing unrecorded leases, license agreements, easements, and other encumbrances affecting the OCGP Improvement Area that the City has executed since July 12, 2005 or into which it has entered since July 12, 2005, it being understood that Schedule 2(m) may be over-inclusive as it includes all existing unrecorded leases, license agreements, easements, and other encumbrances that the City has executed since July 12, 2005 or into which it has entered since July 12, 2005 pertaining to the Great Park. City covenants to not (x) permit any additional leases, license agreements, easements, or other encumbrances to be recorded or otherwise become effective against the OCGP Improvement Area, and (y) develop, improve, or modify or otherwise alter any existing improvements on the OCGP Improvement Area, in each case without Heritage Fields' prior written consent, not to be unreasonably withheld, conditioned, or delayed. No later than one hundred twenty (120) days prior to the commencement of construction of any phase of the Great Park Improvements, Heritage Fields shall provide written notice to the City of the proposed commencement date for that phase, and no later than ninety (90) days prior to the commencement of construction of any phase of the Great Park

Improvements, City shall cause and provide reasonable written evidence to Heritage Fields of the expiration or earlier termination of any Development Constraint (defined below) in order to allow construction to commence and continue without interruption or interference, provided that for any Development Constraint that is not a lease agreement with the City, the City shall not be obligated to remove such Development Constraint until sixty (60) days prior to the commencement of the applicable phase of the Great Park Improvements. Notwithstanding any provision in this Agreement to the contrary, in the event the grant, relinquishment and/or relocation of any leases, license agreements, easements, encumbrances, rights and/or rights-of-way are necessary in order to implement or construct any portion of the Great Park Improvements (or related or affected parts of such portions of the Great Park Improvements) (collectively, a "Development Constraint"), and the City does not elect to use its power to remove such 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 Great Park Improvements (and all other portions of the Great Park Improvements that are related to or affected by such portions of the Great Park Improvements) taking into consideration the constraints of the inability (or excess costs) to acquire, relinquish or relocate such leases, 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 leases, easements, rights and/or rights of way; and (ii) the occurrence of any such Development Constraint shall constitute a Force Majeure Delay and the Great Park Improvements 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 any such Development Constraint.

(n) Right to Contest Liens. Heritage Fields shall have the right to contest, at its sole cost and expense, the amount or validity of any lien against the OCGP Improvement Area during the term of this Agreement, by appropriate proceedings promptly initiated and diligently conducted in good faith. Heritage Fields may postpone or defer payment of any such contested lien during the course of such proceedings, provided that neither the OCGP Improvement Area nor any part thereof or interest therein would by reason of such postponement or deferment be in danger of being forfeited, sold or foreclosed for nonpayment of such lien. Upon the termination of any such proceedings, Heritage Fields shall pay the amount of such lien or part thereof as shall be finally determined in such proceedings to be payable (after exhaustion of any rights of appeal), the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties or other liabilities in connection therewith. Upon the written request of Heritage Fields, City shall either join in such proceedings described above or permit the same to be brought in its name by Heritage Fields, but in all cases at the sole cost and expense of Heritage Fields. City shall not be responsible for or subjected to any liability for the payment of any costs, expenses, charges or other amounts of any kind whatsoever in connection with any such proceedings, and Heritage Fields shall indemnify, defend and hold City harmless from any and all such costs, expenses, charges, amounts and liabilities arising out of such proceedings.

(o) <u>Acceptance; Title to Improvements</u>. The City shall be deemed to have accepted the Great Park Improvements or any portion thereof, and fee title to such Great Park Improvements shall pass to the City, on the earlier to occur of the following (the "Acceptance Date"): (i) issuance of a certificate of occupancy, temporary certificate of occupancy, or the functional equivalent, or (ii) when the City authorizes such portion to be opened or made available for use by the public. As each phase of construction of the Great Park Improvements is completed and the Acceptance Date occurs, title to the Great Park Improvements shall vest in the City and may become subject to either a Lease or a Maintenance Agreement as more particularly described in Section 8.

(p) <u>Re-Use of Graded Material</u>. To minimize potential impacts arising from the off-site hauling or stockpiling on the Great Park Property of graded material from the OCGP Improvement Area that is not used in the construction of the Great Park Improvements, Heritage Fields shall be permitted (but not shall be obligated) to re-use any excess cut soil resulting from the grading concept set forth in the Design Package on adjacent property owned by Heritage Fields, at no cost to Heritage Fields.

(q) Compliance with Conditions. Notwithstanding anything to the contrary in this Agreement, the City shall be responsible for satisfaction, performance, and compliance with all conditions, obligations, limitations, restrictions, and mitigation measures, to the extent applicable to the OCGP Improvement Area required by the permits and approvals for the Great Park, including without limitation Irvine Planning Commission Resolution No. 07-2855; that certain City of Irvine Final Program Environmental Impact Report for the Orange County Great Park, SCH No. 2002101020, dated May 2003, and all addenda thereto; and any amendment to the OCGP Master Plan (if applicable) so as to permit approval of the Design Package. Without limiting the generality of the foregoing, obligations described in the preceding sentence that do not specifically identify the Party responsible for performance, and that can only be performed in the course of operating the Great Park Improvements, shall be satisfied and performed or paid for by the City. Notwithstanding the foregoing, nothing herein shall be deemed to amend or modify the mechanism for payment of North Irvine Transportation Mitigation program (NITM) fees that are to be paid by Heritage Fields or the City pursuant to the terms of the ARDA.

3. Extension of Master Plan and Phasing Schedule. As a result of Heritage Fields' agreement to construct the Great Park Improvements as set forth herein as well as certain portions of Backbone Infrastructure (as defined in the ARMIA) that are not currently identified on the current Master Phasing Plan & Schedule, the sequence and timing for the commencement of construction of the "Backbone Infrastructure" and the "Additional Backbone Infrastructure" (as defined in the ARMIA and as modified by Section 4 herein) must necessarily be updated. In accordance with Section 4.3 of the ARMIA, a supplement to the Master Phasing Plan & Schedule is attached hereto as Exhibit C-2, which includes certain Backbone Infrastructure described on Exhibit C-2 that is not currently included as part of the current Master Phasing Plan & Schedule. The Master Phasing Plan & Schedule, as supplemented by Exhibit C-2, shall constitute the Master Phasing Plan & Schedule through the year 2017 (i.e., year 7 of the Master Phasing Plan & Schedule). Unless the City and Heritage Fields agree (in writing) otherwise, the

next update to the Master Phasing Plan & Schedule shall not occur until July 2016. Pursuant to Section 4.3 of the ARMIA, that update to the Master Phasing Plan & Schedule shall include the timing for the Backbone Infrastructure and "Demolition Work" (as defined in the ARMIA) the City and Heritage Fields intend to occur during the subsequent two year period beyond the period covered by the Master Phasing Plan & Schedule as updated herein (i.e., 2018 and 2019) unless the City and Heritage Fields mutually elect to have such schedule cover a different period of time. The Parties agree further that the financial limitation on Heritage Fields' obligation to construct the initial phase of Backbone Infrastructure, which is \$40 million dollars and is more particularly set forth in the initial Master Phasing Plan & Schedule attached to the ARMIA (the "Initial BI Phase Cap"), does not apply to the new elements of Backbone Infrastructure and Additional Backbone Infrastructure listed on Exhibit C-2 attached hereto, provided that (i) the Initial BI Phase Cap shall still remain in effect in accordance with the terms of the ARMIA for the initial phase of Backbone Infrastructure, except (ii) the Initial BI Phase Cap shall not apply to, or constitute a basis for Force Majeure Delay or other delay with respect to, "Runway Activities" (as that term is defined in the ARMIA) that are necessary to complete the Great Park Improvements in accordance with the Great Park Improvements Phasing Plan & Schedule.

4. Backbone Infrastructure/Additional Backbone Infrastructure.

(a) <u>Additional Backbone Infrastructure</u>. Subject to the limitations set forth in this <u>Section 4</u>, all of those certain portions of the Great Park Improvements more particularly described on **Exhibit D** attached hereto and incorporated herein by reference shall be considered "Additional Backbone Infrastructure", as such term is used in the ARDA, ARMIA, the Acquisition Agreement, and all other related governance documents (hereinafter referred to as the "**Supplementary ALA Additional Backbone Infrastructure**").

(b) <u>Application of Existing Agreements</u>. The Parties acknowledge and agree that the provisions of the ARMIA and Acquisition Agreement shall apply to the manner in which the Supplementary ALA Additional Backbone Infrastructure is designed and constructed, including the bidding procedures set forth in the ARMIA and Acquisition Agreement.

(c) <u>CFD Reimbursement</u>. The City shall finance the acquisition of such Supplementary ALA Additional Backbone Infrastructure from the proceeds of Non-Subordinate Bonds (as defined in the ARDA) and Special Taxes (as defined in the ARDA) generated in one or more Improvement Areas (as defined in the ARDA) of the CFD; provided, however, that the amount of the proceeds of Non-Subordinate Bonds and Special Taxes used to finance the acquisition of the Supplementary ALA Additional Backbone Infrastructure shall not exceed the Supplementary ALA CFD Limit. Accordingly, Heritage Fields shall have the right to receive reimbursement from the CFD up to the Supplementary ALA CFD Limit for the design and construction of the Supplementary ALA Additional Backbone Infrastructure described herein, which shall be disbursed to Heritage Fields in accordance with the terms and conditions of the ARMIA

and Acquisition Agreement. The Parties acknowledge and agree that to the extent that all or any portion of elements or components of Supplementary ALA Additional Backbone Infrastructure as defined in <u>Section 4(a)</u> was previously included in the designated Backbone Infrastructure, such as (for example) the "Runway Activities" (as defined in the ARMIA) and/or the portions of the Wildlife Corridor work already contemplated as part of the Backbone Infrastructure, reimbursement of the costs associated with the previously included Backbone Infrastructure (1) shall be in addition to, and shall not be limited by, and shall not count against and be drawn from the Supplementary ALA CFD Limit, and (2) shall not be applied to the Minimum Improvement Investment Amount.

(d) <u>IA 3 RMA</u>. Under the Rate and Method of Apportionment for City of Irvine Community Facilities District No. 2013-3 (Great Park) Improvement Area No. 3 (the "**IA 3 RMA**") the term "Public Property" is defined to mean the following:

"...for each Fiscal Year, (A) all property within the boundaries of CFD No. 2013-3 (IA No. 3) that (i) is owned by, irrevocably offered or dedicated to, or leased to, the federal government, the State, the County, the City, or any local government or other public agency, provided that any property leased or granted a possessory interest by any of the foregoing entities to a private entity, then, pursuant to Section 53340.1 of the Act, such leasehold or possessory interest shall be taxed and classified according to its use, or (ii) is encumbered by a public easement making impractical its use for any purpose other than that set forth in the easement, and (B) all property that is used for "Great Park uses" or uses "ancillary to Great Park uses" as defined in the Amended and Restated Development Agreement"; and

The City and Heritage Fields acknowledge that the OCGP Improvement Area and the Great Park Improvements to be constructed on the OCGP Improvement Area will be used for "Great Park uses" or are "ancillary to Great Park uses" as described in subdivision (B) of the definition of Public Property above, and, therefore, constitute Public Property for all purposes under the IA 3 RMA.

Under the IA 3 RMA, up to five (5) acres of Public Property in Zone 1 and up to nine hundred seventy-nine (979) acres in Zone 2 of Improvement Area No. 3 shall be considered exempt from the levy of special taxes under the IA 3 RMA. To assure the tax exemption of the OCGP Improvement Area, the City shall, promptly following execution of this Agreement, deliver this Agreement to the CFD Administrator, along with a list of Assessor's Parcel Numbers for all of the OCGP Improvement Area, which shall constitute notice to the CFD Administrator that (i) all of the OCGP Improvement Area is Public Property under the IA 3 RMA because it is used for "Great Park uses" or uses "ancillary to Great Park uses" under subsection (B) of the definition of Public Property under the IA 3 RMA, (ii) the OCGP Improvement Area may be the subject of a lease or other management contract with Heritage Fields or an affiliated party, (iii) Heritage Fields or an affiliated party will be constructing the Great Park Improvements thereon, and (iv) to the extent the OCGP Improvement Area is the subject of a lease or other management contract with Heritage Fields or an affiliated party, the OCGP Improvement Area is exempt from taxation under the IA 3 RMA notwithstanding the lease or use of the

Great Park Property by Heritage Fields or an affiliated party or the construction of the Great Park Improvements. Promptly following execution of this Agreement and delivery to the CFD Administrator by the City, and to the extent the OCGP Improvement Area is the subject of the lease or other management contract with Heritage Fields or an affiliated party, either Party may file a request that the CFD Administrator acknowledge in writing to the City and Heritage Fields that the OCGP Improvement Area is Public Property and will be exempt from taxation under the IA 3 RMA notwithstanding such lease or use of the OCGP Improvement Area by Heritage Fields or an affiliated party or the construction of the Great Park Improvements.

(e) Affordable Housing. The Parties acknowledge that: (i) each of the Rate and Method of Apportionment for City of Irvine Community Facilities District No. 2013-3 (Great Park) Improvement Area No. 1 (the "IA 1 RMA"), the Rate and Method of Apportionment for City of Irvine Community Facilities District No. 2013-3 (Great Park) Improvement Area No. 2 (the "IA 2 RMA"), and the IA 3 RMA exempts from special taxation a Dwelling Unit of Affordable Housing, Moderate Affordable Units, or Moderate Affordable Senior Units (herein, collectively, "Affordable Housing") so long as the exemption of that Dwelling Unit does not cause the total number of Dwelling Units of Affordable Housing exempted from special taxes to exceed 544 for the CFD as a whole; (ii) Heritage Fields is currently seeking approval of density changes to its proposed private development within Planning Area 51 that will allow the construction of up to 1,048 Dwelling Units of Affordable Housing throughout the CFD; (iii) the 1,048 Dwelling Units of Affordable Housing would be an increase of 504 Dwelling Units over the 544 limitation set forth in the IA 1 RMA, IA 2 RMA, and IA 3 RMA; (iv) the IA 2 RMA and for each additional improvement area to be created out of the property in Improvement Area No. 2 should contain an Affordable Housing limitation of 1,048 Dwelling Units instead of 544 Dwelling Units; and (v) the change to the Affordable Housing limitation will be made in conjunction with the first Change Proceedings under the Mello-Roos Act that will be conducted (whether in connection with changes associated with the Wildlife Corridor or creating additional improvement areas out of the property in Improvement Area No. 2 or otherwise).

In light of the foregoing, the City and Heritage Fields shall: (i) take all steps reasonably required to conduct Change Proceedings at the request of Heritage Fields and to include as part of those Change Proceedings the change in the Affordable Housing limitation from 544 Dwelling Units to 1,048 Dwelling Units; (ii) the new Affordable Housing limitation shall be included in the revised IA 2 RMA; and (iii) the RMA for each new improvement area created out of the property of Improvement Area No. 2 shall contain the Affordable Housing limitation of 1,048 Dwelling Units.

The Parties also acknowledge and agree that: (i) the IA 1 RMA and IA 3 RMA each contain an Affordable Housing limitation of 544 Dwelling Units; (ii) the property in Improvement Area No. 3 is owned by the City and there is no need to conduct Change Proceedings with respect to Improvement Area No. 3 at this time; (iii) due to the diversity of property ownership in Improvement Area No. 1, it is impractical to change the Affordable Housing limitation in the IA 1 RMA; (iv) Heritage Fields intends to sell a portion of the property in Improvement Area No. 1 to an affordable housing developer,

who intends to construct less than 544 Dwelling Units of Affordable Housing; (v) when Dwelling Units are deemed to be Affordable Housing under the IA 1 RMA, then those Dwelling Units shall be exempt from special taxation in the IA 1 RMA and any changes made to the Affordable Housing limitation in the IA 2 RMA or the Affordable Housing limitation set forth in the RMA for any new improvement area created out of the property in Improvement Area No. 2 shall not change the status of those Dwelling Units in Improvement Area No. 1 previously determined to be Affordable Housing; and (vi) the Affordable Housing limitation set forth in each of the IA 1 RMA and IA 3 RMA shall not limit, in any way, the number of Dwelling Units of Affordable Housing that may be constructed in Improvement Area No. 2; *provided, however*, that the number of Dwelling Units of Affordable Housing constructed in Improvement Area No. 1 shall be included in the calculation of the total Dwelling Units of Affordable Housing under the IA 2 RMA and the RMA for any new improvement area created out of the property in Improvement Area No. 2.

5. <u>Rights of Entry</u>.

(a) Temporary License. City hereby grants to Heritage Fields and its Licensed Affiliate and its and their respective employees, agents, contractors, subcontractors and consultants, a temporary license (the "Temporary License") to enter the OCGP Improvement Area and other portions of the Great Park Property as reasonably necessary to carry out the obligations and exercise the rights of Heritage Fields under this Agreement, including without limitation pre-construction inspection and due diligence activities and including any such Temporary License that may be needed for Heritage Fields to conduct storm water control measures under the Construction Stormwater Permit 2009-0009-DWQ Construction, as amended or revised or replaced. In accordance with the City's obligations under Section 2(m) above, the City shall be responsible to cause and provide reasonable written evidence to Heritage Fields of the expiration or earlier termination of any Development Constraint in order to allow construction to commence and continue without interruption or interference within the OCGP Improvement Area. If Heritage Fields, its Licensed Affiliate or their contractors or subcontractors need to access portions of the Great Park Property outside the OCGP Improvement Area during construction activities for the Great Park Improvements, the City and Heritage Fields shall cooperate with one another to adjust the timing and/or areas of ongoing programs operated within such portions of the Great Park so that Heritage Fields can continue to perform the Great Park Improvements work without unreasonably interfering with such programs, provided that the foregoing shall not modify or limit the City's obligations under Section 2(m) above. In furtherance of the foregoing, it shall be the responsibility of the City to notify Heritage Fields (in writing) of the ongoing programs at the Great Park in order to facilitate ongoing construction coordination between the two Parties. The Temporary License shall commence upon execution of this Agreement and terminate upon acceptance by City of the final phase of the Great Park Improvements. Subject to Section 10(d) below, Heritage Fields shall promptly repair any damage to the Great Park Property or other property, and defend and indemnify the City for any personal injury, in any way caused by Heritage Fields or its agents in connection with Heritage Fields' 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. This Heritage Fields obligation shall not apply to activities of the contractors but shall require such contractors to undertake the following in accordance with <u>Section 2(e)</u> above: (i) indemnify the City and (ii) provide insurance coverage. For purposes hereof, the Parties agree that activities contemplated by and performed in accordance with the Design Package shall not be deemed "damage" to the OCGP Improvement Area.

(b) Existing Multi-Use/Soccer Fields. City hereby grants to Heritage Fields a right of first opportunity to reserve dates for the scheduling and use of the City's existing multi-use/soccer fields (North Lawn and South Lawn) for tournament play events ("Tournaments"). Heritage Fields shall meet and confer with the City no later than six (6) months in advance of the opening of any newly-constructed multi-use/soccer fields for public use (the "Soccer Fields Meeting Date") to schedule Tournaments for the period commencing on the date which is six (6) months following the Soccer Fields Meeting Date and expiring twelve (12) months following the Soccer Field Meeting Date (the "Soccer Fields ROFO Period"). Thereafter, Heritage Fields and the City shall meet and confer on a quarterly basis to schedule Tournaments for the upcoming Soccer Fields ROFO Period (i.e., the period beginning six (6) months following the date the parties meet and confer and expiring twelve (12) months following the date the parties meet and confer), provided that Heritage Fields may not reserve more than twenty (20) Tournaments in any year, unless a higher number is mutually agreed to in writing by the Parties. The use right set forth in this Section 5(b) shall be at no cost or expense to Heritage Fields, provided, however, that Heritage Fields shall maintain the multiuse/soccer fields on such dates that Heritage Fields has reserved the fields for Tournaments to current City standards (expressly excluding from such maintenance obligation any subsurface ponds and utilities located on such fields). Furthermore, Heritage Fields and the City will mutually agree upon an allocated area of the City's surface parking lots for use by Heritage Fields during Tournaments.

6. Wildlife Corridor Land Swap.

Wildlife Corridor Exchange Properties. As a feature of the Great (a) Park, Heritage Fields shall construct a corridor that provides opportunity for movement of wildlife from Irvine Boulevard to I-5 through the length of the Great Park Property ("Wildlife Corridor" or "Wildlife Corridor Feature") in accordance with the Wildlife Corridor Plan. Within sixty (60) days of the date on which the Entitlements are Deemed Approved, (i) Heritage Fields shall convey to City fee title to that certain real property more particularly described on Exhibit E-1 attached hereto and incorporated herein by reference, and (ii) City shall concurrently convey to Heritage Fields fee title to that certain real property more particularly described on Exhibit E-2 attached hereto and incorporated herein by reference (collectively, the "Wildlife Corridor Exchange Properties"). Heritage Fields shall reserve over the Wildlife Corridor Exchange Properties an easement for roads and utilities as set out in the Wildlife Corridor Plan, which reservation shall be included in the grant deed to the City in the areas contemplated by the Wildlife Corridor Plan, including the opportunity for a road/trail crossing location between Astor and the Southern California Regional Rail Authority

railway ("Railroad") at a location to be determined and a pedestrian crossing in Segment 4 at a location to be determined between the Barranca/Alton intersection and I-5. At such time that the precise alignment of the roads and utilities referenced in the preceding sentence have been determined, then the Parties shall record a mutuallyacceptable form of easement agreement with a more precise legal description that shall supersede the reservation set forth in the original grant deed. Heritage Fields shall not be required to pay any City-imposed fees or exactions or satisfy any City-imposed additional conditions with respect to such road crossings. City shall not be required to pay any costs associated with the design, engineering, or construction of such road crossings. The forms of grant deeds to be used for the conveyances contemplated by this Section 6 shall be in the form of Exhibit E-3 attached hereto and incorporated herein by reference. The form of deed for transfer to the City of the Wildlife Corridor Exchange Properties intended for construction of the Wildlife Corridor shall include the obligation of the City to maintain the Wildlife Corridor in perpetuity in accordance with the Wildlife Corridor Plan, including the provisions in Appendix E of the Wildlife Corridor Plan, and will include a deed restriction ("Deed Restriction") to restrict the uses of the Wildlife Corridor consistent with the protection of the conservation values as set forth in the Wildlife Corridor Plan, which restriction shall be enforceable by Heritage Fields and any resident of the City. The Parties shall adjust the boundaries of the Wildlife Corridor to accommodate refinements in the Wildlife Corridor Plan for the Great Park Improvements and/or the adjacent development when construction drawings are prepared. The City and Heritage Fields shall cooperate with each other, and promptly perform such acts and execute such documents as necessary to effectuate such adjustments. If and to the extent the parties agree in the future to adjust the ownership of any portion of their respective properties, the City's authorized representative, with the concurrence of an authorized representative from Heritage Fields, shall have the authority to make such administrative changes to the exhibits to this Agreement as may be necessary to accurately reflect the updated property ownership configuration, it being understood that the Deed Restriction shall be drafted so as to allow for such adjustments without requiring the consent of any parties other than the City and Heritage Fields. The Wildlife Corridor Exchange Properties to be conveyed by City are of equal value to the Wildlife Corridor Exchange Properties to be conveyed by Heritage Fields. City and Heritage Fields shall execute and record such additional documents as are reasonably necessary to evidence this transfer of the Wildlife Corridor Exchange Properties.

(b) <u>Retention of Design Professionals</u>. Given that Heritage Fields will now be retaining the design professionals to design and construct the Wildlife Corridor as part of the Great Park Improvements, the City shall no longer be obligated to prepare plans and specifications for such improvements pursuant to Section 3.1.3 of the ARMIA. The City shall not amend or otherwise modify the Wildlife Corridor Plan so as to change the nature or scope of the Wildlife Corridor (including, without limitation, amendments or actions to allow for mitigation banking) except as provided in Section 6(c).

(c) <u>Mitigation Opportunity</u>. Because the Wildlife Corridor Plan is a feature of the Great Park and is not mitigation for any impacts of the proposed development of the property owned by Heritage Fields or the OCGP Improvement Area, the Wildlife Corridor Feature could be used as mitigation for impacts to natural resources

resulting from other development either as a mitigation bank or as permittee-sponsored mitigation ("Mitigation Opportunity"). The City may, at its own expense, pursue such opportunities; provided that the Mitigation Opportunity does not alter or amend the nature or scope of the Wildlife Corridor Plan, the timing of design or development of the Wildlife Corridor or adjacent development, or any monitoring or success standards in the Wildlife Corridor Plan, in each case without the prior written consent of Heritage Fields, which consent may be granted or withheld in Heritage Fields' sole discretion. The City shall provide Heritage Fields with any documents it prepares related to a Mitigation Opportunity, and Heritage Fields shall be given the opportunity to participate in all meetings or phone calls and receive copies of all material correspondence related to a Mitigation Opportunity. Heritage Fields, in its sole discretion, may reject any agreement for the City to adopt a Mitigation Opportunity. City acknowledges and agrees that the design and construction of the Wildlife Corridor and the full implementation of the Wildlife Corridor Plan is dependent upon and must be consistent with adjacent development that will necessarily share drainage and other systems with the Wildlife Corridor as provided in the Wildlife Corridor Plan. Therefore, the ultimate timing for completion must be coordinated with adjacent development, and the City acknowledges and agrees that until such adjacent development is undertaken, it may not be possible for Heritage Fields to implement all or part of the Wildlife Corridor Plan.

(d) <u>Present Obligation</u>. This Agreement creates a present obligation to convey the Wildlife Corridor Exchange Properties on the schedule and within the timeframes specified herein. All material terms and requirements to be included in those conveyances have been included herein, and any additional matters included by mutual consent in a deed or other instrument related to the conveyances shall be fully consistent with the terms set forth in this Agreement.

(e) <u>Transfer Taxes and Recording Fees</u>. In connection with the transfer of the Wildlife Corridor Exchange Properties, Heritage Fields shall pay (i) all County of Orange transfer taxes (if any), and (ii) any recording fees, all based upon a value of \$190,000 per acre.

(f) <u>Encumbrances</u>. The Parties shall cause the Wildlife Corridor Exchange Properties to be conveyed free and clear of all recorded and unrecorded monetary liens and all recorded and unrecorded non-monetary liens, encumbrances, easements, leases, covenants, conditions, restrictions, and other exceptions to or defects in title (including, without limitation, that certain Farming Lease dated September 1, 2012, by and between Heritage Fields and El Toro Farms, LLC, a California limited liability company), excepting only the exceptions listed on **Schedule 6(f)**. Each Party may elect, at its own cost, to obtain title insurance for its respective property in connection with the conveyance described in this <u>Section 6(f)</u>.

(g) <u>No Buffer Zones</u>. City acknowledges and agrees that the Wildlife Corridor Plan provides appropriate measures with respect to compatibility with adjacent development and accordingly with respect to future development adjacent to the OCGP Improvement Area, no "buffer zones" or additional setbacks from the Wildlife Corridor are or will be required. (h) <u>Advisory Committee</u>. City acknowledges and agrees that Heritage Fields may, in its sole discretion, convene an advisory committee to make nonbinding recommendations on the goals for public access, if any, to the Wildlife Corridor and outreach programs, including establishment of a wildlife corridor stewardship group and a science advisory panel.

(i) <u>LIFOC Areas in Wildlife Corridor</u>. Notwithstanding anything to the contrary set forth herein, at the City's request, Heritage Fields and the City shall enter into a sublease for those portions of the Wildlife Corridor that are the subject of a LIFOC. The material terms of the sublease shall be as follows: (i) the City shall pay no rent under the sublease, (ii) the City shall comply with all obligations with respect to the leased or subleased premises, as applicable, imposed by the LIFOC, (iii) the City's use of the subleased property shall be restricted in accordance with the terms of the LIFOC and this Agreement, and (iv) such additional standard terms as are reasonable, customary, and consistent with sub-paragraphs (i)-(iii) in this sentence (collectively "Lease/Sublease Terms"). After the termination of any LIFOC covering any portion of the Wildlife Corridor and the conveyance of fee title of such property to Heritage Fields by the Navy, Heritage Fields shall convey fee title to the applicable portions of the Wildlife Corridor to the City in accordance with the terms of this Agreement.

Adjustment to Improvement Area Boundaries. (i) The Parties acknowledge that the property currently owned by Heritage Fields as described in Exhibit E-1 is located in Improvement Area No. 2 of the CFD, and that the property currently owned by the City as described in Exhibit E-2 is located in Improvement Area No. 3 of the CFD. Promptly following the exchange of this property as described in Section 6(a) above, the City and Heritage Fields will take all necessary steps under Articles 3 and 3.5 of the Mello-Roos Community Facilities Act of 1982, as amended (the "CFD Act"), to change the boundaries of Improvement Area No. 2 and Improvement Area No. 3 so that (i) the property described in Exhibit E-1 shall be removed from the boundaries of Improvement Area No. 2 and shall be annexed to Improvement Area No. 3, and (ii) the property described in Exhibit E-2 shall be removed from the boundaries of Improvement Area No. 3 and shall be annexed to Improvement Area No. 2. The change proceedings under the CFD Act described in the foregoing sentence may be combined with proceedings initiated by Heritage Fields to create one or more additional improvement areas in the CFD out of the property in Improvement Area No. 2.

7. Boundary Modifications.

(a) <u>Boundary Modification Properties</u>. Heritage Fields is the owner of that certain real property more particularly described in Subsection 1.2.c of the Design Package attached hereto and incorporated herein by reference (the "Heritage Fields **Boundary Modification Property**"), which represents a portion of the current design for Upper Bee and the Bosque. Heritage Fields and the City shall meet and confer to determine whether it is mutually beneficial and desirable for Heritage Fields to convey the Heritage Fields Boundary Modification Property to City in exchange for the City's concurrent conveyance of fee title to approximately 3.2 acres of real property, in such location as may be mutually agreed upon by Heritage Fields and City (the "City

Boundary Modification Property," and collectively with the Heritage Fields Boundary Modification Property, the "Boundary Modification Exchange Properties"). In the event that the Parties can mutually agree upon the exact acreage and location of the City Boundary Modification Property, within a timeframe Heritage Fields reasonably determines (which timeframe shall be communicated to the City through the notice provisions of this Agreement at least ninety (90) days prior to the expiration of said timeframe) is required for planning and construction efforts to continue, then, on the date that the adjacent Great Park Improvements are conveyed to the City pursuant to the terms of this Agreement, (i) Heritage Fields shall convey to City fee title to the Heritage Fields Boundary Modification Property, and (ii) City shall concurrently convey to Heritage Fields fee title to the City Boundary Modification Property. If the Parties are unable to mutually agree upon the exact acreage and location of the City Boundary Modification Property, within a timeframe Heritage Fields reasonably determines is required for planning and construction efforts to continue, then Heritage Fields shall have the right to redesign the precise boundaries of Upper Bee and/or the Bosque to remove the Heritage Fields Boundary Modification Property from the OCGP Improvement Area, and Heritage Fields will have no further obligation under this Agreement to convey the Heritage Fields Boundary Modification Property to City. Heritage Fields shall reserve over the Heritage Fields Boundary Modification Property such easements for roads and utilities as may be reasonably required, which reservations shall be included in the grant deed to the City. City and Heritage Fields shall execute and record such additional documents as are reasonably necessary to evidence the transfer of the Boundary Modification Exchange Properties.

(b) <u>Material Terms</u>. All material terms and requirements to be included in the conveyances of the Boundary Modification Exchange Properties have been included herein, and any additional matters included by mutual consent in a deed or other instrument related to the conveyances shall be fully consistent with the terms set forth in this Agreement.

(c) <u>Transfer Taxes and Recording Fees</u>. In connection with the transfer of the Boundary Modification Exchange Properties, Heritage Fields shall pay (i) all County of Orange transfer taxes (if any) and (ii) any recording fees, all based upon a value of \$190,000 per acre.

(d) <u>Encumbrances</u>. In the event that the transfer of the Boundary Modification Exchange Properties is consummated in accordance with <u>Section 7(a)</u> above, the Parties shall cause the Boundary Modification Exchange Properties to be conveyed free and clear of all recorded and unrecorded monetary liens and all recorded and unrecorded non-monetary liens, encumbrances, easements, leases, covenants, conditions, restrictions, and other exceptions to or defects in title, excepting only the exceptions mutually agreed upon by the Parties. Each Party may elect, at its own cost, to obtain title insurance for its respective property in connection with the conveyance described in this <u>Section 7(d)</u>.

(e) <u>No Future Exactions or Conditions for Road Network Across</u> <u>Great Park Property</u>. In the event that an approved map for development adjacent to the

Great Park or access to the to-be-constructed Great Park Improvements requires a portion of the road network for such development to cross through or otherwise be located upon a portion of the Great Park Property, the City shall grant the road right-of-way easement for same, along an alignment reasonably agreed to by the City, and Heritage Fields shall not be required to pay any City-imposed fees or City-imposed exactions or satisfy any additional conditions with respect to such portion of the road network.

8. **Operation and Maintenance of Great Park.**

On or prior to the Acceptance Date of each Subarea of the Great Park (a) Improvements, and unless the City shall have exercised its Maintenance Retention Option (defined below) during the Maintenance Review Period (defined below), the City shall then enter into either a lease agreement with HF Contractor, substantially in the form of Exhibit F-1 attached hereto (as such form may be amended or modified from time to time in writing by mutual written agreement of the Parties, a "Lease"), or a maintenance agreement with HF Contractor, substantially in the form of Exhibit F-2 attached hereto and incorporated herein by reference (as such form may be amended or modified from time to time in writing by mutual written agreement of the Parties, a "Maintenance Agreement"), for the operation and maintenance (in the case of a Lease) or the maintenance alone (in the case of a Maintenance Agreement) of that Subarea of the Great Park Improvements through December 31, 2023 (the "Outside Date"), which Lease or Maintenance Agreement will be effective as of the Acceptance Date for the applicable Subarea of the Great Park Improvements. Notwithstanding the foregoing, if the City has not exercised its Maintenance Retention Option (defined below) during the Maintenance Review Period (defined below) and the Parties determine that applicable law prohibits a leasing structure, then the Parties shall enter into an alternative form of binding written agreement in substitution of the Lease on the same material terms and conditions as the Lease; and all references in this Agreement to a "Lease" shall refer to such alternative structure. In no event will HF Contractor, Heritage Fields, any affiliate of Heritage Fields, or any party that has succeeded to the interest of Heritage Fields under the ARDA have any right or obligation, either express or implied, to lease, operate and maintain any Subarea of the Great Park Improvements past the Outside Date, provided that (i) any Maintenance Agreement entered into with respect to the Wildlife Corridor shall have a minimum term of three (3) years, even if such three-year period would extend the term beyond the Outside Date and (ii) the City may have the right to extend the term of the Leases and the Maintenance Agreements beyond the Outside Date as provided below. The term of all Leases and Maintenance Agreements entered into pursuant to this Agreement may be subject to three (3) extension options of one (1) year each (the "Extension Options") as follows:

(x) If as of July 1, 2023, the City has not received any Secondary Amount (as such term is defined in the ARDA), and does not reasonably expect to receive any Secondary Amount for fiscal year 2023-2024, then the City shall have the right (but not the obligation) to send a written notice to Heritage Fields of such fact, and the term of all Leases and Maintenance Agreements shall be extended for an additional one (1) year and shall expire on December 31, 2024. To the extent the City does not deliver a written

notice in the time period specified above, then it shall be deemed to have elected not to extend the term, in which event all Leases and Maintenance Agreements shall expire.

(y) If as of July 1, 2024, the City has not received any Secondary Amount, and does not reasonably expect to receive any Secondary Amount for fiscal year 2024-2025, then the City shall have the right (but not the obligation) to send a written notice to Heritage Fields of such fact, and the term of all Leases and Maintenance Agreements shall be extended for an additional one (1) year and shall expire on December 31, 2025. To the extent the City does not deliver a written notice in the time period specified above, then it shall be deemed to have elected not to extend the term, in which event all Leases and Maintenance Agreements shall expire.

(z) If as of July 1, 2025, the City has not received any Secondary Amount, and does not reasonably expect to receive any Secondary Amount for fiscal year 2025-2026, then the City shall have the right (but not the obligation) to send a written notice to Heritage Fields of such fact, and the term of all Leases and Maintenance Agreements shall be extended for an additional one (1) year and shall expire on December 31, 2026. To the extent the City does not deliver a written notice in the time period specified above, then it shall be deemed to have elected not to extend the term, in which event all Leases and Maintenance Agreements shall expire.

The City's election to extend (or deemed election not to extend) the term of each Lease and Maintenance Agreement shall apply to all Leases and Maintenance Agreements, it being the intent of the Parties that the City may not make an election to extend or to terminate one Lease or Maintenance Agreement without making the same election under all Leases and all Maintenance Agreements.

Heritage Fields shall not be obligated to operate or maintain any Subarea of the OCGP Improvement Area prior to the effective date of a Lease or Maintenance Agreement, provided that the foregoing is not intended to address maintenance associated with its construction activities for the Great Park Improvements (which maintenance and associated costs are assumed in the Design Package). Schedule 8 attached hereto identifies the different Subareas of the Great Park Improvements that will be subject to a Lease or Maintenance Agreement, if the City does not exercise its Maintenance Retention Option (defined below) during the Maintenance Review Period (defined below) in accordance Section 8(d). Unless the City has exercised its Maintenance Retention Option (defined below) during the Maintenance Review Period (defined below), (in which event the terms of Section 8(d) shall apply), each of the three Subareas (e.g., Golf Course, Sports Park, and Agricultural Area) may be subject to a Lease, with the Golf Course and Sports Park subject to the same Lease and the Agricultural Area subject to a separate Lease, using substantially the same form as Exhibit F-1 but subject to special conditions (if any) that apply to the applicable uses. Unless the City has exercised its Maintenance Retention Option (defined below) during the Maintenance Review Period (defined below) (in which event, the terms of Section 8(d) shall apply), each of the three Subareas that will be subject to a Maintenance Agreement (e.g., Bosque, Upper Bee, and Wildlife Corridor) may be subject to a separate Maintenance Agreement, using substantially the

same form as **Exhibit F-2** but subject to special conditions that apply to the applicable uses. Any Maintenance Agreement entered into pursuant to this <u>Section 8</u> shall include a right of entry in favor of Heritage Fields to conduct the maintenance activities contemplated by such agreement, and an express understanding that any activities that fall outside the scope of such agreement (including without limitation maintenance of areas that the City has elected to develop or improve, or maintenance of the City's modifications and alterations to existing improvements) shall be conducted at City's sole cost and expense.

Notwithstanding the foregoing or anything else to the contrary in this (d)Agreement, upon receipt of direction from the City Council to do so, the City shall have the right (but not the obligation) during the period beginning on the Effective Date and ending twelve (12) months after the Effective Date (the "Maintenance Review Period") to deliver written notice to Heritage Fields that it has elected to retain the obligation to operate and maintain the Great Park Improvements (the "Maintenance Retention Option"), in which event (a) neither the City nor Heritage Fields shall have any obligation to enter into any Lease or Maintenance Agreement, except for a Maintenance Agreement with respect to the Wildlife Corridor with a minimum term of three (3) years from the Acceptance Date of the completed Wildlife Corridor or any portion thereof, even if such three-year period would extend the term beyond the Outside Date (the "Wildlife Corridor Maintenance Agreement"), and (b) Heritage Fields shall pay to the City on or before January 1 of each calendar year, beginning on January 1, 2016, an annual amount (the "Annual Maintenance Amount") equal to \$1,250,000, through January 1, 2023. Notwithstanding the foregoing, the January 1 date for performance of Heritage Fields' obligation to remit the Annual Maintenance Amount to the City shall be adjusted by the number of days that elapse between March 10, 2014 and the date the Entitlements are Deemed Approved. By way of illustration only and without limiting the generality of the foregoing, if the Entitlements are Deemed Approved on March 20, 2014 (10 days after March 10, 2014), then the payment date for the Annual Maintenance Amount would be adjusted by 10 days, from January 1 of each calendar year to January 11. If the City takes no action to the contrary during the Maintenance Review Period, then HF Contractor and the City shall enter into a Lease or Maintenance Agreement on or prior to the Acceptance Date of each Subarea of the Great Park Improvements as more particularly described in Sections 8(a), (b) and/or (c), as applicable, and as set forth on Schedule 8, and the City shall not be entitled to the Annual Maintenance Amount as set forth above. If, during the Maintenance Review Period, the City exercises the Maintenance Retention Option, then any rights provided in Section 5(b) shall terminate. For all purposes under this Agreement (and under the agreements contemplated herein and/or referenced hereby): (1) in the event the City does not exercise its Maintenance Retention Option during the Maintenance Review Period, the terms and/or phrases "Maintenance Agreement", "Maintenance Agreements", "Lease(s) and/or Maintenance Agreement(s)," and terms and/or phrases of similar import shall mean any and all Leases and/or Maintenance Agreements executed in accordance with the provisions of Sections 8(a), (b) and/or (c), and (2) in the event the City exercises the Maintenance Retention Option, the terms and/or phrases "Maintenance Agreement", "Maintenance Agreements," "Lease(s) and/or the Maintenance Agreement(s)", and

terms and/or phrases of similar import shall mean the Wildlife Corridor Maintenance Agreement only.

9. Additional Payments to City.

(a) Planning, Feasibility, and Related Technical Studies for Cultural Heritage Fields shall fund up to Two Million and No/100 Dollars Terrace. (\$2,000,000.00) (the "Cultural Terrace Studies Funds") for planning, feasibility and related technical studies for future development of the area currently designated "Cultural Terrace" on the OCGP Master Plan, or other portions of the Great Park that are not part of the OCGP Improvement Area, including, without limitation, the following uses: an entertainment venue, lake, library, museum, and/or other uses within this portion of the Great Park. The study shall also examine the interface of such area with surrounding land uses and development. Such studies shall be jointly commissioned by Heritage Fields and the City pursuant to a scope mutually approved by the Parties. Final drafts of the studies shall be shared with Heritage Fields and the City for their input and direction. and complete results of such studies shall be delivered to Heritage Fields and the City. Any portion of the Cultural Terrace Studies Funds not used for the purposes set forth in this Section 9(a) (the "Excess Cultural Terrace Studies Funds") may be added to the Hydroseeding Amount (defined below).

(b) Interim Terraforming, Hydroseeding and Irrigation. Heritage Fields and the City, acting through its City Manager (or his or her designee), shall meet and confer within one (1) year of the date hereof to determine if it is feasible and desirable to Terraform and irrigate the remaining undeveloped portions of the Great Park, or any portions thereof, that are not part of the OCGP Improvement Area to be developed with the Great Park Improvements (excluding those portions of the OCGP Improvement Area that require removal of existing Runways, for which the provisions of the ARMIA related to "Runway Activities" shall govern), and if such activities can be completed for no more than an amount equal to the sum of (i) Two Million and No/100 Dollars (\$2,000,000.00) and (ii) the Excess Cultural Terrace Studies Funds (the "Hydroseeding Amount") and without interfering with or interrupting the construction and operation of the Great Park Improvements or the City's operations on the developed portions of the Great Park. As used herein, the term "Terraform" shall mean to grade and hydroseed. If so, Heritage Fields shall undertake such Terraforming and irrigation activities at its expense, not to exceed the Hydroseeding Amount, and such activities shall be incorporated into the Master Phasing Plan & Schedule. Heritage Fields and City shall cooperate in good faith to schedule and coordinate such activities so as to not interfere with Heritage Fields' phased construction activities on the OCGP Improvement Area.

10. Insurance.

(a) <u>Coverages</u>. Heritage Fields (or its Licensed Affiliate) shall procure and maintain at all times during the construction of the Great Park Improvements, the following policies of insurance:

(i) Commercial General Liability Insurance. A policy of commercial 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.

(ii) Automobile Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than either (A) 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 (B) combined single limit liability of \$2,000,000. Said policy shall include coverage for owned, non-owned, leased, and hired cars.

(iii) *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, if and to the extent Heritage Fields (or its Licensed Affiliate) has employees.

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, agents 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, Heritage Fields (or its Licensed Affiliate) shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 10. No construction work to be performed by Heritage Fields (or its Licensed Affiliate) pursuant to this Agreement shall commence until Heritage Fields (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.

(b) <u>Blanket Policies</u>. Any policy required by the provisions of this <u>Section 10</u> 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.

(c) <u>Contractors</u>. Heritage Fields shall not authorize any contractor, subcontractor or consultant to commence work on the OCGP Improvement Area for the Great Park Improvements until such individual or entity has named the City as an additional insured on such individual's or entity's general liability insurance policy(ies).

(d) <u>Waiver of Subrogation</u>. The City hereby waive all rights against Heritage Fields for damage to property caused by fire and other perils and any other risk to the extent that such damage is covered by the City's policies of insurance.

11. Non-Recyclable and/or Hazardous Materials.

Non-Recyclable Materials; Hazardous Materials. (a) City acknowledges that contractors for the Great Park Improvements (as used herein, "Contractors") may encounter non-recyclable materials (including, without limitation, Hazardous Materials) during the course of construction of the Great Park Improvements. Notwithstanding anything to the contrary in this Agreement, as between the City and Heritage Fields only, the City shall be responsible for all costs and expenses incurred or to be incurred in connection with the removal or cleanup of such materials, if such removal or cleanup is required, subject to the provisions of Section 11(d) below. Consistent with the ARMIA, asphalt removal shall continue to be removed and/or recycled in accordance with Section 8.1.2 of the ARMIA. 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 Contractors shall be instructed to immediately notify the City, in writing, when encountering any non-recyclable materials on the OCGP Improvement Area and to identify the locations, depths and type and quantity of such material discovered by said Contractors. If City desires the applicable Contractor(s) to remove any non-recyclable materials from the OCGP Improvement Area, or to take other remedial action or mitigation measures, City may enter into separate agreements with Contractor(s) or any other contractor of their choice for the removal or such other remedial or mitigation 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 nonrecyclable materials. Notwithstanding anything to the contrary in this Agreement, by administering the Great Park Improvements, Heritage Fields 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 OCGP Improvement Area, including, without limitation, any Hazardous Materials that may exist in the soil, soil vapor and/or groundwater at the OCGP Improvement Area or that may be discovered through the construction of the Great Park Improvements on or within the OCGP Improvement Area. Heritage Fields shall not be responsible, and shall bear no cost or 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 the OCGP Improvement Area, and shall not 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.

(b) <u>Release of Hazardous Materials</u>. In the event of any release, discharge, leakage or spillage of Hazardous Materials on or from the OCGP Improvement Area caused by the actions of any Contractor (collectively, a "Contractor Release"), the Contractor shall be required to immediately stop its activities in the affected area and provide written notice to the City. Heritage Fields and City shall have

no liability to or recourse against each other for any Contractor Release. Heritage Fields shall cause a provision to be added to any contracts for the improvement of the Great Park whereby the Contractors agree to indemnify, reimburse, defend and hold harmless Heritage Fields 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 Contractor Release on or migrating to or from the OCGP Improvement Area caused by the negligence or willful misconduct of the Contractor or any subcontractor of the Contractor. Heritage Fields shall also cause a provision to be added to any such contracts whereby Heritage Fields and/or the City have a right of reimbursement in favor of Heritage Fields and/or City, as the case may be, from the 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 Contractor Release caused by the negligence or willful misconduct of the Contractor or any subcontractor of the Contractor ("Cleanup Costs"), where such Cleanup Costs were, or are to be, incurred by the Heritage Fields and/or City, at said Party's reasonable discretion, as a result of such Contractor Release. Contractor(s) shall be required to reimburse Heritage Fields and/or City for any 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 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.

(c) <u>Protocol Plan for Unknown Hazardous Materials</u>. In the event of the discovery of or release or a suspected release of Hazardous Materials on the OCGP Improvement Area, Heritage Fields and City shall each follow the requirements of the PLL Policy (defined below), and shall each cause any Contractor retained by it, respectively, consistent with the terms of the PLL Policy, to follow, the procedures and protocols set forth in the Revised Protocol Plan for Unknown Hazardous Materials dated July 16, 2013 (the "**Protocol Plan**").

(d) <u>Cooperation in Environmental Insurance Claims</u>. Except where notice is required to be given as soon as possible to the insurance company, if either Party elects to pursue a claim or notice of potential claim under the environmental insurance policy issued to the City and Heritage Fields 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 a 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 potential claim, and each Party shall reasonably cooperate with the other Party with respect to the pursuit of such claim or potential claim, with the Parties agreeing to abide by the terms and conditions of the PLL Policy.

(e) Hazardous Materials Reserve Allocation. If the City incurs costs investigating, monitoring, assessing, treating, removing, transporting, disposing and/or remediating any Hazardous Materials discovered or released as a result of any activities required by, arising out of, or in furtherance of, this Agreement, other than releases caused or contributed to by City (including, without limitation, costs that are not reimbursed by the insurer because they are within the amount of the deductible or selfinsured retention of the PLL Policy or because the insurer denies coverage (for reasons other than failure of City to comply with the requirements of the PLL Policy)), then the City may use up to Two Million and No/100 Dollars (\$2,000,000.00) from the Additional Allowance Fund (the "Section 11 Reserve") for reimbursement of those costs, provided that before the City may access any Section 11 Reserve funds, it must first provide evidence in form and substance reasonably acceptable to Heritage Fields that it has already expended an aggregate amount of \$2 million of its own funds in respect of such Upon completion of all Demolition Work, Runway Activities and grading costs. activities in the OCGP Improvement Area, any unused funds remaining in the Section 11 Reserve shall remain available in the Additional Allowance Fund and shall be reallocated by Subarea in proportion to each Subarea's "Remaining Allocation" as set forth on Schedule 11.

12. Events of Default and Remedies.

(a) <u>Event of Default by Heritage Fields</u>. An "Event of Default" by Heritage Fields means any one (1) or more of the following occurrences:

(i) Heritage Fields shall materially breach any of its duties or obligations herein, 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 Heritage Fields. However, City must provide written notice to Heritage Fields setting forth the nature of the breach or failure and the actions, if any, required by Heritage Fields to cure such breach or failure. Heritage Fields shall be deemed in "material breach" of its obligations set forth in this Agreement if Heritage Fields has failed to take action and cure the default within thirty (30) days after the date of such notice (for monetary defaults), within fortyfive (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 nonmonetary default cannot be cured within such forty-five (45) day period, as long as Heritage Fields does each of the following, then Heritage Fields 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 Heritage Fields' 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, Heritage Fields 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 Heritage Fields 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.

(ii) Heritage Fields applies for the appointment of a receiver, trustee or liquidator of Heritage Fields 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 takes advantage of any insolvency law or files an answer admitting the material allegations of the petition filed against Heritage Fields 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 Heritage Fields bankrupt or insolvent or approving a petition seeking reorganization of Heritage Fields or appointing a receiver, trustee, or liquidator of Heritage Fields 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.

(b) <u>City Remedies</u>. Upon the occurrence and during the continuance of an Event of Default by Heritage Fields, City's exclusive remedies shall be an action/arbitration, otherwise consistent with the requirements of this Agreement, for specific performance or City may (but shall not be obligated to) elect to cure and perform those obligations of Heritage Fields which are the subject of the Event of Default. 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, but excluding any consequential, special, and punitive damages) and shall further include and allow for the recovery of the costs incurred by the City in electing to cure or perform those obligations of Heritage Fields which were the subject of the Event of Default.

(c) <u>Event of Default by City</u>. An "Event of Default" by City means any one (1) or more of the following occurrences:

(i) City shall materially breach any of its obligations to Heritage Fields herein (the Parties acknowledging that the failure to make any payment to Heritage Fields, 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, Heritage Fields must provide written notice to City setting forth the nature of the breach

period;

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 Heritage Fields 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 Heritage Fields of City's proposed course of action to cure the default;

C. promptly commences to cure the default within the forty-five (45) day

D. makes periodic reports to Heritage Fields 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.

(ii) 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 takes 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.

(d) <u>Remedies of Heritage Fields</u>. Upon the occurrence and during the continuance of an Event of Default by City, Heritage Fields' exclusive remedies shall be an action/arbitration, otherwise consistent with the requirements of this Agreement, for specific performance or Heritage Fields may (but shall not be obligated to) elect to cure

and perform those obligations of City which are the subject of the Event of Default. For purposes of this Agreement, the specific performance remedy shall include and allow for the recovery of sums due and owing to Heritage Fields (including interest permitted under this Agreement, but excluding consequential, special, and punitive damages).

(e) <u>Survival</u>. City's and Heritage Fields' obligations to make payments to Heritage Fields or the City in accordance with <u>Sections 12(d)</u> and <u>12(b)</u>, respectively, under this Agreement shall survive termination of the Agreement.

13. Dispute Resolution.

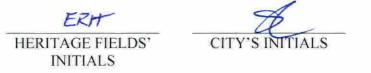
JUDICIAL REFERENCE OF DISPUTES. IF ANY CLAIM OR (a) CONTROVERSY THAT ARISES OUT OF OR RELATES TO, DIRECTLY OR INDIRECTLY, THIS AGREEMENT OR ANY DEALINGS BETWEEN THE PARTIES CANNOT BE SETTLED BY THE PARTIES WITHIN THIRTY (30) DAYS AFTER EITHER PARTY IS FIRST PROVIDED WRITTEN NOTICE OF THE CLAIM OR CONTROVERSY 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, SUBJECT TO SECTION 12(C), TO PROVIDE ALL REMEDIES AVAILABLE IN LAW OR CIRCUMSTANCES EOUITY APPROPRIATE UNDER THE OF THE CONTROVERSY: 6) THE REFEREE MAY REOUIRE 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(D), 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.

> ERH-HERITAGE FIELDS' INITIALS

CITY

ARBITRATION OF DISPUTES. RECOGNIZING THAT (b) TIMELY AND EFFECTIVE ENFORCEMENT OF THIS AGREEMENT IS CRITICAL TO THE PARTIES, IF FOR ANY REASON THE JUDICIAL REFERENCE PROCEDURES IN SECTION 13(A) 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 ("AAA") 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 OR CONSTRUCTION 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 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. SUBJECT TO SECTION 15(D), 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.



14. <u>Notices</u>. Any notice or communication required hereunder between the City and a Heritage Fields Party must be in writing and may be given either personally, by registered or certified mail, return receipt requested, or by facsimile transmission. If given by registered or certified mail, the same shall be deemed to have been given and received on the date of actual receipt by the addressee designated herein below as the Party to whom the notice is sent. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Notices delivered by facsimile transmission shall be deemed to have been given on the first business day following the date of transmission to the facsimile number. A Party hereto may, at any time, by giving ten (10) days' written notice to the other Parties hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:

City of Irvine City Hall One Civic Center Plaza Irvine, CA 92623-9575 Attn: Director of Community Development Telephone: (949) 724-6451 Telecopy: (949) 724-6440

<u>With a copy to</u> :	Rutan & Tucker, LLP 611 Anton Blvd., Suite 1400 Costa Mesa, CA 92626 Attn: Jeffrey T. Melching, Esq. Telephone: (714) 641-3422 Telecopy: (714) 546-9035
<u>If to Heritage Fields</u> :	Heritage Fields El Toro, LLC 25 Enterprise Aliso Viejo, CA 92646 Attn: Legal Notices Telephone: (949) 349-1000 Telecopy: (949) 349-1075
With a copy to:	Gibson, Dunn & Crutcher LLP 333 South Grand Avenue, Suite 490

to:Gibson, Dunn & Crutcher LLP333 South Grand Avenue, Suite 4900Los Angeles, CA 90071Attn: Amy R. Forbes, Esq.Telephone: (213) 229-7151Telecopy: (213) 229-6151

15. Miscellaneous.

(a) <u>Execution in Counterparts</u>. 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.

(b) <u>Exhibits/Schedules</u>. The exhibits/schedules attached hereto are hereby incorporated herein by this reference.

(c) <u>No Third-Party Beneficiary</u>. 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 City and Heritage Fields 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.

(d) <u>Attorneys' Fees</u>. In any proceeding between the City and Heritage Fields seeking enforcement of any of the terms and provisions of this Agreement ("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, attorneys' 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.

(e) <u>Partial Invalidity</u>. If any term or provision or portion thereof of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision or portion thereof to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(f) <u>No Partnership/Fiduciary Relationship</u>. The City and Heritage Fields acknowledge and agree that the relationship created by this Agreement between Heritage Fields and the 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.

(g) <u>No Recordation</u>. 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; provided, however, that the Parties may record any grant deed as set forth in **Exhibit E-3** and any memorandum of lease or maintenance agreement as set forth in **Exhibits F-1** and **F-2**.

(h) 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: (i) it knows of any default under this Agreement; (ii) to its knowledge, the Agreement has been assigned, modified or amended in any way (and if it has, then stating the nature thereof); and (iii) 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. Nothing in this Section 15(h) shall be interpreted to permit Heritage Fields to mortgage, pledge, or otherwise encumber any right, title or interest of Heritage Field in the Great Park Property.

(i) <u>Non-Liability Of Officers, Employees and Other Parties; Available</u> <u>Remedies</u>. Notwithstanding anything in this Agreement to the contrary, (1) no official, officer, or employee of the City shall be personally liable to Heritage Fields or its respective predecessors, successors and assigns for any loss arising out of or connected with this Agreement, and (2) no partner, member or affiliate of Heritage Fields, nor any such partner's, member's or affiliate's separate property shall be personally liable for any claim arising out of or related to this Agreement.

Further, the Parties acknowledge that they would not have entered into this Agreement if either Party were to have any monetary liability to the other beyond the

financial obligations specifically set forth in this Agreement. Accordingly, Heritage Fields covenants on behalf of itself and its successors and assigns, not to sue the City, and the City on behalf of itself and its successors and assigns, not to sue Heritage Fields, for any form of monetary relief for any breach arising under or related to this Agreement, the parties agreeing that declaratory and injunctive relief, mandate, and specific performance (including specific performance of the financial or construction obligations described herein) shall be their sole and exclusive judicial remedies.

(k) Entire Agreement, Waivers and Amendments. This Agreement, together with the other documents and agreements attached hereto or referenced herein, constitutes the entire understanding and agreement of the Parties and supersedes all previous negotiations, discussions, and agreements among the Parties with respect to all or part of the subject matter hereof. No parole evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Parties with the terms of this Agreement thereafter. Any amendments or modifications to this Agreement must be in writing, signed by duly authorized representatives of each of the Parties hereto. Any amendments or modifications to this Agreement shall not require a vote of the people.

(1) <u>Interpretation</u>. 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 Paragraphs or Sections shall refer to the corresponding Paragraphs or Sections of this Agreement unless specific reference is made to Paragraphs or Sections of another document or instrument.

(m) <u>Applicable Law; Venue</u>. This Agreement shall be construed and enforced in accordance with the internal laws of the State of California. Any arbitration of this matter must occur in the County of Orange, State of California.

(n) <u>Assignment</u>. If Heritage Fields assigns the ARDA to a successor developer that acts as master developer (as opposed to, for example, a merchant builder) of the property owned by Heritage Fields in connection with the transfer of some or all of Heritage Fields' interest in such property, then Heritage Fields shall assign and require such successor assume the duties and obligations of Heritage Fields under this Agreement. Further, Heritage Fields shall not assign the master developer rights and obligations under the ARDA with respect to the property owned by Heritage Fields (1) to more than one person or entity and (2) without also assigning this Agreement to such successor to Heritage Fields as master developer. The foregoing is not intended to apply to partial assignments of the ARDA to parties that are not a successor to Heritage Fields as master developer. Heritage Fields shall have the right, without City's consent, to assign this Agreement and/or its rights hereunder to any entity to whom Heritage Fields, with the City's consent (as required by the ARDA), assigns the ARDA; *provided, however*, that (i) the assignee of Heritage Fields shall, by written instrument, assume all

obligations of such Party hereunder, and (ii) Heritage Fields shall promptly deliver a copy of the fully executed assignment and assumption agreement to the City. Heritage Fields shall also have the right, without City's consent, to collaterally assign this Agreement and/or its rights hereunder to a Mortgagee (as defined in the ARDA). This Agreement shall inure to the benefit of and be binding upon City and Heritage Fields and their respective heirs, executors, legal representatives, successors and assigns. Whenever in this instrument a reference is made to City or Heritage Fields, such reference shall be deemed to include a reference to their respective heirs, executors, legal representatives, successors and assigns. 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 the Irvine Ranch Water District ("IRWD"), Southern California Edison ("SCE") or the County for that portion of the Great Park Improvements 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).

(o) <u>Authority to Implement.</u> From time to time, Heritage Fields shall designate authorized signatories of Heritage Fields (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 Heritage Fields.

Force Majeure. City's performance (solely with respect to its (p) obligations under Section 11 of this Agreement) and Heritage Fields' performance of any services, obligations or undertakings under this Agreement shall be postponed in the event such Party 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 or failure to decide of any private party or Governmental Authorities having jurisdiction over any of the activities or matters for which City (solely with respect to its obligations under Section 11 of this Agreement) or Heritage Fields is responsible under this Agreement (it being understood that regulatory or statutory timelines in effect as of the date hereof with respect to giving public notice in advance of discretionary actions of a Governmental Authority, and normal and typical timeframes for processing plans and specifications, shall not be considered a Force Majeure Delay), 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 Heritage Fields or City), civil disturbance, order of any government, court or regulatory body claiming jurisdiction over the OCGP Improvement Area or the action proposed to be taken, 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, with respect to the obligations of Heritage Fields only, 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, provided that a failure to act by the City shall not be a force majeure with respect to the obligations 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, leases or easements are necessary to obtain, remove or relocate but have not been or cannot 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). With respect to the obligations of Heritage Fields only, a Force Majeure Delay will also include the failure to timely process or approve (A) permits and applications implementing the Entitlements, or (B) entitlements or approvals from Governmental Authorities (including the City) that are required to commence or construct the Great Park Improvements. Heritage Fields shall use commercially reasonable efforts, at no additional cost to Heritage Fields, to minimize the scope and duration of any Force Majeure delay.

[Signature page follows this page.]

IN WITNESS WHEREOF, the City and Heritage Fields have executed this Agreement as of the date first above written.

"City"

CITY OF IRVINE, a California charter city 501 By 8 Name: Its:

APPROVED AS TO FORM:

ATTEST:

Todal

City Attorney

[SIGNATURES CONTINUE ON NEXT PAGE]

"Heritage Fields"

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

- By: Heritage Fields El Toro Sole Member LLC, a Delaware limited liability company Its: Sole Member
 - By: Heritage Fields LLC, a Delaware limited liability company Its: Sole Member
 - By: Lennar Heritage Fields, LLC, a California limited liability company Its: Administrative Member
 - By: Lennar Homes of California, Inc., a California corporation Its: Sole Member

By: Name: Erik R. Higgins Vice President Title:

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LIST OF EXHIBITS AND SCHEDULES

<u>Exhibits</u>

A	Depiction of OCGP Improvement Area
В	Design Package
C-1	Great Park Improvements Phasing Plan and Schedule
C-2	Amended Master Phasing Plan and Schedule
D	Additional Backbone Infrastructure
E-1	Legal Description of Wildlife Corridor Exchange Properties (Heritage Fields)
E-2	Legal Description of Wildlife Corridor Exchange Properties (City)
E-3	Forms of Grant Deeds for Wildlife Corridor Exchange Properties
F-1	Form of Lease
F-2	Form of Maintenance Agreement
<u>Schedules</u>	
l(a)-l	Form of Amendment to the Great Park Neighborhoods Master Affordable Housing Plan
1(a)-2	Form of Amendment to the Density Bonus Agreement
2(m)	Existing Encumbrances on OCGP Improvement Area
6(f)	Existing Encumbrances on Wildlife Corridor Exchange Properties
8	Nature of Operation and Maintenance Agreement
11	Section 11 Reserve Allocation in Additional Allowance Fund

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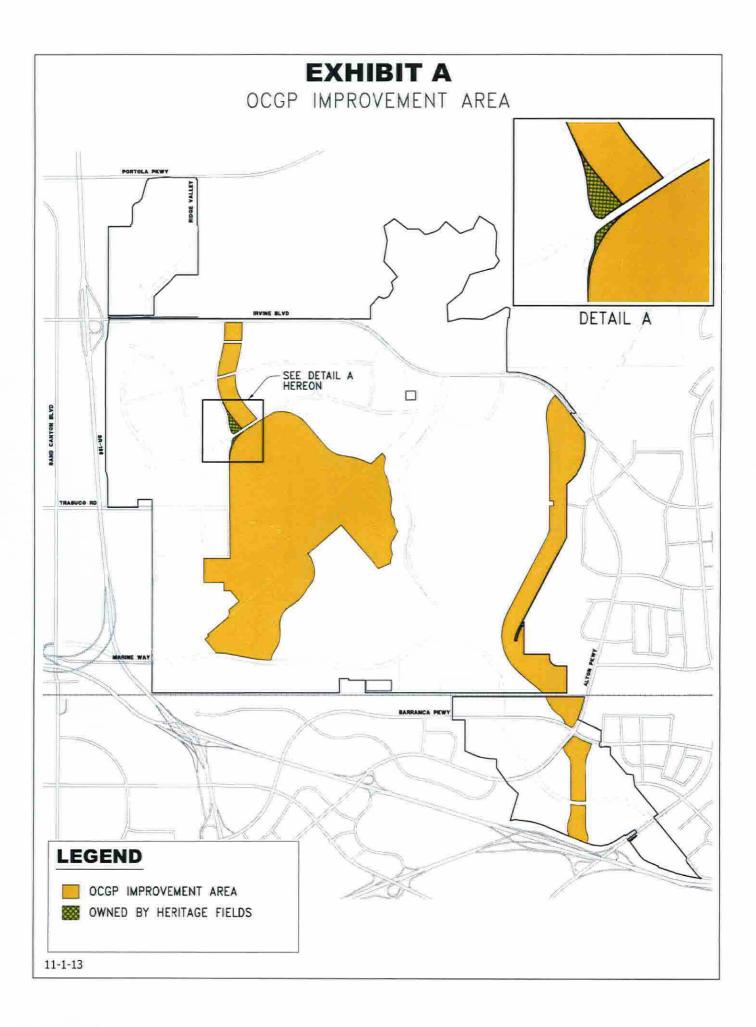
EXHIBIT A

Depiction of OCGP Improvement Area

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EXHIBIT B

Design Package

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That certain Design Package submitted to the City on November 21, 2013¹

¹ The Design Package is subject to the clarifications/corrections in the November 26, 2013 errata sheet submitted by Staff. The Design Package may be modified or amended in accordance with Section 2(c) of this Agreement. In addition, references to "city standards" at page 0.0a of the Design Package shall refer to City Park Design Standards.

EXHIBIT C-1

Great Park Improvements Phasing Plan and Schedule

EXHIBIT C-1

Master 2nd ALA Phasing Plan & Schedule⁽¹⁾

Reference Location	Year 1 ALA Improvements ⁽²⁾	
Sports Park	Site Preparation and Demolition ⁽³⁾ . See Section 1.3 of Design Package for information regarding runway disposition.	
Upper Bee Canyon	Site Preparation and Demolition ⁽³⁾ . See Section 1.3 of Design Package for information regarding runway disposition.	
Bosque	Site Preparation and Demolition ⁽³⁾ . See Section 1.3 of Design Package for information regarding runway disposition.	
Reference Location	Year 2 ALA Improvements	
Upper Bee Canyon	Improve approximately 35 acres from Irvine Blvd to "LQ" Street. See Section 2.1 of Design Package for detail.	
Bosque	Improve approximately 45 acres adjacent to "LY" Street. See Section 3.1 of Design Package for detail.	
Sports Park I	Soccer Fields 1-6, Championship Soccer Pitch, and Tennis Courts. See Section 5.1,5.2, and 5.6 of Design Package for detail.	
- f _{ar} , , ,,,, =	Years 3 ALA Improvements	
Golf	Site Preparation and Demolition ⁽³⁾ . See Section 1.3 of Design Package for information regarding runway disposition.	
Agriculture	Site Preparation and Demolition ⁽³⁾ . See Section 1.3 of Design Package for information regarding runway disposition.	
Sports Park II	Baseball Fields. See Section 5.1, 5.3, and 5.8 of Design Package for detail.	
Sports Park III	Flex Fields and Soccer Fields 12-17. See Section 5.1, 5.2, and 5.8 of Design Package for detail.	
	Year 4 ALA Improvements	
Sports Park IV	Softball Fields. See Section 5.1 and 5.4 of Design Package for detail.	
Sports Park V	Sports Courts, and Volleyball Courts. See Section 5.1. 5.5, and 5.7 of Design Package for detail.	
Golf	18-hole golf course with club house. See Section 4.1 and 4.2 of Design Package for detail.	
Agriculture	Grade agricultural fields. See Section 4.3 of Design Package for detail.	
	Year 5 ALA Improvements ⁽⁴⁾	
Wildlife Corridor	Improve 178 acres to create a wildlife corridor. See Wildlife Corridor Plan for detail.	

(1) Commencement and completion timing subject to Section 2f and Section 15p of the 2nd ALA, and issuance of permits by City of Irvine and applicable governmental authorities.

(2) Year 1 will commence on the date Entitlement is Deemed Approved as defined in Section 1 of the 2nd ALA, provided that if this occurs in December 2013, then Year 1 will be deemed to be calendar year 2014.

(3) See also Exhibit C-2 of the 2nd ALA regarding runway disposition.

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(4) Nothwithstanding the Wildlife Corridor scheduled in Year 5, construction of the Wildlife Corridor is ultimately dependent upon the timing of adjacent development and will be constructed as described in Section 6 of the Design Package.

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EXHIBIT C-2

Amended Master Phasing Plan and Schedule

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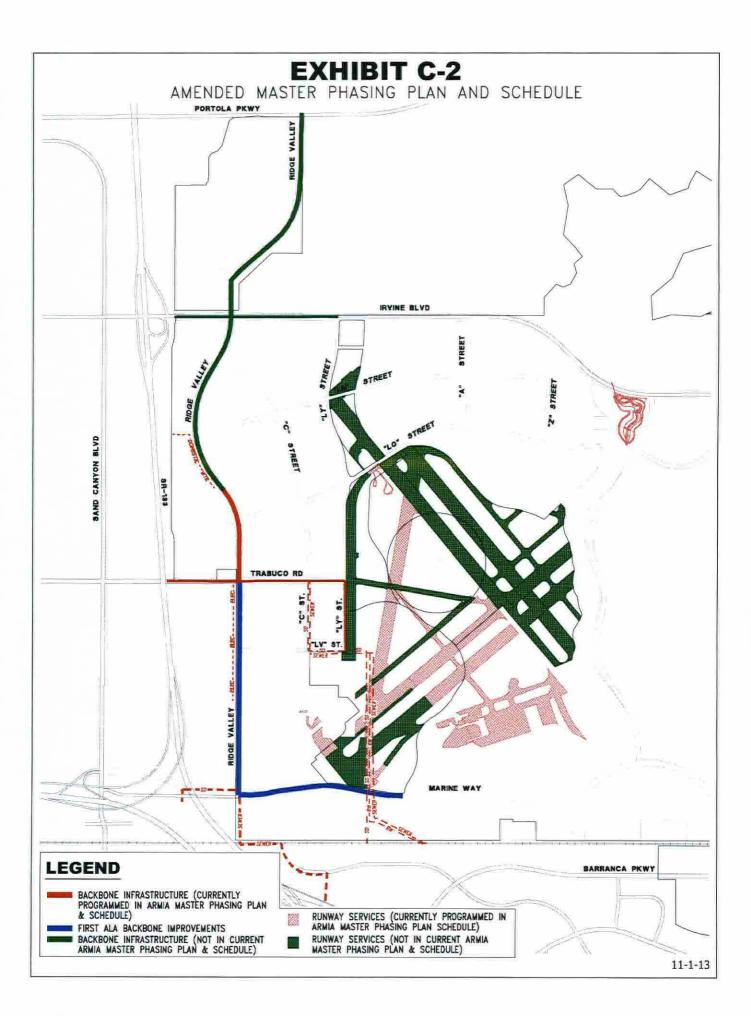
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EXHIBIT C-2

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

Reference Location	Additional Year 4 Joint Backbone Infrastructure (Engineering, Permitting, Construction)
Exh C-2 Pg 2	Demo of Runway on OCGP Property - Upper Bee Canyon
Exh C-2 Pg 2	Demo of Runway on OCGP Property - Bosque
Exh C-2 Pg 2	Demo of Runway on OCGP Property - Sports Park
Reference Location	Additional Year 5 Joint Backbone Infrastructure (Engineering, Permitting, Construction)
Exh C-2 Pg 2	Demo of Runway on OCGP Property - Golf Course
Exh C-2 Pg 2	Demo of Runway on OCGP Property - Agriculture
Reference Location ⁽²⁾	Year 6 Joint Backbone Infrastructure (Engineering, Permitting, Construction)
Segment 2B	Ridge Valley (Formerly "O" St) - Irvine Blvd to "LN" Street (Plans Approved)
Segment 2A	Ridge Valley (Formerly "O" St) - "LN" Street to "VV" Street (Plans Approved)
Reference Location	Year 7 Joint Backbone Infrastructure (Engineering, Permitting, Construction)
	No Improvement Obligation
Reference Location ⁽²⁾	Backbone Infrastructure Not in Current ARMIA Master Phasing Plan & Schedule - Accelerated by Heritage Fields
Segment 33C	Irvine Blvd - From SR-133 to Ridge Valley (Under Construction)
Segment 33A	Irvinc Blvd - Ridge Valley to "LY" Street (Under Construction)
Segment 31	Ridge Valley - Irvine Blvd to Portola Parkway (Under Construction)

(2) Segments are more particularly depicted in the document entitled "October 2010 Update to Backbone Infrastructure Cost Estimates By Segment" dated 10-11-10.



<u>EXHIBIT D</u>

Additional Backbone Infrastructure

See Subsection 1.2d of the Design Package, which is incorporated herein by reference.

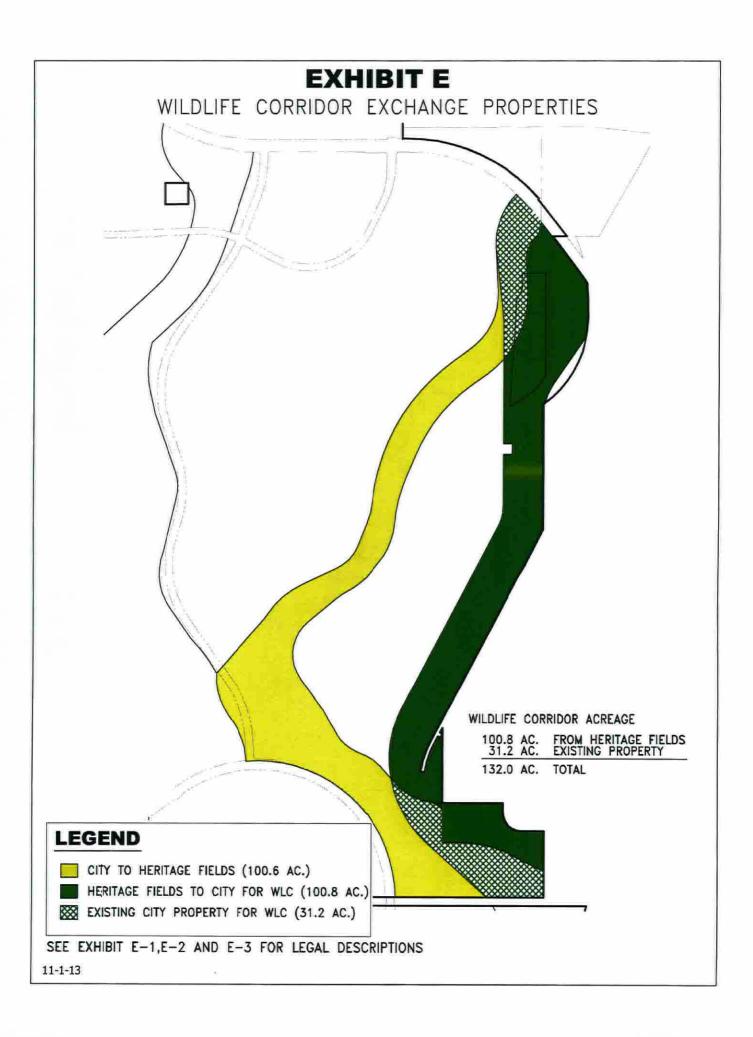
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EXHIBIT E-1

Legal Description of Wildlife Corridor Exchange Properties (Heritage Fields)

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LEGAL DESCRIPTION

Parcel W:

In the City of Irvine, County of Orange, State of California, being those portions of Parcel 2 as described in the deed recorded July 12, 2005 as Instrument No. 2005000536290, Parcel II-G as described in the deed recorded April 17, 2009 as Instrument No. 2009000191012, Parcel II-M as described in the deed recorded May 10, 2010 as Instrument No. 2010000218746, Parcel H-5 as described in the deed recorded November 15, 2011 as Instrument No. 2011000580796, all of Official Records in the office of the County Recorder of said county, also lying within Lots 282 and 283 of Block 155, Lots 303 and 306 of Block 173, and Lots 299 and 302 of Block 174, of Irvine's Subdivision as shown on a map recorded in Book 1, Page 88 of Miscellaneous Record Maps, in the office of said County Recorder, lying within the following described parcel:

Commencing at the southerly terminus of that certain course in the centerline of Irvine Boulevard shown as "N02°41'23"E 1398.02¹¹¹ on Record of Survey No. 2011-1042 as per a map filed in Book 254, Pages 21 through 36, inclusive, of Record of Surveys, in the office of said County Recorder; thence along said centerline the following two courses:

- 1) North 02°41'23" East 1398.02 feet to a curve concave westerly having a radius of 2000.00 feet and
- northerly 336.87 feet along said curve through a central angle of 9°39'02" to the easterly prolongation of that certain course in the northerly line of said Parcel G-1B of Exhibit "G-1-II" shown as "N83°06'35"E 66.76" on said Record of Survey;

thence along said easterly prologation and said northerly line South 83°06'35" West 70.00 feet to a point on a curve which is concentric with and distant 70.00 feet from said centerline of Irvine Boulevard, said point also being the **True Point of Beginning**;

thence continuing along said northerly and northwesterly line the following two (2) courses:

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LEGAL DESCRIPTION

- 1) South 83°06'35" West 56.76 feet to a curve concave southeasterly having a radius of 800.00 feet and
- 2) southwesterly 633.03 feet along said curve through a central angle of 45°20'15";

thence leaving said northwesterly line, southwesterly 49.44 feet along the southwesterly extension of said 800.00 foot radius curve through a central angle of 3°32'27"; thence South 34°13'53" West 670.62 feet to a curve concave northwesterly having a radius of 3000.00 feet; thence southwesterly 335.54 feet along said curve through a central angle of 6°24'30"; thence South 40°38'23" West 2037.92 feet to a curve concave northwesterly having a radius of 500.00 feet; thence southwesterly 243.22 feet along said curve through a central angle of 27°52'16"; thence South 68°30'39" West 2435.69 feet to a curve concave southeasterly having a radius of 1350.00 feet; thence southwesterly 1799.01 feet along said curve through a central angle of 76°21'09"; thence South 7°50'30" East 957.75 feet to a point on the northeasterly right of way of the 100.00 feet wide A.T.&S.F. rail road as shown on said Record of Survey; thence along said northeasterly right of way South 49°20'16" East 684.83 feet to the south corner of said Parcel G-1B; thence along the southeasterly line of said Parcel G-1B and the southeasterly line of said Parcel 2, as shown on said record of survey, the following six (6) courses:

- 1) North 40°39'56" East 779.93 feet,
- 2) North 49°20'32" West 265.18 feet to a curve concave easterly having a radius of 230.00 feet,
- 3) northerly 361.31 feet along said curve through a central angle of 90°00'26",
- 4) North 40°39'54" East 100.04 feet,
- 5) North 49°20'06" West 725.04 feet and
- North 40°39'13" East 906.94 feet to the southeasterly line of the Borrego Canyon Channel as described in the deed Recorded August 24, 2006 as Instrument No. 2006000565633 of said Official Records;

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LEGAL DESCRIPTION

thence along said southeasterly and the southwesterly and northwesterly line the following twelve (12) courses:

- 1) South 68°29'21" West 64.64 feet,
- 2) South 21°30'39" East 31.00 feet,
- 3) South 68°29'21" West 50.00 feet,
- 4) North 21°30'39" West 31.00 feet,
- 5) South 68°29'21" West 79.62 feet to a curve concave southeasterly having a radius of 1168.50 feet,
- 6) southwesterly 385.00 feet along said curve through a central angle of 18°52'40",
- radial to said curve North 40°23'19" West 50.00 feet to a non-tangent curve concave southeasterly having a radius of 1218.50 feet, a radial line to the beginning of said curve bears North 40°23'19" West,
- 8) northeasterly 401.47 feet along said curve through a central angle of 18°52'40",
- North 68°29'21" East 2224.26 feet to a curve concave southeasterly having a radius of 718.50 feet,
- 10) northeasterly 68.34 feet along said curve through a central angle of 5°26'58" to a reverse curve concave northwesterly having a radius of 681.50 feet,
- 11) northeasterly 71.70 feet along said curve through a central angle of 6°01'40" and
- 12) non-tangent from said curve South 21°15'05" East 1.78 feet to said southeasterly line of said Parcel 2;

thence along said southeasterly line the following three (3) courses:

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LEGAL DESCRIPTION

- 1) North 67°55'14" East 488.94 feet and
- North 40°38'25" East 1487.57 feet to a non-tangent curve concave northerly having a radius of 1255.00 feet, a radial line to the beginning of said curve bears South 5°16'41" West,
- 3) easterly 20.30 feet along said curve through a central angle of 0°55'36" to a point on the northerly line of that certain Exclusive Drainage Easement for Drainage described in the deed recorded December 5, 1986 as Instrument No. 86-597360 of said Official Records, said point being the beginning of a non-tangent curve concave southeasterly having a radius of 633.50 feet, a radial line to the beginning of said curve bears North 36°15'13" West;

thence along said northerly line, the following three (3) courses:

- northeasterly 201.77 feet along said curve through a central angle of 18°14'54" to a compound curve concave southerly having a radius of 1233.50 feet,
- 2) easterly 65.79 feet along said curve through a central angle of 3°03'21" and
- 3) North 75°03'02" East 676.77 feet to a point on the southeasterly line of said Parcel 2, said point being on a non-tangent curve concave northwesterly having a radius of 1255.00 feet, a radial line to said point bears South 39°38'01" East;

thence along said southeasterly line the following four (4) courses

- 1) northeasterly 199.30 feet along said curve through a central angle of 9°05'56",
- North 41°16'03" East 249.21 feet to a curve concave northwesterly having a radius of 1255.00 feet,
- 3) northeasterly 183.50 feet along said curve through a central angle of 8°22'39" and
- 4) non-tangent from said curve North 3°38'40" East 130.12 feet;

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LEGAL DESCRIPTION

thence North 86°21'20" West 0.56 feet to said line which is parallel with and distant 70.00 feet westerly from said centerline of Irvine Boulevard; thence along said parallel line the following two (2) courses:

- North 2°41'23" East 904.08 feet to a curve concave westerly having a radius of 1930.00 feet and
- northerly 325.17 feet along said curve through a central angle of 9°39'12" to the True Point of Beginning.

Excepting therefrom, Parcel II-H as described in the deed recorded July 12, 2005 as Instrument No. 2005000536290 of said Official Records.

Also excepting therefrom, Parcel G-1B as described in Exhibit "G-1-II" of the deed recorded July 12, 2005 as Instrument No. 2005000538137 of said Official Records.

Also excepting therefrom, Parcel I-4 as described in the deed recorded November 15, 2011 as Instrument No. 2011000580797 of said Official Records.

Also excepting therefrom, Parcel II-G-A as described in the deed recorded December 27, 2010 as Instrument No. 2010000700392 of said Official Records.

Also excepting therefrom, Parcel II-M-A as described in the deed recorded December 27, 2010 as Instrument No. 2010000700393 of said Official Records.

Also excepting therefrom that certain parcel described as Parcel 3 (FAA Easement, Building 627) in the deed recorded July 12, 2005 as Instrument No. 2005000536290 of said Official Records.

Containing an area of 90.500 acres, more or less.

Subject to covenants, conditions, reservations, restrictions, rights, rights of way and easements of record, if any.

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LEGAL DESCRIPTION

Parcel II-H:

In the City of Irvine, County of Orange, State of California, being that portion of Parcel II-H as described in the deed recorded July 12, 2005 as Instrument No. 2005000536290, of Official Records in the office of the County Recorder of said county, also lying within Lot 302 of Block 174, of Irvine's Subdivision as shown on a map recorded in Book 1, Page 88 of Miscellaneous Record Maps, in the office of said County Recorder.

Excepting therefrom, that certain parcel described in Parcel G-1B of Exhibit "G-1-II" of the deed recorded July 12, 2005 as Instrument No. 2005000538137 of said Official Records.

Containing an area of 10.357 acres, more or less.

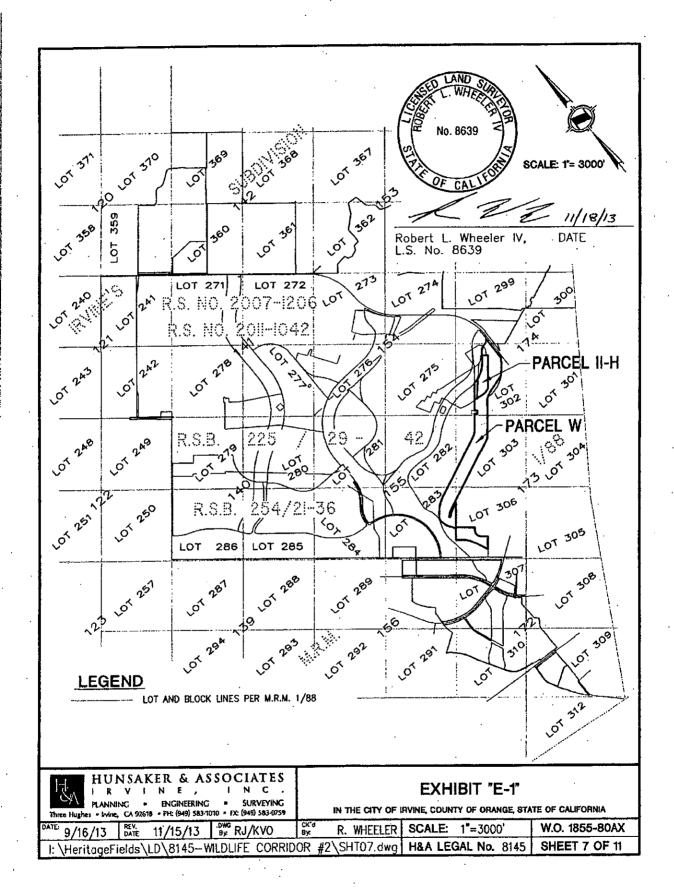
Subject to covenants, conditions, reservations, restrictions, rights, rights of way and easements of record, if any.

As shown on sheets 7 through 11, attached hereto and by this reference made a part hereof.

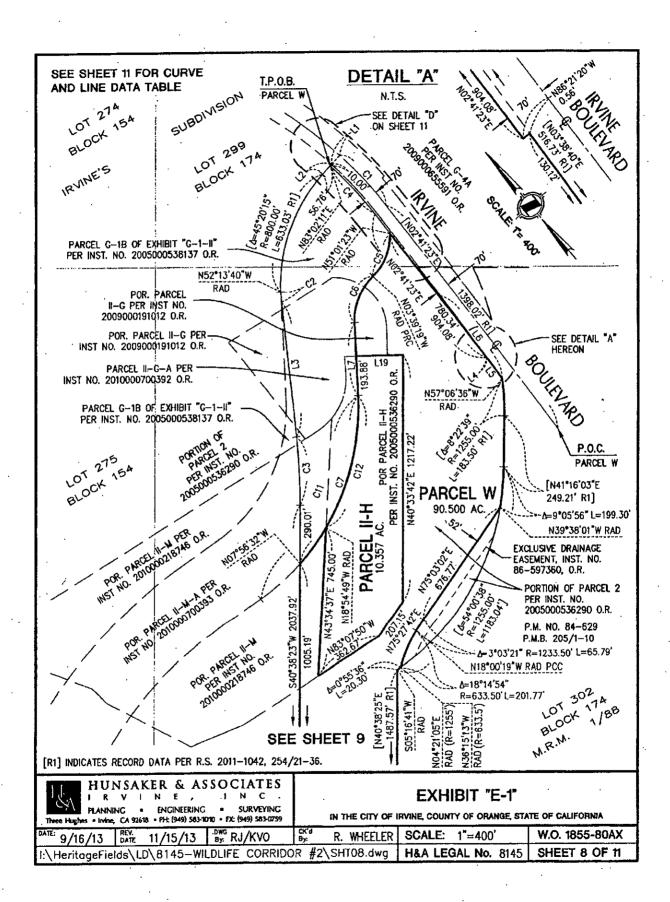
Robert L. Wheeler IV, L.S. 8639 Date: //////

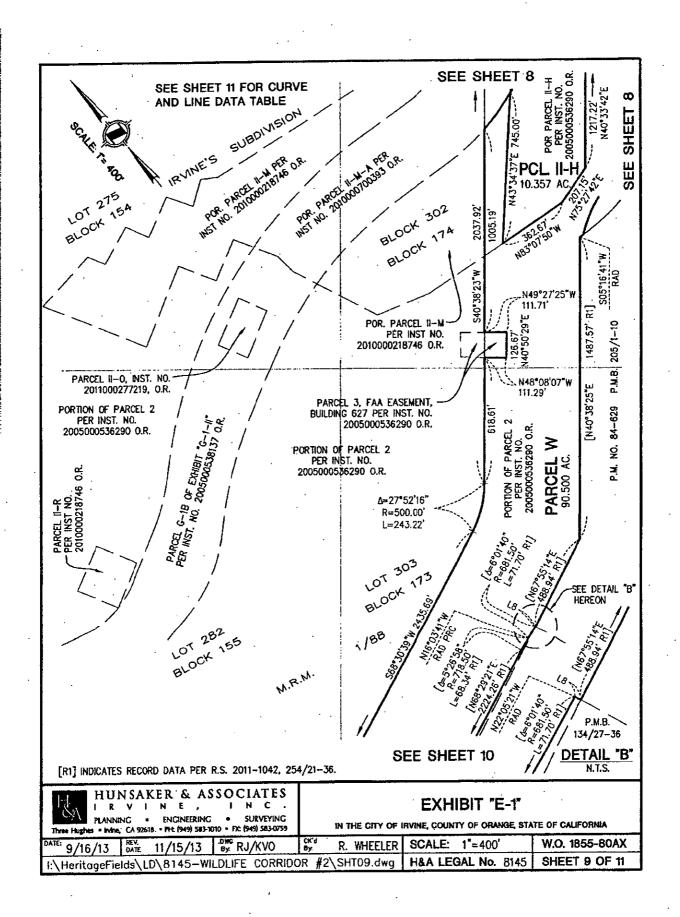


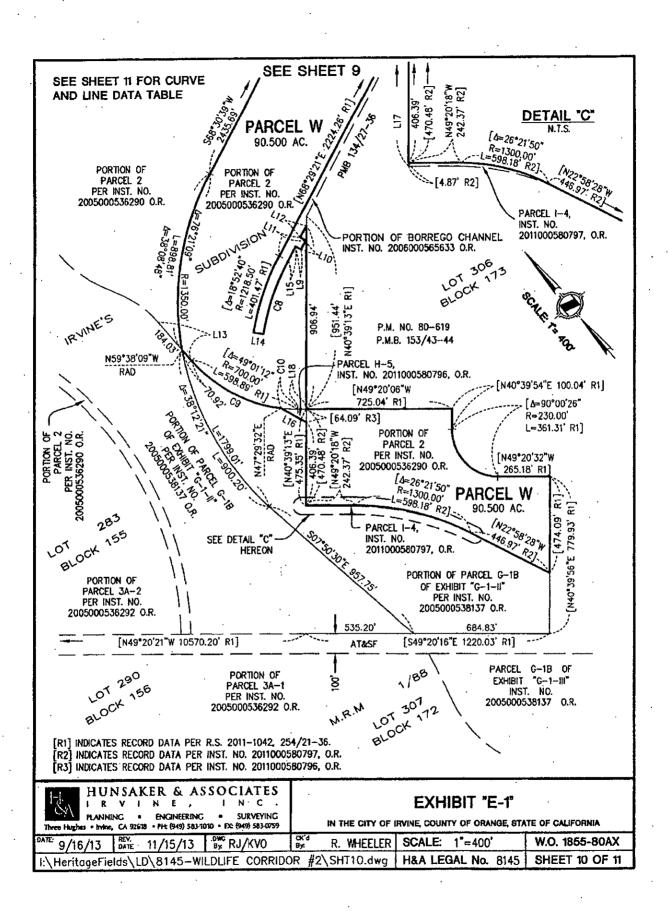
Revised November 15, 2013 September 13, 2013 WO No. 1855-80A1x Page 6 of 11 H&A Legal No. 8145 By: R. Wheeler Checked By: L. Fair



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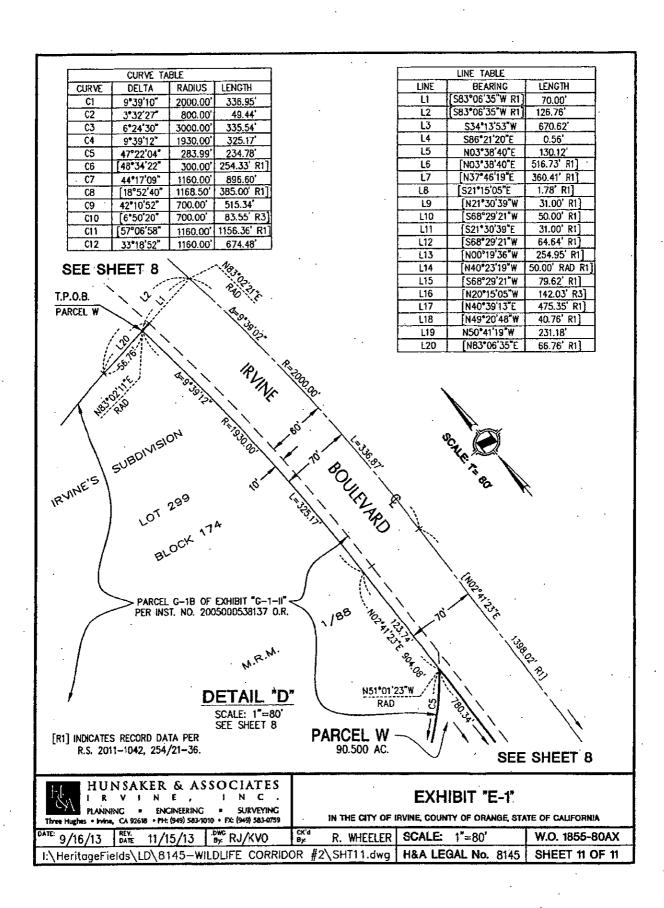


EXHIBIT E-2

Legal Description of Wildlife Corridor Exchange Properties (City)

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LEGAL DESCRIPTION

Parcel H:

In the City of Irvine, County of Orange, State of California, being those portions of that certain Parcel G-1B as described in Exhibit "G-1-II" of the deed recorded July 12, 2005 as Instrument No. 2005000538137, Parcel II-G-A as described in the deed recorded December 27, 2010 as Instrument No. 2010000700392, Parcel II-M-A as described in the deed recorded December 27, 2010 as Instrument No. 2010000700393, Parcel II-O as described in the deed recorded December 27, 2010 as Instrument No. 2011000277219, all of Official Records in the office of the County recorder of said county, also lying within Lot 275 of Block 154, Lots 281 through 284, inclusive, of Block 155, Lot 306 of Block 173 and Lot 299 and Lot 302 of Block 174 of Irvine's Subdivision as shown on a map recorded in Book 1, Page 88 of Miscellaneous Record Maps, in the office of said County Recorder.

Excepting therefrom Parcel H-4 as described in the deed recorded November 15, 2011 as Instrument No. 2011000580796, of said Official Records.

Also excepting the following described parcel:

Commencing at the southerly terminus of that certain course in the centerline of Irvine Boulevard shown as "N02°41'23"E 1398.02" on Record of Survey No. 2011-1042 as per a map filed in Book 254, Pages 21 through 36, inclusive, of Record of Surveys, in the office of said County Recorder; thence along said centerline the following two courses:

- North 02°41'23" East 1398.02 feet to a curve concave westerly having a radius of 2000.00 feet and
- 2) northerly 336.87 feet along said curve through a central angle of 9°39'02" to the easterly prolongation of that certain course in the northerly line of said Parcel G-1B of Exhibit "G-1-II" shown as "N83°06'35"E 66.76" on said Record of Survey; thence along said easterly prologation and said northerly line South 83°06'35" West 70.00 feet to a point on a curve which is concentric with and distant 70.00 feet from said centerline of Irvine Boulevard, said point also being the True Point of Beginning;

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LEGAL DESCRIPTION

thence continuing along said northerly and northwesterly line the following two (2) courses:

- 1) South 83°06'35" West 56.76 feet to a curve concave southeasterly having a radius of 800.00 feet and
- 2) southwesterly 633.03 feet along said curve through a central angle of 45°20'15";

thence leaving said northwesterly line, southwesterly 49.44 feet along the southwesterly extension of said 800.00 foot radius curve through a central angle of $3^{\circ}32'27''$; thence South $34^{\circ}13'53''$ West 670.62 feet to a curve concave northwesterly having a radius of 3000.00 feet; thence southwesterly 335.54 feet along said curve through a central angle of $6^{\circ}24'30''$; thence South $40^{\circ}38'23''$ West 2037.92 feet to a curve concave northwesterly having a radius of 500.00 feet; thence southwesterly 243.22 feet along said curve through a central angle of $27^{\circ}52'16''$; thence South $68^{\circ}30'39''$ West 2435.69 feet to a curve concave southeasterly having a radius of 1350.00 feet; thence southwesterly 1799.01 feet along said curve through a central angle of $76^{\circ}21'09''$; thence South $7^{\circ}50'30''$ East 957.75 feet to a point on the northeasterly right of way of the 100.00 feet wide A.T.&S.F. rail road as shown on said Record of Survey; thence along said northeasterly right of way South 49°20'16'' East 684.83 feet to the south corner of said Parcel G-1B; thence along the southeasterly line of said Parcel 2, as shown on said record of survey, the following six (6) courses:

1) North 40°39'56" East 779.93 feet,

2) North 49°20'32" West 265.18 feet to a curve concave easterly having a radius of 230.00 feet,

3) northerly 361.31 feet along said curve through a central angle of 90°00'26",

4) North 40°39'54" East 100.04 feet,

5) North 49°20'06" West 725.04 feet and

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LEGAL DESCRIPTION

 North 40°39'13" East 906.94 feet to the southeasterly line of the Borrego Canyon Channel as described in the deed Recorded August 24, 2006 as Instrument No. 2006000565633 of said Official Records;

thence along said southeasterly and the southwesterly and northwesterly line the following twelve (12) courses:

- 1) South 68°29'21" West 64.64 feet,
- 2) South 21°30'39" East 31.00 feet,
- 3) South 68°29'21" West 50.00 feet,
- 4) North 21°30'39" West 31.00 feet,
- 5) South 68°29'21" West 79.62 feet to a curve concave southeasterly having a radius of 1168.50 feet,
- 6) southwesterly 385.00 feet along said curve through a central angle of 18°52'40",
- 7) radial to said curve North 40°23'19" West 50.00 feet to a non-tangent curve concave southeasterly having a radius of 1218.50 feet, a radial line to the beginning of said curve bears North 40°23'19" West,
- 8) northeasterly 401.47 feet along said curve through a central angle of 18°52'40",
- North 68°29'21" East 2224.26 feet to a curve concave southeasterly having a radius of 718.50 feet,
- 10) northeasterly 68.34 feet along said curve through a central angle of 5°26'58" to a reverse curve concave northwesterly having a radius of 681.50 feet,

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EXHIBIT E-2

LEGAL DESCRIPTION

- 11) northeasterly 71.70 feet along said curve through a central angle of 6°01'40" and
- 12) non-tangent from said curve South 21°15'05" East 1.78 feet to said southeasterly line of said Parcel 2;

thence along said southeasterly line the following six (6) courses:

- 1) North 67°55'14" East 488.94 feet,
- 2) North 40°38'25" East 1487.57 feet to a non-tangent curve concave northerly having a radius of 1255.00 feet, a radial line to the beginning of said curve bears South 5°16'41" West,
- 3) easterly 1183.04 feet along said curve through a central angle of 54°00'38",
- North 41°16'03" East 249.21 feet to a curve concave northwesterly having a radius of 1255.00 feet,
- 5) northeasterly 183.50 feet along said curve through a central angle of 8°22'39" and
- 6) non-tangent from said curve North 3°38'40" East 130.12 feet;

thence North 86°21'20" West 0.56 feet to said line which is parallel with and distant 70.00 feet westerly from said centerline of Irvine Boulevard; thence along said parallel line the following two (2) courses:

- 1) North 2°41'23" East 904.08 feet to a curve concave westerly having a radius of 1930.00 feet and
- northerly 325.17 feet along said curve through a central angle of 9°39'12" to the True Point of Beginning.

Containing a total area of 100.704 acres, more or less.

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EXHIBIT E-2

LEGAL DESCRIPTION

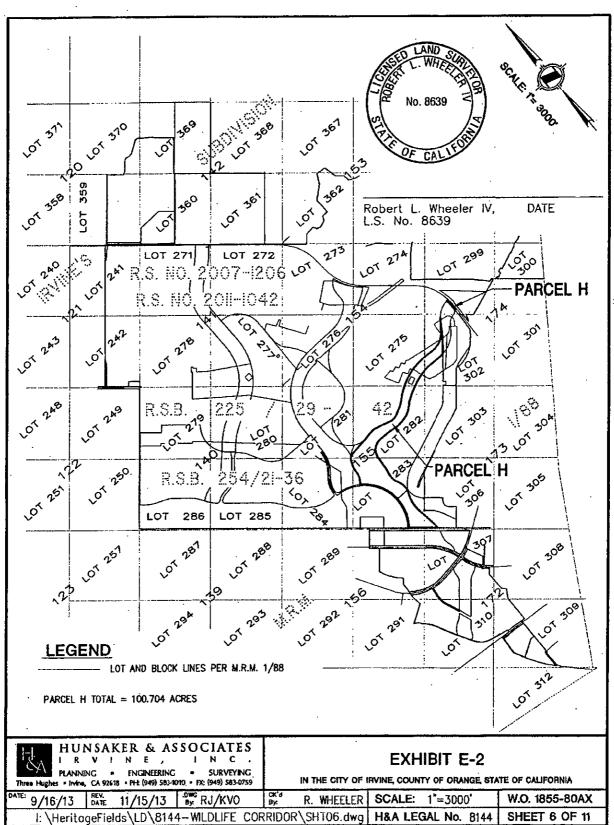
Subject to covenants, conditions, reservations, restrictions, rights, rights of way and easements of record, if any.

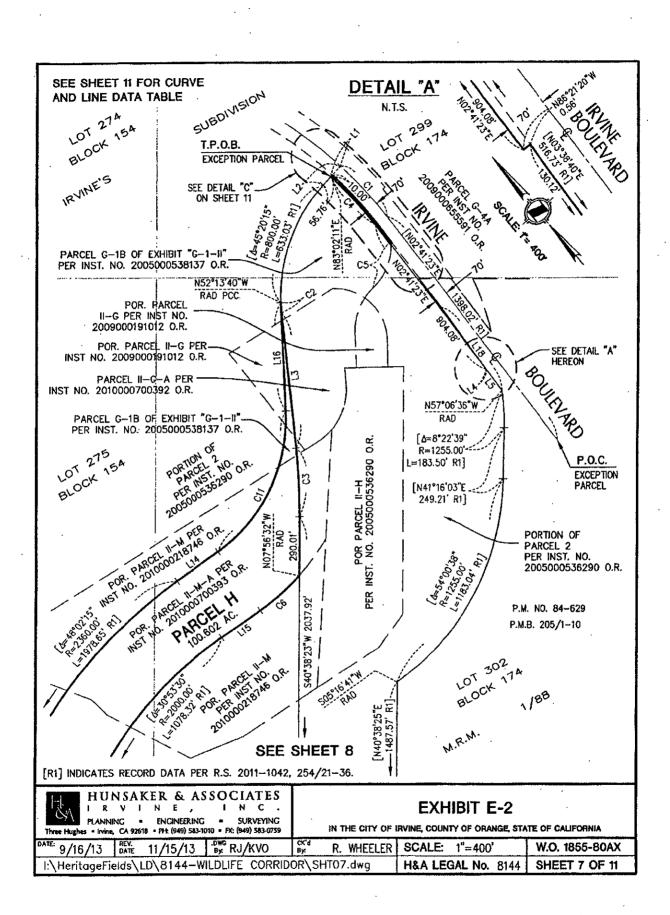
As shown on sheets 6 through 11, attached hereto and by this reference made a part hereof.

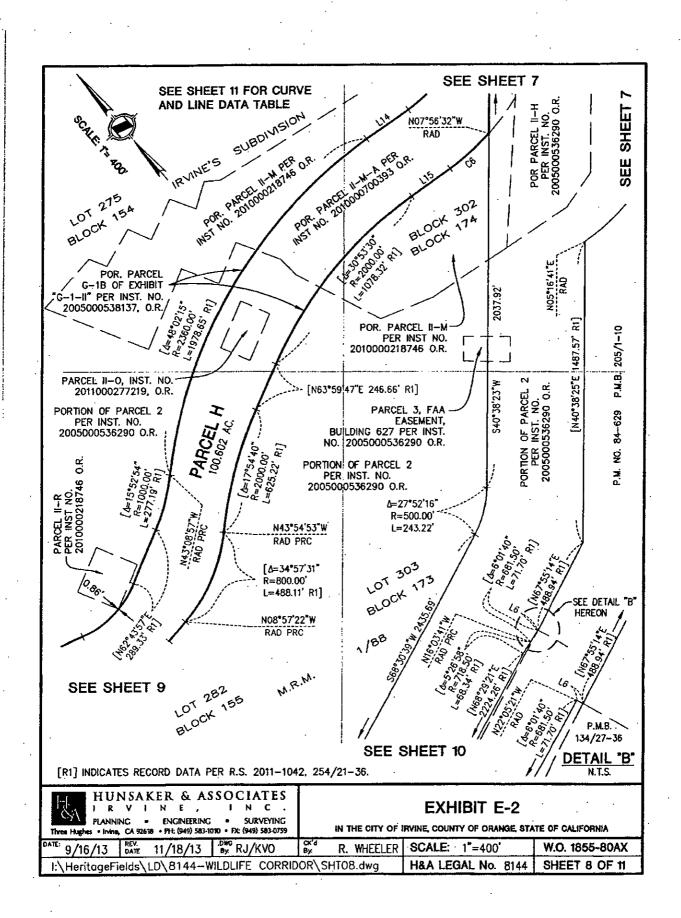
Robert L. Wheeler IV, L.S. 8639 Date: ////8//5

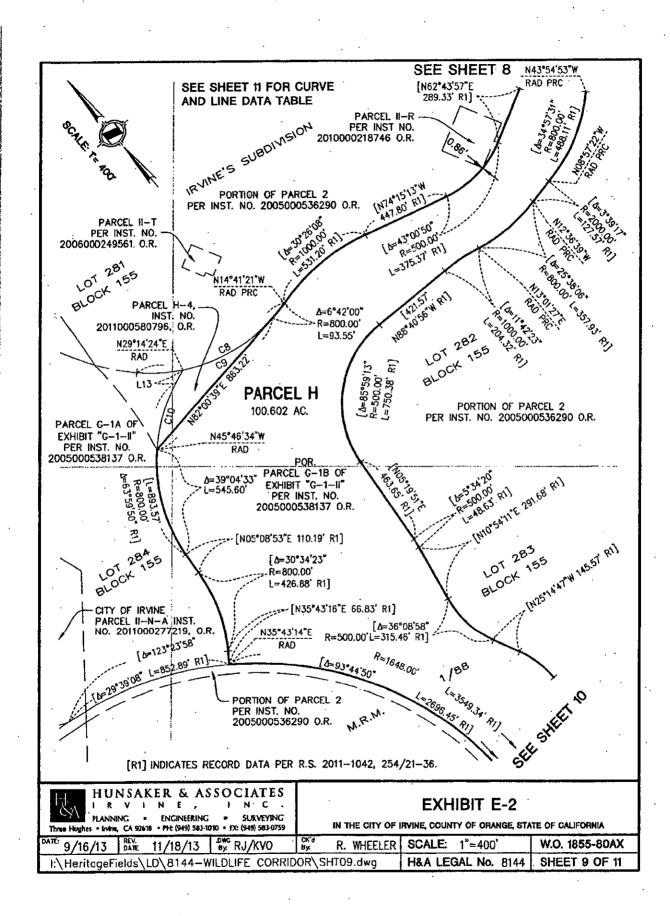


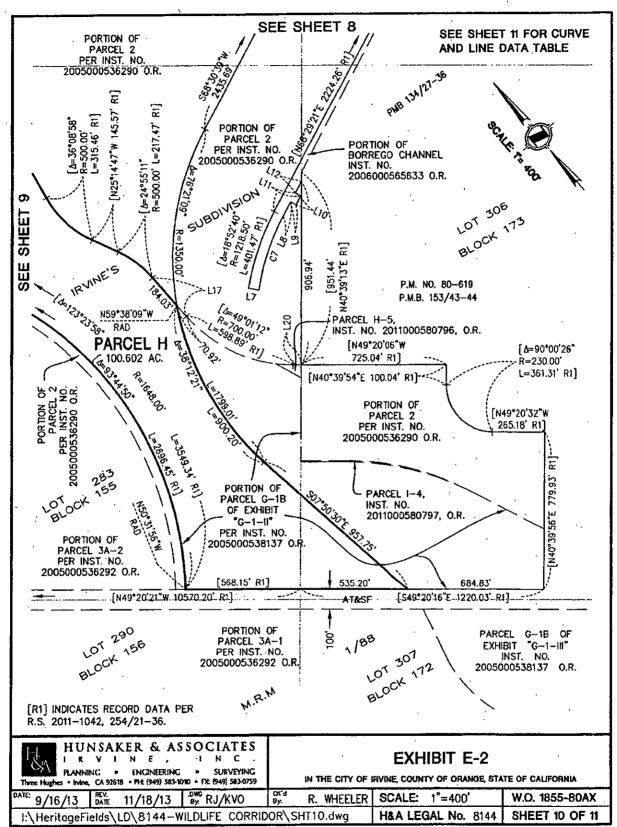
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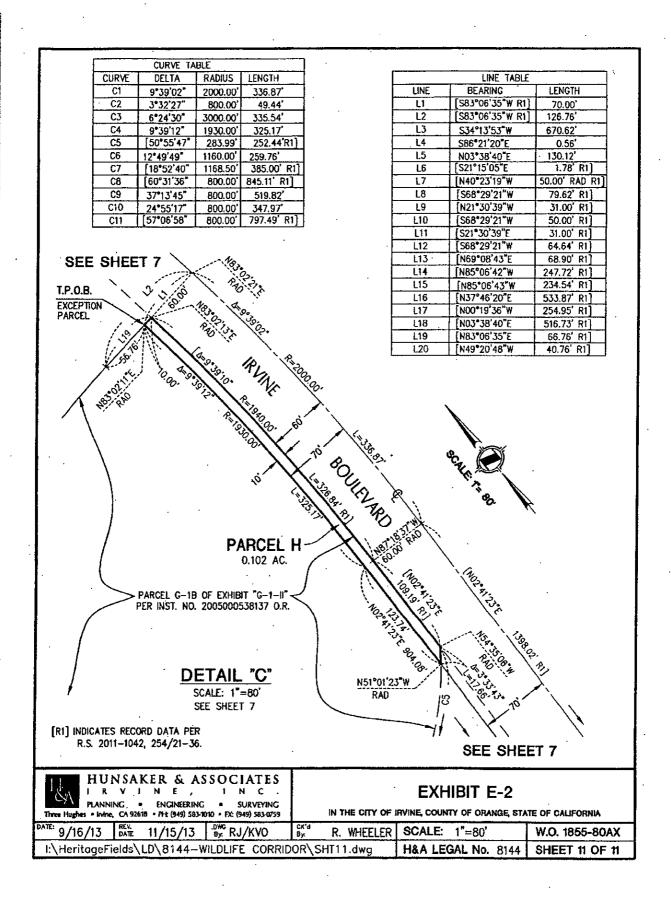












EXECUTION COPY

EXHIBIT E-3

Forms of Grant Deeds for Wildlife Corridor Exchange Properties

•

RECORDED AT THE REQUEST OF AND WHEN RECORDED RETURN TO:

Heritage Fields El Toro, LLC 25 Enterprise, 4th Floor Aliso Viejo, California 92656 Attn: Ms. Lynn Jochim

(Space Above Line for Recorder's Use)

GRANT DEED (Wildlife Corridor Land Swap Parcel from City)

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, CITY OF IRVINE, a California charter city, hereby grants to HERITAGE FIELDS EL TORO, LLC, a Delaware limited liability company, that certain real property located in the City of Irvine, County of Orange, State of California, described in the legal description attached hereto as <u>Exhibit "A"</u> and the depiction attached hereto as <u>Exhibit "B"</u>, each incorporated herein by this reference, subject to all matters of record (including, without limitation, that certain Amended and Restated Development Agreement dated December 27, 2010 and recorded in the official records of Orange County, California on December 27, 2010 as Instrument No. 2010000700065.)

Dated:

[signature follows on next page]

"City"

CITY OF IRVINE, a California charter city

ATTEST:

City Clerk

APPROVED AS TO FORM: RUTAN & TUCKER, LLP

City Attorney

State of California County of Orange

On ______ 201___, before me, ______, Notary Public, personally appeared ______ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ics), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature_____

(Seal)

RECORDED AT THE REQUEST OF AND WHEN RECORDED RETURN TO:

CITY OF IRVINE One Civic Center Plaza P.O. Box 19575 Irvine, CA 92623-9575 Attn: City Clerk

(Space Above Line for Recorder's Use)

Free recording Requested per Government Code Section 6103

In accordance with Section 11922 of the California Revenue and Taxation Code, transfer of the property to the City of Irvine is exempt from the payment of a documentary transfer tax.

GRANT DEED (Wildlife Corridor Land Swap Parcel to City)

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, HERITAGE FIELDS EL TORO, LLC, a Delaware limited liability company ("Grantor"), hereby grants to the CITY OF IRVINE, a California charter city ("Grantee"), that certain real property (the "Conveyed Property") located in the City of Irvine, County of Orange, State of California, described in the legal description attached hereto as <u>Exhibit "A"</u> and the depiction attached hereto as <u>Exhibit "B"</u>, each incorporated herein by this reference, subject to all matters of record (including, without limitation, that certain Amended and Restated Development Agreement dated December 27, 2010 and recorded in the official records of Orange County, California on December 27, 2010 as Instrument No. 2010000700065) (the "ARDA").

GRANTEE HEREIN COVENANTS by and for itself, its successors and assigns, and all persons claiming under or through it, that any activity on or use of the Conveyed Property shall be subject to and restricted by the terms and provisions of that certain Irvine Wildlife Corridor Plan (Glenn Lukos Associates 2013) (the "Wildlife Corridor Plan") or in furtherance of the initial construction of the wildlife corridor described therein, and Grantee, or any person claiming under or through the Grantee, shall comply with and shall maintain the Conveyed Property in accordance with the terms and provisions of the Wildlife Corridor Plan (the "Restrictive Covenant"). The foregoing Restrictive Covenant shall run with the land, and Grantor or any resident of the City shall have the right (but not the obligation) to enforce the Restrictive Covenant by any proceeding in law or equity; *provided*, that prior to commencing any formal action to enforce the Restrictive Covenant, written notice shall be provided to Grantee describing Grantee's breach of the Restrictive Covenant in reasonable detail, and *provided further*, that the Restrictive Covenant shall automatically terminate as to any portion of the Conveyed Property that is transferred back to Grantor or its designee subsequent to the date hereof.

GRANTOR HEREBY EXCEPTS AND RESERVES, to itself and its successors and assigns, a perpetual, non-exclusive easement to construct and maintain the Wildlife Corridor in

accordance with the Wildlife Corridor Plan, including the right, but not the obligation, to conduct maintenance in accordance with Appendix E of the Wildlife Corridor Plan if the Grantee fails to do so, subject to an obligation of the Grantee to reimburse Grantor for any such expenditures, and for roads, pedestrian crossings and utilities as set out in the Wildlife Corridor Plan.

GRANTOR HEREBY EXCEPTS AND RESERVES, to itself and its successors and assigns, together with the right to grant and transfer all or a portion of the same, a perpetual, nonexclusive easements, which easements shall be implemented and exercised in a manner that complies with the Wildlife Corridor Plan, for the following: (a) a public road, pedestrian rightsof-way and related slope and drainage for the extension of Astor road in the location depicted on Exhibit "C" attached hereto; (b) a public road, pedestrian rights-of-way and related slope and drainage between Astor and the Southern California Regional Rail Authority railway ("Railroad") as such area is depicted on Exhibit "C" attached hereto (the "Future Road Area"); (c) a public road, pedestrian rights-of-way and related slope and drainage for the widening of Irvine Boulevard as required by the ARDA and/or documents referenced therein; and (d) public agency access ways, overhead, underground and surface utilities including, without limitation, water lines, gas lines, sewer lines, electricity lines, telephone, telecommunication, cable and other communication lines and all other forms of utilities across the Conveyed Property. This easement shall include, without limitation, the right to construct, reconstruct, remove and replace, renew, inspect, maintain, repair, improve, and otherwise use the hereinafter described property for such purposes, together with incidental appurtenances, connections, structures and improvements, in, over, under, upon, along, through and across the Conveyed Property. Grantor, Grantee and their respective successors and assigns shall execute such further documents, instruments, and agreements (which may include a separate grant of easement) reasonably requested by any public agency, private or private utility provider in connection with the use, transfer or dedication of any portion of the foregoing easements and/or the acceptance of the facilities located therein for public purposes, using the standard form then-used by such utility provider in the City; provided, however, if the utility facilities are located within a proposed public street right-of-way, and if the City and applicable utility provider have a then existing franchise agreement or enter into a new franchise agreement that permits the installation and maintenance of the utility providers' utility facilities in such right of way, the City shall not have to execute an additional, separate document, instrument or agreement as otherwise contemplated above. When the precise alignment of the public road, pedestrian rights-of-way and related slope and drainage improvements within the Future Road Area is approved by Grantor and Grantee, then the Parties shall prepare, execute and record a mutually-acceptable form of easement agreement that more precisely describes the location of such easement area, and by which Grantor quitclaims its rights in and to the remaining portion of the easement over the Future Road Area.

[signature follows on next page]

-2-

Dated:

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

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

- By: Heritage Fields LLC, a Delaware limited liability company Its: Sole Member
 - By: Lennar Heritage Fields, LLC, a California limited liability company Its: Administrative Member
 - By: Lennar Homes of California, Inc., a California corporation Its: Sole Member

By:	

Print Name:_____

Print Title:

STATE OF CALIFORNIA)) ss. COUNTY OF ORANGE) On _____, 201___, before me, _____, Notary Public, personally appeared _____, who proved

to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Notary Public in and for said State

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(SEAL)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant Deed (Wildlife Corridor Land Swap Parcel to City) (the "Deed"), from Heritage Fields El Toro, LLC, a Delaware limited liability company, to the City of Irvine ("City") is hereby accepted, and the Covenant in the Deed is hereby agreed to, by the undersigned officer of the City, on behalf of the City, pursuant to the authority conferred by Resolution No. ______ adopted by the City on ______, 20_____, and City consents to the recordation thereof by its undersigned duly authorized officer.

CITY OF IRVINE

By:

Its:_____

ATTEST:

Deputy City Clerk

State of California County of Orange

On ______ 201___, before me, ______, Notary Public, personally appeared ______ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

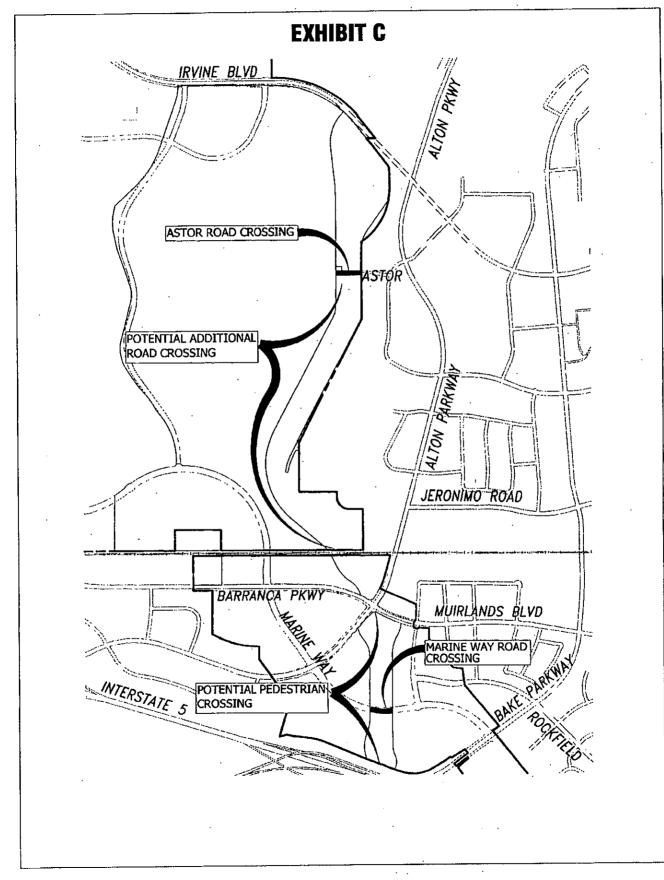
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)

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EXECUTION COPY

EXHIBIT F-1

Form of Lease

ORANGE COUNTY GREAT PARK LEASE

([**INSERT DESCRIPTION OF COVERED IMPROVEMENT(S)**])

Dated as of _____, 201___

by and between

THE CITY OF IRVINE, CALIFORNIA,

Landlord,

and

HERITAGE FIELDS EL TORO CONTRACTOR G.P., INC.,

Tenant.

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ORANGE COUNTY GREAT PARK LEASE

([**INSERT DESCRIPTION OF IMPROVEMENT(S)**])

This ORANGE COUNTY GREAT PARK LEASE ([**INSERT DESCRIPTION OF IMPROVEMENT(S)**]) (this "Lease") dated as of [____] ("Effective Date"), is made and entered into by and between THE CITY OF IRVINE, CALIFORNIA, a charter city (hereinafter referred to as "Landlord" or "City"), as lessor, and HERITAGE FIELDS EL TORO CONTRACTOR G.P., INC., a Delaware corporation ("Tenant"), as lessee, with reference to the following Recitals:

RECITALS

A. Landlord owns in fee simple certain real property (the "Great Park Parcels") more particularly described in <u>Exhibit A</u> which is attached hereto and incorporated herein by reference.

B. City and Heritage Fields El Toro, LLC, a Delaware limited liability company ("HFET"), are parties to that certain Second Agreement with City of Irvine as Adjacent Landowner, dated ______, 2013 (the "Second ALA").

C. Pursuant to the terms of the Second ALA, Tenant's affiliate HFET agreed to fund, oversee, and cause the phased construction of certain improvements to the Orange County Great Park ("Great Park" or "the Park") on the Great Park Parcels (the "Great Park Improvements"). As each phase of construction of the Great Park Improvements is completed and the Acceptance Date (as that term is defined in the Second ALA) occurs, title to the Great Park Improvements vests in the City. The parties to the Second ALA further agreed that the City would enter into this Lease with respect to those certain improvements on the Great Park Parcels, consisting of the Improvements (as defined below).

D. The purpose of this Lease is to provide for the leasing of the Great Park Parcels by Landlord to Tenant, so that the portion of the Great Park subject to this Lease will be operated and maintained throughout the term hereof as a public park, and to provide for the maintenance and operation of the Improvements (as defined below) in accordance with the standards and plans set forth herein.

NOW, THEREFORE, in consideration of the above recitals and the covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 CERTAIN DEFINITIONS

For the purposes of this Lease, the following words and terms shall have the meanings indicated.

<u>ARDA</u>: that certain Amended and Restated Development Agreement by and among the City, the Irvine Redevelopment Agency and HFET dated December 27, 2010 and approved by the City Council of the City of Irvine pursuant to Ordinance No. 09-09 on

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September 8, 2009, as supplemented by those certain letter agreements dated December 27, 2010 and September 13, 2011.

<u>Business Day</u>: any day which is not a Saturday, Sunday or legal holiday on which offices of the State of California are closed for business.

<u>Estoppel Certificate</u>: a certificate signed by an authorized signatory for the Landlord or Tenant, as the case may be, setting forth the information required therein. The party certifying shall state that, to the best of its knowledge, the information furnished is complete and accurate.

<u>Fiscal Year</u>: the period from January 1 through December 31 for any year throughout the term hereof.

Force Majeure: an event whereby Landlord (solely with respect to its obligations under Article 12 of this Lease) or Tenant 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 or failure to decide of any private party or governmental authorities having jurisdiction over any of the activities or matters for which Landlord (solely with respect to its obligations under Article 12 of this Lease) or Tenant is responsible under this Lease (it being understood that regulatory or statutory timelines in effect as of the date hereof with respect to giving public notice in advance of discretionary actions of a governmental authority, and normal and typical timeframes for processing plans and specifications, shall not be considered a Force Majeure Delay), 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 Tenant or Landlord), civil disturbance, order of any government, court or regulatory body claiming jurisdiction over the Premises or the action proposed to be taken, 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 Landlord or its representative, employees, agents, independent contractors, consultants and/or any other person performing or required to perform services on behalf of Landlord, provided that a failure to act by the City shall not be a force majeure with respect to the obligations of Landlord.

<u>Hazardous Material</u>: 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.

Improvements: any and all buildings, structures, and other improvements constructed on the Great Park Parcels pursuant to the Second ALA as of the Effective Date or during the term of this Lease. The term "Improvements" includes, but is not limited to, the following: structures, landscaping, fountains, benches, play areas, pedestrian sidewalks and plazas, or fields and bosques which are proposed to be located upon the Great Park Parcels; all fixtures, appliances, machinery, operating equipment and apparata which are at any time affixed or attached to any of the structures, fountains, benches, play areas, pedestrian sidewalks and

plazas, or fields, courts, stadiums, center pitches and bosques now or hereafter constructed on the Great Park Parcels; and all components of the plumbing, lighting, cleaning, security, sound and electrical systems of such structures.

<u>Insurance Requirements</u>: those certain insurance requirements applicable to each of Landlord and Tenant set forth on <u>Exhibit D</u> which is attached hereto and incorporated herein by reference.

Legal Requirements: all laws, statutes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, building codes, zoning codes, standards, permits, licenses, and other requirements formally adopted by any federal, state, local or municipal government, and the appropriate departments, commissions, boards, courts, authorities, agencies, officials and officers thereof, now or hereafter in effect, and all covenants, conditions and restrictions of record, which are or at any time hereafter may become applicable to the Premises or any part thereof or to the use or manner of use of all or any part of the Premises or any of the sidewalks, curbs, streets or ways adjacent thereto.

<u>Person</u>: an individual, a corporation, association, partnership, joint venture, organization or other business entity, or a governmental or political unit or agency.

Premises: the Great Park Parcels together with the Improvements.

<u>Taking</u>: a transfer during the term hereof of all or any portion of the Premises, or any leasehold or other interest therein or right accruing thereto, as the result or in lieu or in anticipation of, the exercise of the right of condemnation or eminent domain by any governmental entity or agency, or any other compensable government activity affecting the Premises or any part thereof.

<u>Taxes</u>: all taxes and assessments (including, without limitation, real estate taxes, excise taxes, ad valorem taxes and possessory interest taxes, if any, levied upon the Great Park Parcels, the Improvements, or the operation thereof, and all assessments for public improvements or benefits, whether or not commenced or completed prior to the date hereof and whether or not to be completed within the Term of this Lease, and excluding sales and income taxes), and including all interest and penalties thereon, which at any time during the Term of this Lease are assessed, levied, confirmed or imposed, or become a lien, upon the Great Park Parcels and/or the Improvements or any part thereof.

<u>Utility Charges</u>: all water, sewer, power or similar utility charges, which at any time during the Term of this Lease are assessed or imposed in connection with the operation or use of the Premises or any part thereof.

ARTICLE 2 LEASE OF PROPERTY

2.1 Leasing Clause

Upon the conditions, limitations, covenants and agreements set forth below, and for the Term hereinafter set forth, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises as of the Effective Date, subject to all matters of record as of the date hereof.

2.2 Delivery of Possession

Landlord shall deliver possession of the Premises to Tenant on the Effective Date.

[*FOR SPORTS PARK LEASE:**

2.3 Expansion of Leased Premises

As HFET completes or causes the completion of the phased construction of the Improvements in accordance with the terms and conditions of the Second ALA and such Improvements are ready to be opened for public use, Landlord and Tenant shall execute periodic amendments to this Lease to amend Exhibit A to expand the definition of the "Great Park Parcels" to include those parcels on which newly-completed construction is located. Landlord and Tenant also shall cooperate in good faith to amend Exhibit B (Park Rules and Maintenance Standards), and Exhibit C (Park Programming Plan) to this Lease, as applicable and as may be required to address specific issues arising from the inclusion of the new Great Park Parcels and the Improvements located thereon.

2.4 Existing Multi-Use/Soccer Fields

Landlord hereby grants to Tenant a right of first opportunity to reserve dates for the scheduling and use of the Landlord's existing multi-use/soccer fields (North Lawn and South Lawn) for tournament play events ("Tournaments"). Tenant shall meet and confer with the Landlord no later than six (6) months in advance of the opening of any newly-constructed multiuse/soccer fields for public use (the "Soccer Fields Meeting Date") to schedule Tournaments for the period commencing on the date which is six (6) months following the Soccer Fields Meeting Date and expiring twelve (12) months following the Soccer Fields Meeting Date (the "Soccer Fields ROFO Period"). Thereafter, Tenant and the Landlord shall meet and confer on a quarterly basis to schedule Tournaments for the upcoming Soccer Fields ROFO Period (i.e. the period beginning six (6) months following the date the parties meet and confer and expiring twelve (12) months following the date the parties meet and confer), provided that Tenant may not reserve more than twenty (20) Tournaments in any year, unless a higher number is mutually agreed to in writing by the Parties. The use right set forth in this Section 2.4 shall be at no cost or expense to Tenant, provided, however, that Tenant shall maintain the multi-use/soccer fields on such dates that Tenant has reserved the fields for Tournaments to current Landlord standards (expressly excluding from such maintenance obligation any subsurface ponds and utilities located on such fields). Furthermore, Tenant and the Landlord will mutually agree upon an allocated area of the Landlord's surface parking lots for use by Tenant during Tournaments.

ARTICLE 3 TERM OF LEASE

3.1 Term

The term of this Lease (the "Term") shall begin on the Effective Date, and end at 11:59 P.M. on December 31, 2023 (the "Expiration Date"), unless sooner terminated as hereinafter provided. Notwithstanding the foregoing, the Term of this Lease may be subject to three (3) extension options of one (1) year each as follows:

(a) If as of July 1, 2023, the City has not received any Secondary Amount (as such term is defined in the ARDA), and does not reasonably expect to receive any Secondary Amount for the City's fiscal year 2023-2024, then the City shall have the right (but not the obligation) to send a

written notice to Tenant of such fact, and the Term of this Lease shall be extended for an additional one (1) year and shall expire on December 31, 2024. To the extent the City does not deliver a written notice in the time period specified above, then it shall be deemed to have elected not to extend the Term, in which event this Lease shall expire.

(b) If as of July 1, 2024, the City has not received any Secondary Amount, and does not reasonably expect to receive any Secondary Amount for the City's fiscal year 2024-2025, then the City shall have the right (but not the obligation) to send a written notice to Tenant of such fact, and the Term of this Lease shall be extended for an additional one (1) year and shall expire on December 31, 2025. To the extent the City does not deliver a written notice in the time period specified above, then it shall be deemed to have elected not to extend the Term, in which event this Lease shall expire.

(c) If as of July 1, 2025, the City has not received any Secondary Amount, and does not reasonably expect to receive any Secondary Amount for the City's fiscal year 2025-2026, then the City shall have the right (but not the obligation) to send a written notice to Tenant of such fact, and the Term of this Lease shall be extended for an additional one (1) year and shall expire on December 31, 2026. To the extent the City does not deliver a written notice in the time period specified above, then it shall be deemed to have elected not to extend the Term, in which event this Lease shall expire.

The City's election to extend (or deemed election not to extend) the Term of this Lease shall apply to all "Leases" and "Maintenance Agreements" entered into by City pursuant to the Second ALA, it being the intent of Landlord and HFET that the City's election to extend this Lease shall not be effective unless the City has made the same election under all "Leases" and all "Maintenance Agreements" entered into by City pursuant to the Second ALA.

ARTICLE 4 RENT

4.1 Non-Refundable Rent

Landlord acknowledges and agrees that Tenant will expend substantial sums in administering park rules, performing park maintenance, and implementing park programming under this Lease, and that such expenditures shall constitute non-refundable rent to Landlord for such period as Tenant is performing the services described above. In the event that this Lease is terminated for any reason, no further rent shall be due and payable and no rent previously deemed to have been paid shall be refundable.

4.2 Contingent Additional Rent

(a) Tenant shall furnish to Landlord, within sixty (60) days of the end of each Fiscal Year during the Term hereof, a detailed statement of income and expense, prepared and certified by Tenant, setting forth in reasonable detail the computation of income paid to and received by Tenant in such Lease year, and items of expense, solely related to income derived from and expenses related to this Lease, including but not limited to the following: maintenance in accordance with the Park Maintenance Standards (Exhibit B-2), Utility Charges, lighting, supplies and equipment, payroll, insurance, security (including payroll, insurance, supplies and equipment), administration, coordination of maintenance, security, preparation of budgets and procurement of services, payment of fees to independent operators, concessionaires, management companies, and other vendors, and other items of expense (collectively, the "Lease Income and Expenditures"). For purposes of this Section 4.2, revenues that are not received by

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Tenant, including amounts received or collected directly by operators, vendors, and concessionaires as part of their negotiated fee arrangement, shall not be considered "income" to the Tenant, so long as and to the extent that such negotiated fee arrangements constitute reasonable market rate transactions. Furthermore, for purposes of this Section 4.2, capital costs, to design or construct the Improvements, incurred or paid prior to the Effective Date shall not be considered an "expense" of the Tenant hereunder; provided, however, that capital costs incurred or paid subsequent to the Effective Date with respect to the Improvements shall be considered an "expense" for purposes of this Section 4.2. Landlord and its representatives shall have, at all reasonable times, the right to inspect all books of account of Tenant and any person whose books are subject to inspection by Tenant, solely related to income derived from and expenses related to this Lease, and the right to cause such books of account to be audited by independent public accountants selected by Landlord as often as may be reasonably requested by Landlord. Each periodic audit or inspection shall be at the expense of Landlord. If Tenant enters into any agreement with an Affiliate of Tenant, then such agreement shall contain terms and conditions at least as favorable to Tenant as the terms and conditions which could have been obtained in a similar arm's-length transaction with a third-party. As used herein, the term "Affiliate" shall mean any other entity which, directly or indirectly through one or more intermediaries, controls, is under common control with, or is controlled by, HFET. As used in this Lease, "control" (and its correlative meanings, "controlled by", "controlling" and "under common control with") means possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership, membership or other ownership interests, by contract, family relationship or otherwise).

Tenant shall establish at a nationally- or regionally-recognized banking (b) institution an interest-bearing operating account into and from which all Lease Income and Expenditures shall be deposited and debited, respectively (the "Operating Account"). The Operating Account may also (but is not required to) be utilized for any other "Lease" or "Maintenance Agreement" entered into pursuant to the Second ALA (collectively, the "Other Leases and Agreements"). Within one hundred eighty (180) days of the later to occur of (i) the end of the Term of this Lease and (ii) the date upon which all Other Leases and Agreements have expired by their respective terms, if and to the extent that the balance in the Operating Account (or to the extent that other operating accounts have been established pursuant to the Other Leases and Agreements, the aggregate balance of all such operating accounts) is positive, then fifty percent (50%) of any amounts remaining in the Operating Account (or the aggregate amount in all the operating accounts) shall be withdrawn and released to Tenant or its designee, and fifty percent (50%) of any amounts remaining in the Operating Account (or the aggregate amount in all the operating accounts) shall be withdrawn and released to Landlord as additional contingent rent payable to Landlord, and the Operating Account (and all other operating accounts) shall be closed. Tenant makes no representation or warranty, either express or implied, that there will be a positive balance in the Operating Account at the end of the Term of this Lease. Tenant shall provide copies of all bills, approved contracts, receipts, invoices and other evidence as may reasonably be required by Landlord to provide assurance that any funds expended from the Operating Account were actually applied to expenses related to the operation and maintenance of the Park.

ARTICLE 5 CONDITION OF TITLE

5.1 Condition of Title

Tenant has approved the exceptions set forth on Schedule 2(m) of the Second ALA (the "Approved Exceptions"). Landlord represents and warrants that as of the Effective

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Date the City has not executed or entered into any unrecorded leases, license agreements, easements, or other encumbrances affecting the Premises other than the Approved Exceptions.

ARTICLE 6 <u>USE</u>

6.1 Permitted Uses

During the Term of this Lease, the Premises shall, except to the extent otherwise specifically authorized by this Lease, be used as public open space, available free of charge, and for the other purposes for which the Improvements are designed or are otherwise permitted (also, free of charge), in accordance with the terms and conditions of this Lease, the Second ALA, and Legal Requirements, and for no other purpose. Tenant shall use and occupy the Premises, and shall in any assignment, license, contract or permit require that all sublessees, licensees, concessionaires, or permittees shall use and occupy the Premises in a lawful manner and only for those uses permitted by this Article 6, and in accordance with Exhibits B and C. Tenant shall use reasonable efforts to enforce the use restrictions set forth in this Article 6 and cause the public to comply therewith.

6.2 No Discrimination

Tenant covenants that there shall be no discrimination against, or segregation of, any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, sex, sexual orientation, age, disability, medical condition, or marital status, in the use, occupancy, tenure, or enjoyment of the Premises.

6.3 Public Use

Subject to the terms of the Park Programming Plan attached hereto as Exhibit C ("Park Programming Plan"), Tenant covenants that no person may be excluded from the Premises by the Tenant except to the extent that the City is permitted by law to exclude a person from a City-owned park, or as otherwise expressly permitted in accordance with this Lease. Except as expressly provided herein (including the Park Programming Plan), the public shall be entitled to use the Premises to the same extent as a public park of the City with similar facilities, including a public place for free speech activities. Any further regulations, to the extent they exceed existing City regulations concerning the use of public parks, or are not otherwise contained in this Lease, shall be subject to the approval of Landlord, in Landlord's sole and absolute discretion.

6.4 Emergencies, Maintenance and Repairs

Tenant shall have the right, without obtaining the consent of Landlord or any other person or entity (except as specifically set forth herein), to temporarily close the Premises to unauthorized persons, at any time and from time to time for any one or more of the following:

(a) In the event of an emergency, or danger to the public health or safety created by such causes as flood, storm, fire, earthquake, explosion, accident or other disaster, or by riot, civil disturbances, civil unrest, or unlawful assembly, Tenant may temporarily close the area, or portion of the Premises, where the danger exists for the duration thereof, in any manner Tenant deems necessary or desirable in order to promote public safety, security, and the protection of persons and property.

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(b) Tenant may temporarily close portions of the Premises as is necessary, and for such times as are necessary, to repair, maintain and/or operate the Premises. Without limiting the generality of the preceding sentence, examples of such temporary closures include tree trimming and sports field restoration and/or maintenance.

Landlord and Tenant agree that any temporary closure should be arranged so as to minimize impacts on public usage of the Premises. Tenant shall advise the Landlord in writing of any and all such scheduled temporary closures which are expected to be greater than one (1) week in duration.

6.5 Arrest or Removal of Persons

Landlord recognizes Tenant's right to use lawful means to effect the arrest or removal of any person or persons who creates a public nuisance, who otherwise violates the applicable Park Rules set forth on Exhibit B-1 attached hereto, or who commits any crime including, without limitation, infractions or misdemeanors in or around the Premises.

6.6 Removal of Obstructions

Landlord recognizes Tenant's right to remove and dispose of, in any lawful manner it deems appropriate, any object or thing left or deposited on the Premises which Tenant deems to be an obstruction, interference or restriction of use of the Premises for the purposes set forth in this Lease, including, but not limited to, personal belongings or equipment abandoned on the Premises during hours when public access is not allowed pursuant to this Lease. Tenant shall establish a Lost and Found for lost, abandoned or unattended personal belongings or equipment provided that, after a reasonable time of holding such personal belongings or equipment, but in no event less than thirty (30) days, Tenant may dispose of said objects in any lawful manner it deems appropriate.

6.7 Signs

No signs, other than signs that are consistent with a Sign Program approved by the City pursuant to <u>Section 7.3</u> below ("Sign Program"), shall be placed on the Premises during the Term of this Lease. Tenant shall post signs at the major public entrances to the Premises, setting forth applicable regulations permitted by this Lease, hours of operation, and a telephone number to call regarding park management or other inquiries. Except for signs authorized by Tenant in writing and consistent with the Sign Program, no person may post signs of any kind on the Premises. Tenant will promptly remove any unauthorized signage.

6.8 Limitation on Other Uses

No use by the public or any person of any portion of the Premises for any purpose or period of time other than specifically described herein, shall be construed, interpreted or deemed to create any rights or interests to or in the Premises other than the rights and interests expressly granted herein. The right of the public or any person to make any use whatsoever of the Premises or any portion thereof (other than any use expressly allowed by this Lease) is not meant to be an implied dedication or to create any rights or interests in any third parties and Tenant expressly reserves the right to control the manner, extent and duration of any such use.

ARTICLE 7 MAINTENANCE AND OPERATION

7.1 Park Rules and Maintenance Standards

Landlord and Tenant desire the Premises to be maintained in a condition recognized as among the finest public open spaces in the City. Therefore, throughout the term of this Lease, Tenant shall operate and maintain, or cause others to operate and maintain, the Improvements in a good, clean and safe condition, in compliance with all Legal Requirements and Insurance Requirements, and according to the Park Rules and Maintenance Standards attached hereto as <u>Exhibit B</u> (the "Park Rules and Maintenance Standards"), as the same may be modified from time to time in writing by mutual consent of Landlord and Tenant, such consent not to be unreasonably withheld, conditioned or delayed. (Exhibit B shall consist of <u>Exhibit B-1</u> ("Park Rules") and <u>Exhibit B-2</u> ("Maintenance Standards").) Tenant may make minor amendments to the Park Rules and Maintenance Standards that do not materially deviate from the pre-existing standards without Landlord consent. Tenant may contract with one or more third-parties to provide maintenance services consistent with the Park Rules and Maintenance Standards.

7.2 Programming

To ensure that the collective programming of Park facilities is efficient and maximizes the potential for utilization, throughout the term of this Lease, Tenant shall program those certain Improvements more fully described in the Park Programming Plan, as the same may be modified from time to time in writing by mutual consent of Landlord and Tenant, such consent not to be unreasonably withheld, conditioned or delayed. Tenant may make minor amendments to the Park Programming Plan that do not materially deviate from the pre-existing standards without Landlord consent. Tenant may contract with one or more third parties to provide facilities programming, management and services consistent with the Park Programming Plan and the Park Rules and Maintenance Standards. Such third parties shall, in the reasonable business judgment of Tenant, be competent to undertake the activities for which they are contracting and have appropriate experience in the programming, operation and maintenance of the type of facilities they would be programming, operating or maintaining in the Park. [***FOR SPORTS PARK LEASE: Scheduling of events at the Park facilities shall be conducted in accordance with the Park Programming Plan.***]

7.3 Signage Standards

Landlord and Tenant desire consistency and high aesthetic quality in the types, locations, configurations and materials of signage within and around the Park. Accordingly, throughout the term of this Lease, Tenant shall maintain, or cause others to maintain, signage in the Park according to an approved Sign Program that is in a form mutually agreed upon between Landlord and Tenant, and that complies with the Irvine Municipal Code. The Sign Program may be modified from time to time in writing by mutual consent of Landlord and Tenant, such consent not to be unreasonably withheld, conditioned or delayed. The Sign Program shall include without limitation signage types as found in public parks with comparable uses in the City.

7.4 Sponsorship

Tenant shall not be permitted to grant sponsorship opportunities to one or more third-parties in connection with the operation and programming of Park facilities, including

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without limitation the right to display sponsorship signage as part of the Sign Program, without Landlord's prior written consent, not to be unreasonably withheld, conditioned or delayed, and subject to the following:

(a) Any revenues received by Tenant in connection with such sponsorship opportunities shall be considered "income" for purposes of the calculation of Contingent Additional Rent as described in <u>Section 4.2</u> of this Lease; and

(b) The foregoing shall not apply to temporary signage in connection with an event held at the Park facilities.

ARTICLE 8 TAXES AND UTILITY CHARGES

8.1 No Taxes

Tenant shall not be obligated to pay any Taxes in connection with the Premises during the Term of this Lease given that the Premises are owned by Landlord (a public entity) and the short-term nature of this Lease. If any Taxes (other than possessory interest taxes) are assessed against the Premises, Landlord shall be responsible to pay the same. If any possessory interest taxes are assessed with respect to Tenant's leasehold interest in the Premises, then each of Landlord and Tenant shall pay fifty percent (50%) of the annual amount of such possessory interest taxes prior to the same becoming delinquent.

8.2 Payment of Utility Charges

Subject to the right to contest provided in <u>Section 8.3</u> of this Lease, during the Term of this Lease, Tenant shall pay and discharge, or caused to be paid and discharged, all Utility Charges, if any.

8.3 Contest

The party responsible pursuant to this <u>Article 8</u>, or pursuant to the terms of this Lease, for the payment of Taxes and Utility Charges (the "Contesting Party") shall have the right to contest, at its sole cost and expense, the amount or validity of any Taxes and/or Utility Charges applicable to any period during the Term of this Lease, by appropriate proceedings promptly initiated and diligently conducted in good faith. The Contesting Party may postpone or defer payment of any such contested Taxes and/or Utility Charges during the course of such proceedings, provided that neither the Premises nor any part thereof or interest therein would by reason of such postponement or deferment be in danger of being forfeited, sold or foreclosed for nonpayment of such Taxes and/or Utility Charges. Upon the termination of any such proceedings, the Contesting Party shall pay the amount of such Taxes and/or Utility Charges or part thereof as shall be finally determined in such proceedings to be payable (after exhaustion of any rights of appeal), the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties or other liabilities in connection therewith.

Upon the written request of the Contesting Party, the other party to this Lease shall either join in such proceedings described above or permit the same to be brought in its name by the Contesting Party, but in all cases at the sole cost and expense of the Contesting Party. The other party under this Lease shall not be responsible for or subjected to any liability for the payment of any costs, expenses, charges or other amounts of any kind whatsoever in connection with any such proceedings, and the Contesting Party shall indemnify, defend and hold the other party under this Lease harmless from any and all such costs, expenses, charges, amounts and liabilities arising out of such proceedings.

ARTICLE 9 ALTERATIONS AND/OR ADDITIONS

Subject to <u>Section 10.2</u> below, Tenant may, with Landlord's prior written consent, make changes, alterations or additions to the Premises, including the construction or removal of permanent structures or improvements ("Alteration(s) and/or Addition(s)"). For clarification purposes, replacement of existing Improvements with similar or equivalent improvements or uses does not constitute an Alteration and/or Addition and may be done without Landlord's consent. If any mechanic's lien, materialman's lien, or other lien is filed against the Premises, or any stop notices are served, for work or labor performed or claimed to have been performed, or goods, materials or services furnished or claimed to have been furnished upon or with respect to the Premises at any time during the course of an Alteration and/or Addition, then unless Tenant elects to contest such lien or stop notice in accordance with the same procedures set forth for contesting Taxes and Utility Charges <u>Section 8.3</u> hereof, Tenant shall discharge or cause the discharge of such lien or stop notice within sixty (60) days thereafter whether by payment, release or posting of a bond or other similar assurance.

ARTICLE 10 DAMAGE TO OR DESTRUCTION OF GREAT PARK PARCEL OR IMPROVEMENTS

10.1 Tenant to Give Notice

If, at any time during the Term of this Lease, the Premises or any material portion thereof shall be materially damaged, vandalized or ruined whether or not resulting from the fault or neglect of Tenant, or any of its agents or employees, Tenant shall deliver Notice thereof to Landlord as soon as possible thereafter, generally describing the nature and extent of such damage or destruction.

10.2 Restoration

In the case of any damage, destruction or vandalism to all or a portion of the Premises resulting from Tenant's negligence, Tenant shall, at no cost to Landlord, promptly commence and complete (subject to Force Majeure), the restoration, replacement, or rebuilding of the damaged Improvements. In all other cases of any damage, destruction or vandalism to all or a portion of the Premises to the extent such damage, destruction or vandalism can be repaired or replaced for an aggregate cost less than or equal to Five Thousand and No/100 Dollars (\$5,000.00) during any 6-month period (the "Restoration Cap"), Tenant shall promptly commence and complete (subject to Force Majeure), the restoration, replacement or rebuilding of the damaged Improvements. In the case of any material damage or destruction to all or a portion of the Premises (where "material" is considered to be in excess of the Restoration Cap during any applicable 6-month period), Tenant may request that Landlord make available to Tenant the funds which, together with any available insurance proceeds on account of such damage or destruction, are sufficient for the purpose of restoring, repairing or replacing the damaged improvements. Landlord shall make such funds for repair and replacement available to Tenant in its sole and absolute discretion. If Landlord denies Tenant's request for such funding, then Tenant may, at its sole option, either repair and rebuild or replace such damaged improvements with funds from other sources, or it may remove the damaged Improvements and replace the same with concrete, grass or other reasonable substance under the circumstances. Tenant shall perform any such restoration, replacement or rebuilding in compliance with this <u>Article 10</u> and in accordance with the original plans and specifications for the Improvements, with such alterations and additions as may be mutually agreed upon by Tenant and Landlord. Any such restoration, replacement or rebuilding, together with any applicable alterations and additions, and any temporary repairs of the Premises required pending completion of such work, whether performed pursuant to this <u>Article 10</u> or <u>Article 11</u> below, are referred to herein as a "Restoration." Tenant shall provide adequate security and protection for the portion of the Premises being repaired or restored during the course of any Restoration. Tenant shall have the same rights and obligations with regard to liens resulting from or during the Restoration process as it has with regard to Alterations and/or Additions, as set forth in <u>Article 9</u>, above.

The requirements in this <u>Article 11</u> do not, and shall not be construed to, limit Tenant's responsibilities to maintain the Premises in accordance with the Park Rules and Maintenance Standards.

ARTICLE 11 TAKINGS

11.1 Tenant to Give Notice

If at any time during the Term a Taking occurs, or any proceedings or negotiations commence which might result in a Taking, Tenant shall immediately deliver written notice thereof to Landlord generally describing the nature and extent of such Taking or the nature of such proceedings or negotiations and the nature and extent of the Taking which might result therefrom, as the case may be. Landlord hereby covenants and agrees that, during the Term hereof, it shall not condemn any portion of the Premises.

11.2 Total Taking

In case of a Taking of all of the Premises, or such a substantial portion of the Premises that the part of the Premises remaining after such Taking (even if a Restoration were undertaken) would be unsuitable, in Landlord's opinion after good faith consultation with Tenant, for use as a park, then this Lease shall terminate as of the date title vests in the condemning authority or the date the condemning authority is entitled to possession, whichever first occurs. Any Taking of the Premises of the character referred to in this <u>Section 11.2</u> is referred to herein as a "Total Taking."

11.3 Partial Taking

In the event of any Taking of the Premises other than a Total Taking (a "Partial Taking"), this Lease shall remain in full force and effect (and the Term shall not be reduced or affected) as to the portion of the Premises remaining immediately after such Partial Taking.

11.4 Application of Net Awards

Awards and other payments on account of a Taking, less costs, fees and expenses incurred in the collection thereof ("Net Awards") shall be applied as follows:

Net awards received on account of a Partial Taking shall be applied to pay the cost of Tenant's Restoration of the Improvements, provided that, in the case of a Taking for temporary use, Tenant shall not be obligated to effect a Restoration until such Taking shall have

terminated. Tenant's obligation to restore shall be limited to the amount of the Net Awards. The balance, if any, remaining after the required Restoration shall be delivered to Landlord.

Net Awards received on account of a Total Taking shall be paid to Landlord.

ARTICLE 12 HAZARDOUS MATERIALS

12.1 Hazardous Materials

Landlord acknowledges that contractors providing services to the Premises as permitted by this Lease (as used herein, "Contractors") may encounter Hazardous Materials during the course of providing such services. Notwithstanding anything to the contrary in this Lease, the Landlord 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 Lease, however, is intended to, and shall not in any way affect, the duties, obligations, liability or responsibility of the United States Department of the Navy ("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 Lease, for such Hazardous Materials. In furtherance of the foregoing sentence, the Contractors shall be instructed to immediately notify the Landlord, in writing, when encountering any Hazardous Materials on the Premises and to identify the locations and type of such material known to such Contractors. If Landlord desires the applicable Contractor(s) to remove any Hazardous Materials from the Premises, or to take other remedial action, Landlord may enter into separate agreements with Contractor(s) or any other contractor of their choice for the removal or such other remedial action in connection with such materials. No Party hereto shall have any recourse by this Lease against any other Party to this Lease for such Hazardous Notwithstanding anything to the contrary in this Lease, by administering the Materials. Premises, Tenant is not, by this Lease, 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 Premises, including, without limitation, any Hazardous Materials that may exist in the soil, soil vapor and/or groundwater at the Premises or that may be discovered through the operation and maintenance of the Premises. The Landlord 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 the Premises, 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.

12.2 Release of Hazardous Materials

In the event of any release, discharge, leakage or spillage of Hazardous Materials on or from the Premises caused by the actions of any Contractor (collectively, a "Contractor Release"), the Contractor shall be required to immediately stop its activities in the affected area and provide written notice to the Landlord. Tenant and Landlord shall have no liability to or recourse against each other for any Contractor Release. Tenant shall use commercially reasonable efforts to cause a provision to be added to any contracts for the operation and maintenance of the Premises whereby the Contractors agree to indemnify, reimburse, defend and hold harmless Tenant and Landlord 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 Contractor Release on the Premises caused by the negligence or willful misconduct of the Contractor or any subcontractor of the Contractor. Tenant shall also use commercially reasonable efforts to cause a provision to be added to any contracts whereby Tenant and/or the Landlord have a right of reimbursement in favor of Tenant and/or Landlord, as the case may be, from the 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 Contractor Release caused by the negligence or willful misconduct of the Contractor or any subcontractor of the Contractor ("Cleanup Costs"), where such Cleanup Costs were, or are to be, incurred by the Tenant and/or Landlord, at said Party's reasonable discretion, as a result of such Contractor Release. Contractor(s) shall be required to reimburse Tenant and/or Landlord for any 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 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.

12.3 Revised Protocol Plan for Unknown Hazardous Materials

In the event of the discovery of a suspected release of Hazardous Materials, Tenant and Landlord shall each follow, and shall each cause any Contractor to follow, the procedures and protocols set forth in the Revised Protocol Plan for Unknown Hazardous Materials dated July 16, 2013.

12.4 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 Landlord and Tenant 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 Lease, 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 13 COMPLIANCE WITH LEGAL REQUIREMENTS

13.1 Compliance with Legal Requirements

(a) In the use and operation of the Premises, Tenant shall comply with, or cause the compliance with, all Legal Requirements applicable to the Premises or the use, operation or occupation thereof whether or not such compliance shall be required on account of any particular use to which the Premises or any part thereof may be put, or is of a kind now within the contemplation of the Parties hereto. When required by applicable law, Tenant shall not pay less than the prevailing wage, which rate is determined by the Director of Industrial Relations of the State of California. (b) Notwithstanding the foregoing, Landlord shall be responsible for satisfaction, performance, and compliance with all conditions, obligations, limitations, restrictions, and mitigation measures, to the extent applicable to the Premises and required by the permits and approvals for the Great Park (as the same may be amended from time to time), including without limitation Irvine Planning Commission Resolution No. 07-2855, and that certain City of Irvine Final Program Environmental Impact Report for the Orange County Great Park, SCH No. 2002101020, dated May 2003, and all addenda thereto. Without limiting the generality of the foregoing, obligations described in the preceding sentence that do not specifically identify the party responsible for performance, and that can only be performed in the course of operating the Premises, shall be satisfied and performed or paid for by Landlord. Notwithstanding the foregoing, nothing herein shall be deemed to amend or modify the mechanism for payment of North Irvine Transportation Mitigation program (NITM) fees that are to be paid by Heritage Fields or the City pursuant to the terms of the ARDA.

13.2 Contest of Legal Requirements

Tenant may contest in good faith at its sole cost and expense any Legal Requirement, provided that noncompliance therewith while contesting such Legal Requirement shall not constitute a crime or offense punishable by fine or imprisonment. Tenant's good faith noncompliance with such Legal Requirement during such contest shall not be deemed a breach of this Lease.

ARTICLE 14 INSURANCE AND USE OF PROCEEDS

14.1 Compliance with Insurance Requirements

Neither Tenant nor Landlord, in connection with the exercise of its rights or the performance of its obligations hereunder, shall permit to be done any act or thing upon the Premises which would invalidate or be in conflict with the terms of any fire and/or casualty insurance policies covering the Premises and the fixtures and personal property thereon. Each of Tenant and Landlord shall comply or cause compliance with all of its respective Insurance Requirements, provided that Landlord shall not be required to expend funds to comply with the Insurance Requirements except as otherwise provided in this Lease, and neither shall knowingly do or permit to be done in or upon the Premises, or bring to keep anything therein or use the same in any manner, which could result in the denial of such fire and casualty insurance coverage.

14.2 Contest of Insurance Requirements

If any Insurance Requirement shall require Tenant or Landlord to perform any work or meet any condition which Tenant or Landlord in good faith may deem unfair, unreasonable, or otherwise improper, Tenant or Landlord may contest the validity of such Insurance Requirement, provided that noncompliance therewith shall not adversely affect the Premises, or result in the cancellation or interruption of any insurance coverage required hereunder. Tenant's or Landlord's good faith noncompliance with such Insurance Requirement during such contest shall not be deemed a breach of this Lease.

14.3 Waiver of Subrogation

Without affecting any other rights or remedies, Landlord and Tenant each hereby release and relieve the other, and waive their entire right to recover damages (whether in contract or in tort) against the other, for the loss of or damage to either Party's property arising out of or incident to the perils required to be insured against under this Lease. The effect of such releases and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required, or by any deductibles applicable thereto.

14.4 Proceeds of Insurance

All insurance proceeds received under the policy insuring loss or damage to the Improvements, if any, shall be applied by Tenant, to the extent possible, for reconstruction or repair in a manner consistent with the provisions of <u>Section 10.2</u> of this Lease.

ARTICLE 15 ASSIGNMENT

15.1 Permitted Transfer

If HFET assigns the ARDA to a successor developer that acts as master developer (as opposed to, for example, a merchant builder) of the property owned by HFET in connection with the transfer of some or all of HFET's interest in such property, then Tenant shall assign and require such successor (or an affiliate thereof) to assume the duties and obligations of Tenant under this Lease. Further, HFET shall not assign the master developer rights and obligations under the ARDA with respect to the property owned by HFET (1) to more than one person or entity and (2) without also assigning this Lease to such successor to HFET as master developer. The foregoing is not intended to apply to partial assignments of the ARDA to parties that are not a successor to HFET as master developer. Tenant shall have the right, without Landlord's consent, to assign this Lease and/or its rights hereunder to any entity (or an affiliate thereof) to whom Tenant, with the City's consent (as required by the ARDA), assigns the ARDA; provided, however, that (i) the assignee of Tenant shall, by written instrument, assume all obligations of Tenant hereunder, and (ii) Tenant shall promptly deliver a copy of the fully executed assignment and assumption agreement to Landlord. An assignment of this Lease to a lender or mortgagee shall not require Landlord's consent. Any assignment of this Lease not otherwise addressed in this Section 15.1 shall require Landlord's consent, not to be unreasonably withheld, conditioned or delayed. This Lease shall inure to the benefit of and be binding upon Landlord and Tenant and their respective heirs, executors, legal representatives, successors and assigns. Whenever in this instrument a reference is made to Landlord or Tenant, such reference shall be deemed to include a reference to their respective heirs, executors, legal representatives, successors and assigns.

15.2 Right to Contract with Third Parties

Landlord's consent shall not be required in the event that Tenant elects to contract with third-party independent operators, concessionaires, management companies, and other vendors to provide services to or conduct activities on or within the Premises consistent with the provisions of this Lease. Such third parties shall, in the reasonable business judgment of Tenant, be competent to undertake the activities for which they are contracting and have appropriate experience in the provision of services to or conduct of activities on the type of facilities for which they are contracting at the Park.

15.3 Subleases, Licenses and Concession Agreements

Landlord's consent shall not be required in the event that Tenant elects to sublease, license and/or enter into concession (or similar) agreements on or for all or a portion of the Premises. Such third parties shall, in the reasonable business judgment of Tenant, be competent to undertake the activities for which they are contracting and have appropriate experience in the provision of services to or conduct of activities on the type of facilities for which they would be contracting at the Park. Tenant shall deliver written notice to Landlord within ten (10) Business Days of entering into any sublease and enclose a copy of such sublease.

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ARTICLE 16 ENTRY BY LANDLORD

Landlord and its agents and independent contractors shall have the right, during reasonable hours and upon reasonable notice to Tenant (except in case of any emergency or a security-related matter, or at such time as the Premises are otherwise open to the public, in which event no time restriction shall apply), to enter the Premises to inspect them for the purpose of determining whether Tenant is in compliance with the terms of this Lease; provided, however, that such entry shall not interfere with any use of the Park or unnecessarily or unreasonably interfere with any activities in the Park or any other business being conducted on the Premises (except in case of any emergency or a security-related matter, in which case such limitation shall not apply to the extent the emergency situation requires that such interference occur). Tenant shall provide Landlord with a duplicate set of keys to all locks on the Premises.

ARTICLE 17 EVENTS OF DEFAULT: TERMINATION

17.1 Tenant Events of Default

Each of the following events ("Tenant Events of Default") shall constitute events of default hereunder by Tenant and a breach of this Lease:

Tenant shall fail to perform or comply with any of the other agreements, terms, covenants or conditions hereof on Tenant's part to be performed or complied with, including without limitation its obligations to maintain and operate the Premises in accordance with <u>Article</u> 7 hereof, and such non-performance or noncompliance shall continue for a period of thirty (30) days after written Notice from Landlord or, if such performance cannot reasonably be completed within such thirty (30) day period, then subject to Force Majeure, Tenant shall not have commenced such performance in good faith within such thirty (30) day period or shall not diligently and continuously proceed therewith to completion of such performance within a reasonable period after its receipt of such Notice.

17.2 Landlord's Remedies

17.2.1 Termination

Upon the occurrence of a material Tenant Event of Default and at any time thereafter until Tenant shall have cured such Tenant Event of Default, Landlord shall have the right to terminate this Lease and Tenant's right to possession of the Premises by giving Notice of such termination to Tenant. If the Notice is based on a Tenant Event of Default, the Notice shall specify the Tenant Event of Default claimed and the date for termination, and upon such date this Lease and Tenant's leasehold estate and right to possession of the Premises under this Lease shall terminate, as if the date of termination were the Expiration Date of the Term. In the event that Landlord terminates this Lease, then all other Leases and/or Maintenance Agreements entered into with Landlord pursuant to Section 8 of the Second ALA shall concurrently terminate and be of no further force or effect.

17.2.2 Passage of Title to Landlord

If this Lease shall be terminated as provided above all of the right, title, estate and interest of Tenant in and to the Premises, including, without limitation, the Improvements and any Alteration and/or Addition thereto, shall automatically pass to, vest in and belong to Landlord without further action on the part of either party, free of any claim thereto by Tenant. Landlord may remove any or all persons then in possession of the Premises, and take possession thereof.

17.2.3 Landlord's Right to Cure

Subject to any applicable conditions and limitations set forth elsewhere in this Lease, at any time that a Tenant Event of Default shall have occurred and be continuing, Landlord may, if it so desires in Landlord's sole and absolute discretion and without any obligation whatsoever to do so, perform or cause to be performed any of Tenant's unperformed obligations hereunder. Landlord may enter the Premises for the purpose of correcting or remedying any default and remain therein until such Tenant Event of Default has been corrected or remedied, but such performance by Landlord shall not be deemed either to waive or release any Tenant Event of Default or the right of Landlord to take any action provided herein in the case of such default. No such action by Landlord shall terminate this Lease or Tenant's right to possession.

17.2.4 Landlord Remedies

In addition to the rights set forth in <u>Sections 17.2.1</u>, <u>17.2.2</u>, and <u>17.2.3</u>, upon the occurrence and during the continuance of a Tenant Event of Default, Landlord's sole additional remedy shall be an action, otherwise consistent with the requirements of this Lease, for specific performance. For purposes of this Lease, the specific performance remedy shall include and allow for the recovery of sums due and owing to Landlord under this Lease (excluding any consequential, special, and punitive damages).

17.3 Landlord Events of Default

Each of the following events ("Landlord Events of Default") shall constitute events of default hereunder by Landlord and a breach of this Lease.

Landlord shall fail to perform or comply with any of the agreements, terms, covenants or conditions hereof on Landlord's part to be performed or complied with hereunder, and such non-performance or noncompliance shall continue for a period of thirty (30) days after Notice from Tenant or, if cure of a non-monetary default cannot reasonably be completed within such thirty (30) day period, then subject to Force Majeure, Landlord shall not have commenced such performance in good faith within such thirty (30) day period or shall not diligently and continuously proceed therewith to completion of such performance within a reasonable period after its receipt of such Notice.

17.4 Tenant Remedies

17.4.1 Termination

At any time that a material Landlord Event of Default shall have occurred and be continuing, Tenant shall have the right to terminate this Lease by giving Notice from the Tenant of such termination to Landlord, which Notice shall specify the Landlord Event of Default or election claimed and the date for termination, and upon such date this Lease and Tenant's leasehold estate and right to possession of the Premises under this Lease shall terminate, as if the date of termination were the Expiration Date of the Term. Under no circumstance shall Landlord be required to repay any prepaid rent.

17.4.2 Tenant's Right to Cure

At any time that a Landlord Event of Default shall have occurred and be continuing, Tenant may, if it so desires in Tenant's sole and absolute discretion and without any obligation whatsoever to do so, perform or cause to be performed any of Landlord's unperformed obligations hereunder. Such performance by Tenant shall not be deemed either to waive or release or excuse any Landlord Event of Default or the right of Tenant to take any action provided herein or permitted by law in the case of such Landlord Event of Default. The amount of any cost, expense or expenditure incurred by Tenant in connection therewith together with interest thereon from the date paid by Tenant shall be payable by Landlord to Tenant on demand. No such action by Tenant shall terminate this Lease or Tenant's right to possession hereunder.

17.4.3 Remedies Cumulative

In addition to the rights set forth in <u>Sections 17.4.1</u>, <u>17.4.2</u>, upon the occurrence and during the continuance of a Landlord Event of Default, Tenant's sole additional remedy shall be an action, otherwise consistent with the requirements of this Lease, for specific performance. For purposes of this Lease, the specific performance remedy shall include and allow for the recovery of sums due and owing to Tenant under this Lease (excluding any consequential, special, and punitive damages).

ARTICLE 18 ESTOPPEL CERTIFICATES

Each party will execute, acknowledge and deliver to the other party within ten (10) Business Days after a written request therefor, an Estoppel Certificate certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified, and stating the modifications), and (b) (i) in the case of such a certificate delivered by Tenant, that no notice has been (x) given by Tenant of any Landlord Event of Default which has not been cured, or (y) received by Tenant of any Tenant Event of Default which has not been cured, except defaults specified in said certificate and that, to Tenant's knowledge, there are then existing no facts which, with the passage of time or delivery of notice, or both, would constitute a Landlord Event of Default or a Tenant Event of Default hereunder, or (ii) in the case of such a certificate delivered by Landlord, that no notice has been (xx) given by Landlord of any Tenant Event of Default which has not been cured, or (yy) received by Landlord of any Landlord Event of Default which has not been cured, or (yy) received by Landlord of any Landlord Event of Default which has not been cured, except defaults specified in said certificate and that, to Landlord's knowledge, there are then existing no facts which, with the passage of time or delivery of notice, or both, would constitute a Tenant Event of Default or a Landlord Event of Default which has not been cured, except defaults specified in said certificate and that, to Landlord's knowledge, there are then existing no facts which, with the passage of time or delivery of notice, or both, would constitute a Tenant Event of Default or a Landlord Event of Default hereunder.

ARTICLE 19 END OF TERM

Upon the Expiration Date or earlier termination of this Lease for any reason whatsoever, Tenant shall peaceably and quietly quit, surrender and yield up to Landlord the Premises. The Premises shall be surrendered to Landlord in good condition and repair, ordinary wear and tear excepted, as would reasonably be expected for a public facility maintained to the standards set forth in this Lease for a period of time equal to the Term of this Lease.

ARTICLE 20 NOTICES

Any notice, demand, request, consent, approval or communication (each of which is herein referred to as a "Notice") which either Party hereto desires or is required or permitted to give or cause to be given to the other shall be in writing and shall be delivered or addressed to such other Party at the address set forth below or to such other address as that Party may from time to time direct by Notice given in the manner herein prescribed, and such Notice shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile transmission, or if by mail then the earlier to occur of when actually received or on the third (3rd) Business Day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. If a consent, approval, action or agreement must be given or taken within a particular time, in order for the Notice to be effective, the Notice shall so state such time period. All Notices shall be addressed as follows:

<u>If to Landlord</u> :	City of Irvine One Civic Center Plaza P.O. Box 19575 Irvine, CA 92623 Attention: City Manager
With a copy to:	Rutan & Tucker, LLP 611 Anton Blvd., Suite 1400 Costa Mesa, CA 92626 Attention: Jeffrey Melching, Esq.
<u>If to Tenant</u> :	Heritage Fields El Toro Contractor G.P., Inc. 25 Enterprise Aliso Viejo, CA 92656 Attention: Legal Notices
With a copy to:	Gibson, Dunn & Crutcher LLP 333 South Grand Ave., Suite 4900 Los Angeles, CA 90071 Attention: Amy R. Forbes, Esq.

ARTICLE 21 GENERAL PROVISIONS

21.1 Entire Agreement; Conflicting Provisions

This Lease sets forth all of the agreements, conditions and understandings between Landlord and Tenant relating to the leasing of the Premises by Tenant, and the maintenance and operation of the Premises, and there are no promises, agreements, conditions, understandings, warranties or representations, oral or written, expressed or implied, between the Parties other than as set forth or referred to herein.

21.2 No Oral Modification

No statement, action or agreement hereafter made shall be effective to amend, waive, modify, discharge, terminate or effect an abandonment of this Lease in whole or in part unless such agreement is in writing and signed by the Party against whom such amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

21.3 Successor and Assigns

Except as specifically set forth herein, the covenants and agreements herein contained shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

21.4 Table of Contents and Section Readings

The table of contents and Article and Section headings are inserted herein only for convenience and are in no way to be construed as part of this Lease, or as indicative of the meaning of the provisions of this Lease or the intention of the Parties, or as a limitation in the scope of the particular Articles or Sections to which they refer.

21.5 No Partnership or Joint Venture

Nothing in this Lease shall be deemed to create a partnership or joint venture between the Parties or to render either party liable in any manner for the debts or obligations of the other.

21.6 Attorneys' Fees

In any proceeding between the Landlord and Tenant seeking enforcement of any of the terms and provisions of this Lease ("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 Lease), including expert witness fees, attorneys' 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.

21.7 Exhibits

All exhibits attached hereto and/or referred to in this Lease are incorporated herein as though set forth herein in full.

21.8 Construction

The parties agree that each party and its counsel have reviewed and revised this Lease and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Lease or any amendments or exhibits hereto.

21.9 Governing Law

This Lease shall be governed exclusively by the provisions hereof and by the laws of the State of California. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Lease invalid, unenforceable or unrecoverable under any applicable law. Any action seeking to enforce the terms of this Lease, or remedy of breach of this Lease, shall be commenced either in Orange County Superior Court or in the United States District Court for the Central District of California.

21.10 Counterparts

This Lease may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

21.11 Landlord's Approvals and Consents

Except as otherwise expressly provided herein, all approvals, elections, consents, agreements, determinations, options and actions of Landlord required pursuant to this Lease shall be granted in Landlord's reasonable discretion, and shall be given or taken by the City Manager (or such other person as he or she may designate in a Notice delivered to Tenant) on behalf of Landlord, and shall be deemed binding upon Landlord.

Except as otherwise expressly provided herein, all requests, elections, consents, agreements, determinations, options and actions of Tenant required pursuant to this Lease shall be granted in Tenant's reasonable discretion, and shall be given or taken by _____ (or such other person as he or she may designate in a Notice delivered to Landlord) on behalf of Tenant, and shall be binding upon Tenant.

21.12 Limitation of Liability

No direct or indirect member, official, director, officer, partner, shareholder, employee, attorney, board members, council member, or elected or appointed official of either Party shall be personally liable to any other Party, or any successor in interest, in the event of any default or breach by Tenant or Landlord or for the performance of any obligation or payment which shall become due or owing hereunder.

21.13 No Waiver

No failure by either Party to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of any such term. No waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect, or the respective rights of either party with respect to any other then existing or subsequent breach.

21.14 Third Party Beneficiaries

There are no third party beneficiaries to this Lease.

21.15 Severability; Replacement Agreement

The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision, or the application thereof to any other Person or circumstance, and the same shall remain in full force and effect, unless enforcement of this Lease as so invalidated would be so unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Lease. If at any time Landlord and Tenant determine that applicable law precludes a lease structure for implementing the operation and maintenance of the Premises, then Landlord and Tenant shall enter into a replacement binding written agreement in substitution of this Lease on the same material terms and conditions as set forth herein.

21.16 Time of the Essence

Time is of the essence with respect to the performance of all obligations to be performed or observed by the parties under this Lease.

21.17 No Right to Holdover

Tenant has no right to retain possession of the Premises or any part thereof beyond the expiration or earlier termination of this Lease.

[*FOR AGRICULTURAL LEASE:**

ARTICLE 22 SITE-SPECIFIC PROVISIONS

The special terms and conditions set forth on <u>Exhibit E</u> attached hereto and incorporated herein by reference are hereby made a part of this Lease. If and to the extent that any provision in <u>Exhibit E</u> is contrary to any provision set forth in <u>Articles 1</u> through <u>21</u>, inclusive, above, the provisions of <u>Exhibit E</u> shall govern and control. ***]

ARTICLE [22/23] GUARANTY

By its signature below, HFET hereby (i) acknowledges, consents and agrees to the obligations of HFET with regard to assignment of this Lease pursuant to <u>Section 15.1</u> and (ii) guarantees the obligations of Tenant hereunder. To the fullest extent permitted by law, HFET waives diligence, protest, notice of protest, presentment, demand of payment, notice of dishonor and all other suretyship defenses. HFET acknowledges that it is a direct or indirect owner of Tenant, that it will derive substantial benefits by reason of Tenant's performance of its duties and obligations under this Lease, and that the agreement of Landlord to enter into the Lease is subject to HFET's agreement to the above.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the _____ day of _____, 20___.

CITY OF IRVINE, a California charter city

By: _	
Name:	. <u></u>
Title:	

ATTEST:

City Clerk

APPROVED AS TO FORM:

RUTAN & TUCKER, LLP

City Attorney, City of Irvine

HERITAGE FIELDS EL TORO CONTRACTOR G.P., INC., a Delaware corporation

By:

[***ACKNOWLEDGED AND AGREED WITH RESPECT TO ARTICLE [22/23]

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

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

Its: Sole Member

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

> By: Lennar Heritage Fields, LLC, a California limited liability company Its: Administrative Member

> > By: Lennar Homes of California, Inc., a California corporation Its: Sole Member

By:	
Name:	
Title:	

EXHIBIT A

Great Park Parcels

Park Rules

B-1

Park Rules

- 1. No person shall assemble, collect, or gather together on any walk, driveway, passageway or pathway on the Premises so that the free passage or use thereof by persons or vehicles passing along the same shall be obstructed in an unreasonable manner.
- 2. Tenant shall have the right to regulate the use of bicycles, roller skates, skateboards, mopeds, motorized and non-motorized vehicles, and any other type of conveyor of persons for recreational or unnecessary purposes, provided, however, that maintenance or service vehicles may be used on the Premises.
- 3. Tenant shall have the right to prohibit and/or restrict the cooking of food and the consumption of alcoholic beverages on the Premises.
- 4. Except as otherwise provided herein, Tenant shall prohibit any activities or use or entry during the hours the Premises are closed.
- 5. No noxious, toxic or corrosive fumes, odors, gases, vapors, acids or other like substances shall be brought onto or emitted from any portion of the Premises which may be detrimental to the health, safety or welfare of persons, or which may interfere with the comfort of persons within the vicinity, or which may be harmful to the property or vegetation.
- 6. No one may wade, bathe or swim in or drink from the fountains.
- 7. No persons shall remove any wood, tree, shrub, plant, turf, grass, soil, rock, sand or gravel from the Premises.
- 8. No person shall throw, discard or deposit any paper, rubbish, debris, ashes, dirt, bottles, can, trash or litter of any kind or nature whatsoever, except in receptacles specifically provided therefore.
- 9. No person shall carry or discharge any firearms, firecrackers, fireworks, rockets, model rockets, torpedoes, air gun or slingshot.
- 10. No person shall distribute, display, circulate, post, place, or erect any bills, notices, paper or advertising device or matter of a commercial nature.

Park Maintenance Standards

B-2-1

Maintenance Guidelines for the Agricultural Fields of the Orange County Great Park

Tenant shall adhere to or cause a Sub-Tenant to adhere to the following maintenance guidelines in the conservation and use of the agricultural fields of the Orange County Great Park, it being understood that nothing contained herein shall create an affirmative obligation on the part of Tenant to engage in active farming operations on the Premises.

ALTERATION TO THE LAND:

Tenant shall in no manner substantially change the contour or condition of the land except for such changes as shall be reasonably necessary to improve the agricultural resources or protect the Project.

<u>USE</u>:

The land shall be used for cultivating, irrigating, raising and harvesting of a diversity of food and fiber crops. The land may be used for commercial sales of goods at a farm stand; greenhouses; poultry; aquaculture; floriculture; solar farming; native plant nursery; Christmas Trees; livestock pasture lands; bio-fuel crops; educational exhibits; and for no other use or purpose whatsoever unless previously approved in writing by the Landlord, such approval not to be unreasonably withheld, conditioned or delayed.

PLANTING SCHEDULE:

Tenant shall plan and implement its planting schedule so that all crops are harvested and removed from the parcel by the termination date of the Lease. Except as may be approved by Landlord in writing in its reasonable discretion, there shall be no extension of the Lease Term for the purpose of harvesting crops.

CONSERVATION WORK:

Conservation practices are intended to protect the ecological balance of the land to assure the continued productivity of the land while permitting economic returns to Tenant and Landlord. Protection of the Project's resources from deterioration by erosion, wildfire, noxious weeds, rodents, and/or pest infestations is considered part of the sound land management to be carried out by Tenant.

IRRIGATION AND DRAINAGE DITCHES:

Tenant shall maintain all irrigation ditches essentially free of weeds, silt, and debris. All ditches shall be constructed at least 8 feet from utility poles, survey monuments, and manholes. Tenant shall promptly repair all leaking irrigation ditches to prevent soil erosion and to provide unimpaired vehicle access between parcels. Borders and/or furrows shall be constructed as needed for an efficient distribution of irrigation water.

MECHANICAL METHODS FOR WEED CONTROL:

If Tenant elects to control weeds by mechanical means such as mowing or discing, the operation shall be accomplished at least twice during the lease year: once prior to the maturing of weed seeds, and once again to control late growing weeds. Mowing or discing shall be done to keep weeds below a 10-inch height year-round.

AERIAL APPLICATION OF PESTICIDES OR FERTILIZERS:

All aerial applications of pesticides and/or fertilizers or any other use of aircraft on the Premises is prohibited.

MINIMUM TILLAGE:

Tenant shall practice "minimum tillage" where and as practical and feasible for its farming operations. Tenant shall vary the depth of plowing from year to year to prevent a "plow forming and to facilitate water penetration. To reduce possible hazard to aircraft, tillage operations shall be scheduled to minimize the time during which soil will be subject to wind erosion and dust production.

SOIL RIPPING AND DAMAGE TO ADJACENT PROPERTY:

To the extent that Tenant engages in soil ripping/chiseling to enhance water penetration and reduce toxic salt accumulations, Tenant shall take reasonable precautions to avoid damaging improvements/utilities located on or adjacent to the Premises, including without limitation damage to signs, poles, piezometer, survey markers, or structures adjacent to or included within the Premises.

PEST MANAGEMENT:

Tenant shall undertake to control by mechanical means or by pesticide/herbicide application all noxious and undesirable weeds and rodents, insects, and other pests on the Premises. The term "pesticide" includes herbicides, insecticides, fungicides, rodenticides, and algaecides.

MOSQUITO ABATEMENT:

In order to minimize mosquito breeding, Tenant shall not permit tail water or runoff to stand in ditches between irrigation operations. Tenant shall be responsible for the abatement of mosquitoes.

ROAD DAMAGE PREVENTION:

Tenant shall not maneuver "track-laying" or "spike-wheeled" vehicles over roads within or serving the Premises unless road protective measures are taken.

DUST CONTROL:

Tenant shall control excessive dust generated from farming and activities on the unpaved roads in the Premises through the application of water.

FIRE PREVENTION:

Tenant shall comply with the City of Irvine's fire control and prevention regulations.

(1) <u>EQUIPMENT</u>. All engine driven equipment used by Tenant on the Premises shall be equipped with properly operating spark arresters, mufflers, and tailpipe assemblies. In addition, any vehicle having a catalytic converter shall not be driven through areas of dry, combustible material due to the extreme heat generated by this device.

(2) <u>STORAGE OF EQUIPMENT AND FLAMMABLE MATERIALS</u>. All flammables shall be surrounded by a 20-foot firebreak of bare disced soil.

(3) <u>SPARK-PRODUCING EQUIPMENT</u>. Arc, gas, TIG ("Heli-Arc") welders shall be used only for repairs on a specific piece of equipment parked on and surrounded by at least 50 feet of bare soil in all directions.

(4) <u>CROP RESIDUE</u>. Crop stubble or residue shall be disced into the soil within two weeks after harvest. Grazing and fire shall not be used to eliminate residue. All parcels or portions thereof planted to cotton are subject to local county regulations concerning planting and "plow down" dates.

DEBRIS REMOVAL:

Tenant shall dispose of all debris generated at its work sites to the reasonable satisfaction of Landlord.

EROSION CONTROL:

Tenant shall apply prudent erosion measures to reduce soil loss.

FALLOW LAND MANAGEMENT:

If Tenant elects to lay fallow any portion of the Premises for whatever reason(s), the fallow area shall be disced frequently enough to maintain a "weed free" condition until the land is again cropped normally.

NO HUNTING:

Hunting is not allowed on the Premises.

PROTECTION OF HISTORIC/ARCHEOLOGICAL PROPERTY:

Buried cultural materials may be present on and around the Premises. Tenant shall not knowingly take any action that would reasonably be expected to disturb such cultural materials.

Maintenance Guidelines for the Orange County Great Park Sports Park, Upper Bee, Bosque, and Golf Course

SECTION 1 LANDSCAPE

TURF

SHRUBS, GROUND COVERS, ORNAMENTAL GRASS AND VINES

TREE CARE

IRRIGATION

WATER MANAGEMENT

PESTICIDES

Mow, edge, and trim all turf areas weekly, 52 weeks per year on a regular schedule. This schedule will provide that all areas will be mowed not less than once a week. Fescue turf shall be mowed using a rotary mower, minimum height shall be one and one-half $(1-\frac{1}{2})$ inches and maximum height shall be three and one-half $(3-\frac{1}{2})$ inches. Bermuda turf shall be mowed using a hydraulic driven reel mower, minimum height shall be one-half $(\frac{1}{2})$ inches and maximum height shall be one and one-half $(1-\frac{1}{2})$ inches. Bermuda turf that has been over-seeded with Rye shall be mowed between one (1) inch and one and one-half $(1-\frac{1}{2})$ inches with either a reel or rotary mower.

<u>All turf, planters and appurtenant hardscape areas</u>, gutters and related drainage structures <u>areas shall be free of turf clippings</u>, leaves or other debris at the end of the scheduled mow day.

Trim growth around all sprinkler heads, valve boxes, lamp posts, drains and other permanent structures located in the turf on a <u>weekly</u> basis or whenever turf interferes with sprinkler performance. String trimmers shall be used to keep the turf at approximately the same height as mowers, except around sprinkler heads and valve boxes where the turf <u>should not</u> be trimmed to below one (1) inch.

Chemically edge and <u>manually trim</u> around fences without mow strips, and around trees monthly. A green turf dye shall be used around trees to prevent a brown dead turf appearance until trimming. Maximum distance for chemical edging is eight (8) inches for fences and eighteen (18) inches for trees. Some trees may have a mulched area greater than eighteen (18) inches from the trunk; this is to be maintained at existing distances.

Aerate all turf other than designated sports fields as needed or as determined by consulting a an agronomist. Aerate by removing $\frac{3}{4}$ " X 2- $\frac{1}{2}$ " to 3" depth cores at not more than six (6) inch spacing, twice over at 90 degrees or twice over in the same direction with an approved aerating machine. <u>Plugs/cores shall be removed, or broken up and spread over the turf area being treated by mowing, with the use of a drag mat, or during the de-thatching process, at the time of the aeration.</u> Contractor is responsible for locating and marking irrigation and other components in turf prior to aerating.

Fertilization/soil analysis: Fertilization is a seasonal season duty and the actual material applied will be based on soil reports and field conditions.

Weeds: Control weeds in all areas of turf. Chemicals for broadleaf weed control and pre-emergent control of weeds, including grasses, such as Poa annua and crabgrass in turf shall be furnished by the Contractor and applied per the direction of the manufacturer. Broadleaf and grassy weed applications as necessary and Pre-emergents are done 2 times a year.

Note: All walkways, roadways, trails, landscape areas or other areas dirtied by maintenance or renovation operations shall be cleaned prior to the completion of this operation or the end of the day, whichever occurs first. The Contractor shall water-in all fertilizers, chemicals if required, or amendments after each application and prior to moving to the next location, as directed or by the end of the workday at the very latest. The Contractor must follow all NPDES Watershed Protection Standards.

SHRUBS, GROUND COVERS, ORNAMENTAL GRASS AND VINE CARE:

Prune to maintain a healthy and natural appearance. Under no circumstances shall any shrubs be poodled or balled. If shrubs are not in a hedge do not cube or square them.

Restrict growth to area behind curbs, mow-strips, and sidewalks, to tops of walls and fences, and two (2) feet from all private residences. Also, restrict growth of ground covers away from shrubs, trees, and other structures.

The Contractor shall restrict growth, through pruning, to maintain safe road visibility and optimum irrigation coverage (refer to Standard Plan 403, Section 9). The use of pre-emergence herbicides is allowable; a small test application shall be required for each product to be used prior to broader applications to assure safety.

Keep all planters, shrubs and ground cover areas free of visible weeds at all times. Where ground cover grows under pine trees, the contractor shall use a combination of techniques (raking and blowing) to prevent the build-up of needles from forming on the ground cover.

Remove dead plant material and replace within 10 working days and backfill to existing grade. Replacement of shrubs and vines will be in accordance with City of Irvine Standard Plan numbers 601, 602 and 603.

Ground covers shall be managed so the plants do not exceed 11 inches in height, and at no single time shall more than 3 inches of material be removed at one time. Sprinklers must not be impacted or blocked by the growth of the ground cover. An annual renovation may be required for shrubs and ground covers. Ornamental grasses shall be mowed or pruned annually between December and March.

Do not use weed eaters to trim Star or Asian jasmine. Extension hedge trimmers ('stick' trimmers) shall be used for all trimming operations on these plants to reduce the shredding that is typical when weed eaters are used.

All annual color, agapanthus, day lilies, and roses are to be detailed monthly with all dead flowers and suckers growth removed.

Contractor will be responsible for mulch added to the planters to a depth of two (2) inches annually. Use "1/2 to 1-1/2 inch Forest Floor" shredded bark surface mulch. Use of any other mulch product shall be dependent upon submission of a sample for approval. The supplier must be able to demonstrate the suitability of the product for

use in public parks by certifying in writing that the material does not contain sewage sludge, animal wastes, heavy metal contaminants or other products that could harm people or pets.

TREE CARE:

Prune, stake, and support trees in accordance with City of Irvine Standard plans. The Contractor shall provide all arbor guards, tree stakes and approved hardware as part of this contract.

Place stakes, ties and arbor guards so that no chafing or girdling of bark occurs.

Check all guys, ties, arbor guards and stakes monthly to avoid girdling and damage to trees.

Remove dead trees up to 4" DBH, backfill and compact to existing grade. The exact location of any tree removed must be reported in writing to the City's Representative. Replacement of trees will be in accordance with City of Irvine Standard Plan numbers 604, 605, 606 and 607.

Pick up branches and tree debris (Eucalyptus bark shreds) on the ground. Re-stake or remove leaning trees.

Arbor guards are to be kept on all trees in turf until they are at least 4" DBH.

Contractor shall replace trees whose trunks are significantly damaged by Contractor's personnel with trees of equal size and specie at the Contractor's expense.

Maintain all City trees at eight (8) feet above sidewalks and landscapes and 13 feet 6 inches over streets and bike trails.

Do not remove lower branches except if dead or unsightly or to provide vehicle or pedestrian clearance. Contractor shall remove all growth where low branches adversely impact irrigation coverage. Remove all sucker growth.

IRRIGATION:

The Contractor shall provide all labor, supervision, equipment and supplies, as needed, to service and repair the landscape irrigation systems including master valve, pressure regulator and strainer basket assemblies. The irrigation technician shall have a truck stocked with all common components (e.g., Rain Bird 1806/1812 bodies and a full selection of U-series nozzles), as well as gear driven rotors to replace failed parts with original equipment hardware. Aftermarket "knock-off" parts, such as pop-up bodies and nozzles, will not be acceptable replacement hardware.

Service and repair includes, but is not limited to, testing, adjusting, troubleshooting and repairing of all system components from the male adapter going into the irrigation control valve to the sprinkler heads. This includes the valve and its components, lateral lines, swing joints, sprinklers, nozzles, and drip system components within the boundaries of this contract on a <u>scheduled</u>, and as <u>required</u> basis.

The Contractor shall allow 3 minutes minimum, for the irrigation technician to check each valve as described in section 4.5.5 of the Irrigation System Servicing section (below) of this contract.

The Contractor is responsible for the maintenance, repair and, if necessary, replacement of the remote control connector. Each controller is equipped with a remote control testing device connection. This hook-up is adaptable with other brand devices (i.e., Rain Master, TRC). This connector is provided for the convenience of the contractor to facilitate routine tracking of systems.

Irrigation Systems Servicing:

All systems shall be serviced according to the following frequencies and procedures:

- 1. Once every 7 calendar days from April 1 through November 15.
- 2. Once every 14 calendar days from November 16 through March 31.

System servicing includes, but is not limited to, the following procedures and tasks:

Testing/checking each control valve via the ELM connector at the controller for:

- 1. Control valve opening and closure, so as not to interfere with other control valves operation. (RCV to be tuned to achieve full closure within 15 seconds).
- 2. Optimum flow to allow sprinklers to operate at manufacturer's specifications. Systems that "fog" (exceed manufacturer's recommended operation pressure) shall be corrected by incrementally closing the flow control on the RCV until working pressure falls within the manufacturer's recommendation. Each booster pump shall be tested to verify operation. If pumps fail to start, this condition must be noted on the tracking sheet. Failure of the contractor to verify pump operation will incur deductions for failure to perform. Contractor will bear the cost of replacement of any material that is lost as a result of such a failure.
- 3. Leaks at the solenoid, manual actuator valve and fittings. Solenoid wire connections, to be connected with the proper watertight connectors.
- 4. Check sprinklers and valves on all manual systems. Replace and repair as needed.

Testing the lines for leaks:

- 1. Pressurize all lateral lines by activating the control valve via the controller.
- 2. Visually inspect the control valve zone of irrigation for water surfacing/puddles.
- 3. Inspect around each sprinkler for leaks at the swing joint assembly.

Testing irrigation heads for proper operation and coverage including the heads on the infield manual systems. Activate the control valve via the controller/ELM. Inspect each sprinkler for:

- 1. Leaks at the wiper seal
- 2. Damaged sprinkler body
- 3. Damaged, missing or plugged nozzles
- 4. Correct nozzle, radius and arc
- 5. PCS screens (if applicable)
- 6. Rotors check for complete rotation to required arc and for slow rotation compared to other sprinklers in same zone.
- 7. Proper alignment, both in terms of vertical straightness (or orientation relative to slope) and operational height of nozzle above the plant material being irrigated. This will require occasional raising/leveling of the sprinklers, done at no additional cost to the city. If plants block sprinkler pattern, the technician is to mark the plant material with paint and coordinate the trimming/removal with the maintenance crew.
- 8. Check Valve operation visually inspect for slow sprinklers weeping on the lowest head on a lateral after control valve is deactivated.

Troubleshooting each system, as required and shall include:

- 1. Check for solenoid wire connections to be connected with the proper watertight connectors.
- 2. Pressure test at the last sprinkler on the lateral line to verify manufacturer's recommendations for operation.
- 3. Mixed sprinklers with different precipitation rates. Check irrigation component boxes for excessive soil; soil should be 2" below control valve/component with 2" of clean gravel above the soil. All boxes are to be level and at grade. Replace all lids that have holes, cracks, breaks or that do not fit properly. Lids will be provided by the city. All replacement lids are to be branded with the appropriate valve number or device per City Standards.

Remote control connector (ELM):

- 1. Maintain reciprocal plug in operational order.
- 2. Maintain wiring to terminal board in operating condition.
- 3. Replace connectors that are irreparable at no additional cost to the City.

Complete all routine repairs and adjustments on the day of scheduled service.

No system shall be shut down for more than 72 hours at one time because of a system failure.

Scheduled servicing shall occur within one working day after scheduled mowing operations.

All non-routine repairs shall be completed within 72 hours of awareness.

The Contractor shall be responsible for the replacement of plant material (with the same size) due to improper irrigation maintenance techniques.

The irrigation service technician must be able to write and communicate in English.

The irrigation technician shall mark on the irrigation tracking sheets the overall appearance of the landscape condition. Dead or dying grass, shrubs, ground covers or trees shall be noted the irrigation service cycle.

Annual Irrigation Systems Maintenance:

Adjust all irrigation control valves to meet the manufacturers' specifications. The Contractor's Representative shall test the last sprinkler on each control valve with a pressure gauge installed in line with the nozzle or with a pivot tube and gauge.

Raise/lower all irrigation components to grade as necessary. This includes all irrigation component boxes and sprinklers. All damaged valve box lids shall be replaced with an appropriate "branded" lid. Work shall be per City Standard Plans. Install pea gravel under each sprinkler after it has been raised to prevent them from settling back to the previous level.

The manufacturer's authorized representative will service all irrigation pumps.

All annual irrigation systems maintenance is to be completed between December 1 and March 31 each year.

Irrigation Systems Maintenance Every Other Year:

All pressure regulator and strainer assemblies shall be rebuilt, cleaned and adjusted every other year per schedule. All pressure regulators shall have the diaphragm and spring assemblies replaced.

Each regulator shall be adjusted in order to maintain sprinkler-operating pressure to meet manufacturer's recommended operation. Strainer baskets shall be removed and cleaned.

WATER MANAGEMENT:

Contract personnel performing water management duties shall have the following abilities and meet the following requirements.

Abilities:

- Meet Irvine Ranch Water District Landscape Irrigation Guidelines.
- Maintain a healthy landscape.
- Maintain all parks and landscape in a usable condition (no flooding due to overirrigation).
- Program all controllers as needed.

• Troubleshoot and diagnose irrigation systems and take corrective action.

Requirements:

The Water Manager shall program all controllers as needed according to the Irvine Ranch Water District allocation. The Contractor shall apply 10% below IRWD monthly water allocations for each meter on all park applications. Maintain healthy plant material and avoid monthly IRWD penalties. (Majority of controllers are Cal Sense)

PESTICIDES:

A written recommendation of proposed pesticides, including commercial name, concentrations, application rates, usage and re-entry time shall be prepared by a licensed California Pest Control Advisor and site specific schedule submitted a minimum of fourteen (14) days prior to intended use. Copies of Material Safety Data Sheets, specimen labels and schedules shall be kept on site by Contractor.

No work shall begin until written approval of use is obtained and a notice of intent has been filed with the County Agricultural Commissioner's office, as required.

Chemicals shall only be applied by those persons possessing a valid California Qualified Applicator License/Certificate or under the direct, on-site supervision of a Q.A.L./C. Applications shall be in strict accordance with all governing regulations. Records of all operations shall be kept per California Department of Pesticide Regulations. Pesticides shall be applied in a manner to avoid contamination of nontarget areas. Precautionary measures shall be employed to keep the public from entering the spray zone until the restricted entry interval (REI) time (per label direction) has been achieved. The contractor's staff will remain on site keeping people and pets out until the REI has been achieved. A temporary mesh fence such as orange plastic construction fencing might need to be erected on the perimeter of an area that is to be treated with a broad application of materials. The intent is to keep people and pets off for a minimum of 24 hours. This will be based on the unit price on the bid sheet.

Whenever there are broad applications of pesticides, other than incidental weed control, such as with Roundup®, the areas to be treated shall be posted 48 hours prior and for 72 hours after, with the product name, type of the pesticide (herbicide, insecticide, fungicide etc.), date of application and the Contractor's phone number.

Whenever possible use chemicals with low or no odor. Products that are known carcinogens or mutagens are not to be used and are to be avoided whenever possible.

SECTION 2: SPORTS TURF MANAGEMENT (SPORT PARK ONLY)

AERATION

SPECIALTY AERATION

SAND TOP-DRESSING

OVER-SEEDING

INTER-SEEDING

SOD

PERFORMANCE REQUIREMENTS SPORTS TURF MANAGEMENT (STM)

All Sports Turf Management Tasks shall be performed on an "as needed" basis.

AERATION (STM):

Aerate sports turf by removing %" to %" diameter hollow tine cores to a depth of 2-%" to 3" with spacing between cores, not to exceed 3", using a piston type aeration machine. <u>All</u> cores must be removed on the same day aeration takes place with the use of a core harvester or core pulverizer or other approved method. <u>This is the minimum requirement for aeration</u>.

Contractor will be required to complete a minimum of 4 acres per day per the standards specified above. The contractor is also responsible for locating and marking irrigation and other components prior to aeration. Any irrigation component damaged from the aerification process will be replaced by the contractor at no charge. Sports turf areas are aerated between 4 and 6 times per year on average.

The above specified STM aeration machine/s must be owned or leased and kept in the contractor's equipment yard so as to be available for possible aeration of problem areas encountered on the sports fields.

Slicing, spiking aerators will be used throughout the year in order to avoid the debris from hollow core aeration on the sports fields.

SPECIALTY AERATION:

Specialty aeration shall be required periodically throughout the year; the contractor must have the ability to provide "Vertidrain" type aeration with %", %" and 1" diameter with up to a <u>10</u>" depth solid and hollow core times with spacing between cores, not to exceed 4".

Access to other specialized aeration equipment may be required at negotiated unit prices. This could include "Deep Drill," "Dryject," "Planet Air" or other types of aeration.

SAND TOP-DRESSING:

Olgebay Norton #50, or approved equal, shall be applied to a depth of up to %" using a top dressing machine, evenly spreading the sand over the designated area. After the sand has been applied the entire area shall be dragged with an appropriate drag mat, going over the area in a circular pattern until the sand is evenly distributed and with a smooth surface and watered in thoroughly by the end of the workday.

OVER-SEEDING:

Seed shall be spread by a broadcast type spreader and covered (optional) with a top dressing material, all seed and material supplied by the contractor. This may be done in conjunction with a scalping/de-thatching process. This will be billed at materials plus the labor unit price.

INTER-SEEDING:

Seed shall be inserted into the soil using an inter-seeding machine, applying the seed in two different directions over the designated area. After completion of the interseeding, the debris shall be removed. An application of %" organics may be scheduled immediately after this process. This will be billed at the "per unit" price plus the <u>actual cost</u> of the seed. The contractor must have the ability to inter-seed 100 acres of sports turf in four (4) weeks.

<u>SOD</u>:

Sodding shall be accomplished by removing existing turf and soil with the use of a sod cutter (if no soil prep is to be done). New sod shall be installed and the height of the grade shall be level with existing turf and grade. All new sod areas will be rolled with an appropriate size and weight non-vibrating roller until the area is free of bumps and low spots GN-1 and Tifway hybrid Bermuda (for sports fields) or "Dwarf" turf type tall Fescue (for non-sports fields), or approved equal. Most sports field locations shall require the use of sand-based sod; this shall be

ANNUAL FIELD RENOVATIONS:

Annual field renovations are required and generally occur during the months of June, July and August. The contractor must have adequate staff and equipment to be able to perform this task, and all required work must be completed during the first week of down time to allow for sod establishment.

Specifications for renovation process may include:

- a. Aerate, STM aerate or specialty aeration per specifications in this section.
- b. Verticut in 2 directions, sweep, vacuum mow, and sweep vacuum again.
- c. Remove and replace sod per specifications in this section.
- d. Soil preparation to include applying soil amendments.
- e. Hand watering is to be done with a hose and is meant to provide adequate water to get the new sod rooted and established.
- f. Removal and replacement of soccer goals and field closure signs.

CHEMICAL APPLICATIONS/LINE SPRAYING:

- Spraying of sport field lines with Roundup® or Rodeo®. Line width is not to exceed 6". Operator Decision
- Spraying of sport field lines with turf paint.

Note: Line spraying will be accomplished with the use of a taut string line to ensure straight lines. Lines that are not straight will be re-done.

FILLING:

Filling of low areas shall be required upon request. Overall field cover/filling will be required for correction of low areas or wet zones or to fill in old field lines. Soil that is similar in consistency for the location of the work or dry topper (for wet fields) will be required. The supplier must be able to demonstrate the suitability of the product for use in public parks by certifying in writing that the material does not contain sewage sludge, animal wastes, heavy metal contaminants or other products that could harm people or pets.

SECTION 3: INFIELD MAINTENANCE (SPORTS PARK ONLY)

DAILY WORK REQUIREMENTS/FIELD PREPS WEEKLY WORK REQUIREMENTS EVERY OTHER WEEK REQUIREMENTS BI-ANNUAL WORK REQUIREMENTS OTHER TASKS/REQUIREMENTS

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PERFORMANCE MEASUREMENT/SPECIFICATIONS (INFIELD MAINTENANCE)

- 1. Daily: Patching/tamping, dragging, watering, setting out bases, sweeping and weeding.
- 2. Weekly: Nail drag.
- 3. Every other week. Edging and water blasting.

DAILY WORK REQUIREMENTS/FIELD PREPARATIONS:

Patching and tamping

The areas that usually require this are the batters' boxes, pitchers' mound area, catchers' areas and around the bases.

- a. Sweep out loose brick dust.
- b. Fill hole with water and let soak into about half the depth of the hole.
- c. Push loose or new brick dust or fresh mound mix into the hole, mixing with water. It is generally better to use mound mix for the pitchers' mound and around home plate for better adhesion and compaction.
- d. Let this set until firm, but still damp and then tamp.

Dragging

- a. Prior to dragging, clean out and place the plugs in all base pegs if available and hand-water the brick dust lightly to reduce dust.
- b. Hand-drag the fence lines, pitchers' mounds, outfield apron edge and base lines on turf infields with a small drag or hand rake/lute.
- c. Drag the infield using a tight loop pattern, circular pattern or criss-cross pattern, alternating daily. Care must be taken so as not to pull the drag mat over turf, home plate or pitchers' mounds. When finished with dragging, do not pull the drag mat onto the turf, as this will deposit brick dust, gravel and trash into the grass.

Watering

This work will be based on weather and actual field conditions. If it is cool or during rainy periods less water will be needed. If it is warm or windy, more will be required.

- a. Set out sprinklers or use manual systems after dragging and water heavily, but stop if and when water starts to puddle. Care must be taken not to over water areas that have been patched. Too much water can cause the field to become slippery and a hazard to players.
- b. Hand water areas that may require additional water such as base lines.
- c. When possible or applicable, hand water again just prior to games.

a. Expose the appropriate base pegs, and clean them out, if needed.

Sweeping

- a. Sweep up all the gravel and debris left from the dragging process and remove from site.
- b. Sweep off home plate, the pitching rubbers and any bases that are out.
- c. Sweep brick dust out of the turf along the apron edge or infield.
- d. Sweep brick dust or other debris out of the fence lines and dugouts.

OTHER DAILY TASK/REQUIREMENTS:

- a. Remove infield weeds.
- b. Repair/correct flooded fields

Push or drain off excess water. Fill in low areas with dry brick dust and/or Diamond Dry® or Diamond Pro®, rake this into the top ½" to 1" of the brick dust. Allow to set for a while (depends on how wet and how large an area), rake again several more times. If the field is extremely wet, allow to dry until capable of walking on the brick dust without sinking. Then if directed by the City representative, scarify entire field alternating between wet and dry areas, to mix the soils, until the area is fluffy. Allow to air out until dry enough to drag without pulling up clumps of brick dust Drag and prep as normal chalk fields.

To include batters' boxes, foul lines, arc lines, on deck circles, coaches' boxes, pitchers' circle and out of play lines.

WEEKLY WORK REQUIREMENTS:

These tasks are expected to be done weekly unless directed to do otherwise.

Nail drag. Water lightly to prevent dust. Using a nail drag, go over the entire field in a tight circular pattern, loosening the top Y.." to %" of brick dust. Drag and prep the field as normal. This needs to be done weekly or as directed, to keep the surfaces firm enough for good footing but soft enough to prevent injuries from sliding.

EVERY OTHER WEEK REQUIREMENTS:

Edge infield turf with a mechanical edger, not to be a string trimmer. Remove all clippings and turf growing between the edge line and the brick dust.

Water-blast the brick dust out of the turf along the apron edge. This can only be done if there is sufficient time for drying.

BI-ANNUAL WORK REQUIREMENTS:

Lip-management of infield consists of:

a. Scalp the edge of turf and infield mix.

b. Aerification.

c. Verticut in two directions.

OTHER TASKS/REQUIREMENTS:

Remove or install pitchers' mounds. Each mound is to be built to the specification provided. Some fields may have multiple use mounds and will require extended sized mounds with multiple rubbers.

Install/remove plastic home run fences, as needed.

Scarify and level. Water heavily prior to scarifying to soften the soil and prevent dust. Mark/flag the plates, pitching rubbers and base peg locations to prevent hitting them. Scarify with a pull type scarifier with adequate weights, or "Gill Pulverizer," using a tight circular pattern, go over the area several times to get the tines down to 1-%" to 2" depth (not to exceed 3" depth). Never scarify a pitchers' mound, home plate or turf areas. The first and third base lines of turf infields shall be done by hand with a bow rake. Using the flip side of the scarifier, level the field, taking care to knock down high spots and fill in low spots. Hand rake areas as needed to complete this. After this is completed, use a turf type roller to re-compact the surface and then drag as normal.

Spray field lines as needed. This is to be performed with a non-selective weed control chemical such as Roundup® unless directed to do otherwise and shall not exceed 6" in width. The lines will include foul lines, out of play lines and outfield arcs.

SECTION 4: GOLF COURSE MAINTENANCE

DAILY WORK REQUIREMENTS/FIELD PREPS WEEKLY WORK REQUIREMENTS EVERY OTHER WEEK REQUIREMENTS BI-ANNUAL WORK REQUIREMENTS OTHER TASKS/REQUIREMENTS

Mowing: (height of turf cut TBD)

- Greens daily (walking mowers or triplex (BD); groomers twice a month (Mar-Sep)
- Collars/Approaches three times a week with (2) mowers being used
- Tees three times a week with (2) mowers being used
- Fairways three times a week with (2) mowers being used
- Roughs two times a week with (2) mowers being used
- DR Tees three times a week
- DR Target Greens once a week
- DR Floor two times a month

Other Daily Duties:

- Change cups daily
- Repair ball marks on the greens
- Sand all divots (tees & fairways)
- Rake all bunkers
- Pick up trash/debris throughout course
- Straighten/replace hazard & OB stakes also monitor GUR and drop areas
- Move tee markers

Aerification:

- Greens pull cores twice a year (spring/fall); Solid quadratine 2-3 times a year
- Tees pull cores twice a year (spring/fall)
- Fairways pull cores twice a year (spring/fall)

Top Dressing:

- Greens performed with aerification; Also light applications every ten days (spring/fall)
- Tees performed with aerification
- Fairways new course so not needed

Fertilizing:

- Greens use granular application with aerification; Also spray twice month (Apr-Nov) and once a month (Dec-Mar)
- Tees use granular application with aerification; Also spray twice month (Apr-Nov) and once a month (Dec-Mar)

• Fairways - as needed

Other Turf Cultural Practices:

- Verticutt greens heavy during aerification: Also once a month (Apr-Jun & Sep-Dec)
- Soil testing in Spring greens, tees and fairways
- Pesticide treatment by licensed applicators for control of insects, weeds, fungus, nematodes and algae

SECTION 5: HARDSCAPES

ENVIRONMENTAL

ATHLETIC/RECREATIONAL FACILITIES

HARDSCAPES

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PERFORMANCE MEASUREMENTS (HARDSCAPES)

ENVIRONMENTAL:

The Contractor shall respond within one (1) hour during regular working hours to meet litter pickup requirements.

The Contractor shall provide plastic bag liners for trashcans in the parks. The cans shall be washed inside and out when necessary to control odors or remove stains. Trash shall be hauled away by the contractor.

The Contractor shall patrol all parks as frequently as necessary to maintain clean facilities during holidays, and on high-use days. Holidays that traditionally require at least two (2) patrols daily are: Washington's Birthday, Easter week, Memorial Day, Independence Day, July 5, Labor Day and Christmas week. Peak weekends requiring a minimum of two (2) patrols daily shall be all weekends during the months of May through the end of October. There shall be a minimum of two (2) patrols daily during all Tournaments with the first patrol to be completed prior to 9:00 a.m. and the second after 1:00 p.m.

ATHLETIC/RECREATIONAL FACILITIES:

Sand in play areas must be kept clean and maintained for safe play. Each sandlot shall have trash, glass, and debris removed, and all areas hand-raked and depressions filled in <u>daily prior to 11 a.m. seven days per week</u>. All sand lots are to be rototilled monthly to a depth of 9 inches, minimum. Sandlots with rubberized play surfaces next to sandlots, the rototiller must keep a safe distance (18") away to prevent damage to this.

Additional sand must meet the following specifications:

Screen size	Percentage Passing
10	100
18	95-100
35	75-100
60	0-50
140	· 0-10
270	0-3

Sand is to be added when the level gets below an acceptable level (usually four (4) inches below top of curb or edge).

Sand around the edge of the sandlots shall be <u>swept</u> daily using a hand broom, and the sand shall be put back in the sand lot. <u>Use of blowers will not be allowed</u>.

Decomposed granite areas shall be kept level at grade and kept free of weeds, trash and debris at all times.

Tennis courts and handball courts shall be airbroomed* daily and washed on scheduled days between 6:00 a.m. and 10:00 a.m. so as not to interfere with the normal playing activity. Washing of the courts shall be done using a "WatermiserTM" (www.watermiser.com), Water Broom, HOI model and <u>roll dried</u>. Additionally, tennis court screens shall be washed when necessary. See locations and numbers on the Inventory sheet.

Sand in volleyball play areas must be kept clean and maintained for safe playing. Remove trash, glass, and debris from volleyball court seven (7) days per week. Volleyball court are to be rototilled monthly to a depth of nine inches (9") Minimum.

Picnic areas in parks, including concrete slabs and tables, shall be washed and scrubbed on Mondays and Fridays prior to 11 a.m. using soapy water and scrub brushes. Barbeques and hot coal containers shall be emptied on Mondays and Fridays prior to 11 a.m. and washed out or cleaned, as directed.

All concrete playing surfaces shall be kept clean and weed-free at all times. Airbroom* or sweep daily and wash as needed or directed. All bleacher, dugouts and seating areas shall be swept or airbroomed* daily and washed on Mondays and Fridays before 11:00 a.m. Additionally, backstop and dugout screens shall be washed when necessary.

HARDSCAPES:

All hardscape such as, but not limited to, sidewalks, curbs, mow strips, gutters, drains and drain structures, bicycle paths, medians and median noses, expansion joints and walls adjacent to landscapes shall be kept clear of dirt, mud, trash, weeds and any other substances which are either unsightly or unsafe.

All sidewalks and building entrances in parks and facilities shall be washed as directed with a pressure nozzle. Each park and facility is equipped with either a hose bib or quick coupler water supply device.

To comply with NPDES watershed protection standards the contractor is required to use care when cleaning hardscape surfaces to prevent sheet-flow run-off of rinse water from running into storm drain structures. All rinse water being generated during the execution of this contract shall be contained on-site and either collected or managed so that it is deposited in landscaped areas and absorbed into the soil.

ORDINANCE 90-02

The use of leaf blowers shall be regulated as follows:

1. Definition of leaf blower:

Leaf blowers are defined as portable power equipment that is powered by fuel or electricity and used in any landscape maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing or redistributing dust, dirt, leaves, grass clippings, cuttings and trimmings from trees and shrubs or other debris.

- 2. Limitations on use.
 - a. All leaf blowers shall be equipped with a permanently installed limiter that restricts the individual equipment motor performance to half throttle speed or less, and will produce not more than 70 decibels db(A) measured at the midpoint of a wall area 20 feet long and ten feet high and at a horizontal distance 50 feet away from the midpoint of the wall, or not more than 76 db(A) at a horizontal distance of 25 feet using a sound level meter set at level A.
 - b. Each individual leaf blower shall be tested and certified for use by the City of Irvine or its designated representative. Each individual leaf blower shall bear the label of required approval in a visible location on the equipment prior to use and at all times during use. A fee for the City to recover all costs connected with equipment approvals shall be charged in an amount set by City resolution.
 - c. The use of leaf blowers is prohibited except between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday.
 - d. Leaf blower operations shall not cause dirt, dust, debris, leaves, grass clippings, cuttings or trimmings from trees or shrubs to be blown or deposited on any adjacent or other parcel of land, lot, or public right-of-way/property other than the parcel, land, or lot upon which the leaf blower is being operated. Deposits of dirt, dust, leaves, grass clippings, debris, cuttings or trimmings from trees or shrubs shall be removed and disposed of in a sanitary manner which will prevent dispersement by wind, vandalism or similar means within six hours of deposit by the user or property occupant.
 - e. Leaf blowers shall not be operated within a horizontal distance of ten feet of any operable window, door, or mechanical air intake opening or duct.
 - f. No person using leaf blowers shall exceed noise limitations set by section 6-8-204 of the City Code of Ordinances.

3. Education.

a. Each person operating an individual leaf blower is required to complete not less than one training session of content and time approved by the City of Irvine Administrative

Authority prior to operation of leaf blower equipment. Training and qualification shall be required for certification at least every two years for each individual equipment user.

b. The equipment operator shall carry certification of the training and qualification at all times.

<u>EXHIBIT C</u>

Park Programming Plan

C-1

Orange County Great Park Sports Complex Programming Plan

I. PART I - PROGRAMMING OF EACH FACILITY TYPE

The Orange County Great Park Sports Complex (GPSC) will host an abundance of events that include large destination tournaments and events down to local organizations' practices. It is this blend of existing opportunities, unique facility spaces, and growing market need that point to a future direction filled with potential to provide the residents and visitors to the Great Park with unique opportunities for athletic and leisure experiences.

The following discussion provides an explanation of the manner of programming the use for each facility type.

MULTI-USE FIELDS AND EAST LAWN

The multi-use fields will permit soccer use throughout the entire year and allow for field rest periods. The months of May through August will be programmed with the most activities, although there could be heavy use for tournaments and regular public play throughout the year. The weekday schedule will primarily be filled with league games, practices and adult leagues during the evenings (typically, 4pm and later). Programs such as camps, clinics and training will utilize morning and mid-day time periods. Tournaments are generally scheduled over the weekends unless an occasional large destination tournament, which may be as long as five to seven days, requires all facilities for an entire week.

The period between September and April is still programmed with general league play, practices and programs. League events tend to be held on weekends and are played throughout the entire day. Events such as tournaments and camps tend to be scheduled around holidays or breaks in the school calendar when youth have extra availability for multi-day events. The fall and winter months do not offer as crowded a schedule due to school sponsored athletics.

Tournaments organized by clubs, event organizers or other entities (such as those currently organized by clubs in the City of Irvine, such as the Harvest Cup) may set entry restrictions, such as competitiveness, age level and affiliations. However, others may offer an open first-come, first-serve registration policy until the tournament is full.

Adult leagues are also potential users of these fields, which generally would be open to all adults (18+) willing to organize a team and register. These leagues are anticipated to have no restrictions on residency. Other uses such as school district and/or California Interscholastic Federation tournaments or potential event host sites would also be potential users of these fields.

Non-soccer events could include lacrosse, football, rugby, field hockey, cricket, badminton, etc. for programming on the East Lawn area and other multi-use fields. Such events will be considered upon request of the local organizations and meet the requirement for regional and national tournaments, if necessary.

The East Lawn could be available for other activities including community and non-profit events, outdoor concerts, staging area for cross country, 5K/10K runs, etc. These events will be considered upon request from local organizations.

TENNIS

In order to allow for all types of play, the number of tournaments/events offered per year likely will be limited. Based on creating a balance of use and other factors, it is anticipated (although not restricted that) the current targeted number of tournaments/events is approximately 14-18 per calendar year. Due to more likely weather issues, tournaments and events typically would not be scheduled in December or January and potentially limited to only one each in February and November, leaving eight months to spread out the additional 12-16 programed events. Tournament/event length ranges anywhere from half a day to 7-10 days. An approach to limit the multi-day events to approximately two per month and typically no more than two weekends in a row is anticipated.

A goal of this GPSC Programming Plan is to provide play opportunities such as offering a full slate of instructional programs from beginner through advanced, league play opportunities for men and women, both competitive and social in addition to a wide

range of tournament play (youth, adult, local, regional, national, participatory and spectator). In addition to the scheduled play opportunities, efforts will be made to have a limited number of courts available for individual reservations and walk-up play.

It is anticipated that rental play open to the general public will typically be available from 8am to 10pm.The peak times during the week are anticipated to be 3pm-10pm weekdays, 7am-11am and 3pm-10pm on the weekends. The programs and private lesson segments will be reliant upon scheduling and availability of tennis professionals. Programs such as clinics and instructional activities typically will be scheduled during the mornings and evenings for individuals/groups to register. Individual lessons typically will be arranged with a tennis professional on a per event basis. Allocation of courts and tennis professional instruction will be integrated into the weekly schedule to establish a balance of use and accommodate planned events like tournaments.

Tournaments and events are typically required to be sanctioned by a district, state or national governing body, while others require a bid process and may be awarded in one or two year increments. Participation in tennis tournaments is limited more than other tennis activities for visitors. Tournaments may follow a selection process and be limited to ranked players followed by players registered with the applicable organization running the tournament (e.g., the USTA).

Tournaments may include GPSC-sponsored or locally organized events that are open to the general public as well as events that limit use of the courts to the general public. These tournaments may be available to residents but will restrict court use during tournament play to only those participating in the event.

It is anticipated that local tennis programs and tennis lessons assume similar use and organization to what is currently offered by the City of Irvine. Individuals may be required to register for a specific session with an instructor.

BASEBALL

The baseball specific fields will permit baseball use throughout the entire year. It is anticipated that the months of May through August will be programmed with the most

activities and events. The weekday schedule will primarily be filled with league games and practices during the evenings (typically, 4pm and later). Programs such as camps, clinics and training typically will utilize morning and early afternoon time periods. Tournaments are generally scheduled over the weekends unless an occasional large destination tournament, which may be as long as five to seven days, requires all facilities over an entire week.

The period between September and April is still programmed with fall and winter league play, practices and programs. However, league events typically tend to be held on weekends and are played throughout the entire day. Multi-day tournaments and camps tend to be scheduled around holidays or breaks in the school calendar. The fall and winter months typically do not offer as crowded a schedule due to school sponsored athletics.

Tournaments are anticipated to be organized by clubs, event organizers and other entities (such as those currently organized by clubs in the City of Irvine and the region) that may impose entry restrictions such as competitiveness, age level and affiliations. However, others may offer an open first-come, first-serve registration policy until the tournament is full.

Clubs and organizations that offer recreational and competitive baseball opportunities for residents and those in the surrounding area organize youth baseball league play. The use by these organizations would serve local community residents.

Other uses such as independent professionals offering specialized training, camps and academies will offer baseball opportunities that are open for interested individuals to register. Also, it is anticipated that school districts and/or the California Interscholastic Federation may utilize the GPSC for tournaments or as a potential event host site that would serve the general public's interests.

SOFTBALL

The softball fields will contribute to additional softball play throughout the entire year. It is anticipated that the months of May through August likely will be programmed with the

most tournaments and youth participation. The weekday schedule will primarily be filled with league games and practices during the evenings (4pm and later). Programs such as camps, clinics and training typically will utilize morning and early afternoon time periods. Tournaments are typically scheduled over the weekends unless the GPSC hosts large, multi-day destination tournament. The large tournaments may occupy the fields for as long as five to seven days.

The fall season between August and November has a similar mix of use as the summer, but typically will not be as robust. League events tend to be held on weekends and are played throughout the entire day due to common double-header use. However, for the more competitive traveling teams, they will typically practice during the week and participate in tournaments on weekends. Softball tournaments are likely to be scheduled any weekend throughout the fall season. Similar to the other sports, camps, clinics and training tend to be scheduled around holidays or breaks in the school calendar when youth are able to participate in multi-day events. The fall and winter months typically do not offer as crowded a schedule due to school sponsored athletics.

Softball tournaments are anticipated to be organized by clubs, event organizers and other entities (such as those currently organized by clubs in the City of Irvineand the region) that may impose entry restrictions such as competitiveness, age level and affiliations. Also, teams aged 14 and older tend to play in tournaments almost every weekend rather than play in leagues. The younger age groups and recreational teams will typically play in a few tournaments each season.

Adult leagues are also potential users of these fields, which generally would be open to all adults (18+) willing to organize a team and register. These leagues are anticipated to have no restrictions on residency.

SAND VOLLEYBALL

There are two sand volleyball seasons that experience the most participation. April through the end of June consists of the spring season and is immediately followed by the summer season, which generally lasts from July through the end of September. The

remaining months are the off-season and will mostly see use from individuals and other unorganized usage.

It is anticipated that the GPSC sand volleyball facilities will be programmed with leagues and programs throughout the week and weekends while hosting weekend tournaments.

Tournaments are anticipated to follow CVBA organized tournaments. These tournaments typically are open to all participants that register early enough to secure a spot.

Sand volleyball leagues and programs are anticipated to be offered similar to those of tennis. Individuals will be required to register for a specific session with an instructor. Adult leagues are open to all adults (18+) willing to organize a team and register. These leagues are anticipated to have no restrictions on residency. Adult leagues may be offered to the community at various levels of competitiveness.

GOLF COMPLEX.

The Golf Complex at GPSC will have 18 holes of public golf, driving range, practice greens, a clubhouse and banquet facility. The Golf Complex will be open year round weather permitting.

The 18 holes of golf will operate from sunrise to sunset with paid rounds and other rounds at loyalty rates or complimentary play. The rate schedule will be competitive with similar style courses in the City and region (such as Strawberry Farms and Oak Creek) and include discounts for youth play, retired military, public schools teams and special hours of play. The golf course will be available for tournament play with discounted rates for large groups.

The driving range will operate from sunrise to sunset and it will have associated practice greens for both warm up and training. The rate schedule for the driving range will be competitive with similar facilities in the City (such as Strawberry Farms and Oak Creek) and region and allow for complimentary use for youth teaching and public school team programs.

The clubhouse and banquet facility is designed to host events associated with the golf course activity and available for rental for non-golf course activity (i.e. corporate retreats, wedding receptions, community events, etc.). The clubhouse and banquet facility will have both indoor and outdoor event space, a full banquet kitchen and full service bar. The facilities will be open during operating hours of the golf course and after operating hours, as needed, for event rental. Rental rates for the facilities will be competitive with similar facilities in the region and subject to review by the Great Park CEO.

II. PART II - POLICIES AND PROCEDURES

Prior to the commencement of public use of any portion of the GPSC, the operator of the GPSC shall develop a policies and procedures plan, which shall include (among other things) (i) General Regulations, and (ii) Athletic Field/Court permit issuance procedures, all of which shall be reviewed and subject to approval by the Great Park CEO, which approval shall not be unreasonably withheld, conditioned or delayed. Rates categories shall be subject to review and comment by the Great Park CEO and shall be consistent with the requirements of this programming plan.

GENERAL REGULATIONS

The General Regulations shall include (among other things): (i) the right to require additional support services at the expense of the applicant. These services include, but are not limited to: use of buildings or other amenities, shuttle and overflow parking services, public address system, porter services for restrooms, extra trash removal, security, police personnel and other equipment needs (tables/chairs/ canopies, etc.); (ii) a prohibition on the distribution and/or posting of signs, flyers, cards, posters, handbills or advertisements in or on GPSC facilities unless expressly approved by the GPSC, and a prohibition on the distribution of flyers or advertisements on vehicle windows in City parking lots (Irvine Municipal Code section 3-4-120); (iii) adherence to city parking regulations (pick-up and drop-off, red zone and handicap parking) at all times in areas near within the GPSC facilities; (iv) a reservation by the GPSC of the right to restrict

parking areas for RV's, buses or other oversized vehicles during Special Events within the GPSC facilities; (v) requests to bring equipment onsite such as generators, pitching machines, homerun fencing, tents, gazebos, concession equipment, etc., must be approved at the time of application and must meet all municipal codes. All equipment must be presentable and in safe working condition at all times; and (vi) operating hours for the GPSC sports fields. The City and the GPSC operator shall meet and confer to determine what City regulations are appropriately applicable to the GPSC uses, and those regulations shall be included in the policies and procedures plan.

Sports field lighting will only be turned on for reserved and scheduled use. Sports fields are available for the sole use of the applicant (see Permit Issuance below) and may not be shared with others without approval by the GPSC. Organized use of GPSC sports fields (including games with referees, activities offered by for-profit and nonprofit organizations) is prohibited without an approved GPSC application. The City will meet and confer with the operator of the GPSC to determine the terms and conditions of one or more master special event permits for similar types or categories of events at GPSC including, without limitation, tournaments and other sporting events, functions, weddings, public gatherings, to be issued in accordance with Title 2, Division 10, Section Chapter 8, Section 2-10-801 et. seq. of the Irvine Municipal Code.

such security personnel will coordinate closely with the Irvine Police Department and any private security personnel associated with the adjacent property owners to enhance the security services for the Premises.

The GPSC will be available, without restriction, for free public use, walk on use during un-programmed hours. Pick-up games and walk-on games (with no referees, uniforms, etc.) can use non lighted fields as available during daylight hours on a first come first served basis; however, if a group with an approved reservation arrives, the walk-on group must immediately vacate the field. Pick-up games and walk-on games may not begin prior to 8:00am. Some fields are not available for walk-on use. Signs are posted on these fields.

RATE CATEGORIES

The policies and procedures shall include separate categories that will be utilized for purposes of determining fees and charges for each of the facilities within or serving the GPSC for both local and non-local residents. Category status may be determined based upon (among other things) the type of event and individual or group who is reserving. Category status is determined when the reservation application is approved. The City's rate schedules and published categories of use for comparable City parks will be utilized except where the activity or category is not included in the City's rate schedule, or in the case of tournaments. Rates for tournaments will be competitive with comparable facilities, of similar quality, in the region. Reservations before or after the normal park operating hours may be invoiced according to an extended hours rate or at a field reservation rate, whichever is higher.

The GPSC may reserve the right to relocate activities to a more appropriately-sized facility or location and may modify reservation start and end times, based on actual use, attendance, requests and use of multiple facilities, minimum room capacities or use of premium facilities during prime facility hours.

ATHLETIC FIELD/COURT PERMIT ISSUANCE

The GPSC will develop a field priority of use and reservation system. Requests for reservation of sports fields and courts will be made through the GPSC staff. Requests may be compiled, as received, into an Annual Interest List. The GPSC reserves the right to determine which days, times, fields and field sizes will be reserved based on other scheduled use, wear and maintenance issues. The GPSC may but has no obligation to grandfather or give priority to returning reservations.

Applicants will be obligated to complete an Athletic Field Application and Agreement. The application and payment must be received by the time period set forth in the Agreement. The Agreement will set forth the refund policy for any cancellation by the applicant.

The GPSC may reserve the right to operate concession stands for all tournaments and special events. The GPSC may elect to offer these concessions and retain all proceeds without compensation to the applicant or other event vendors or may elect to assign these opportunities to a local nonprofit.

<u>EXHIBIT D</u>

Insurance Requirements

1. Coverages.

A. Tenant shall procure and maintain at all times during the term of this Lease, the following policies of insurance:

(1) a Commercial General Liability policy covering all liability arising out of and in connection with the use of the Premises by Tenant, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$2,000,000); (2) Workers' Compensation insurance, including Employer's Liability coverage, in compliance with statutory requirements, if Tenant has employees, and a Waiver of Subrogation in favor of Landlord; and (3) Automobile Liability insurance covering all owned and hired automobiles of Tenant, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$2,000,000). Each of the foregoing coverages shall name Landlord as an additional insured (except for the Workers' Compensation coverage). In the event liquor is to be served or sold at any event operated by or through Tenant on the Premises, (i) the Commercial General Liability policy for Tenant (or the operator of the event) shall include host liquor liability coverage, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Ten Million Dollars (\$10,000,000), and shall name Landlord as an additional insured, and (ii) the Commercial General Liability policy for the vendor providing or serving any alcohol on the Premises shall include host liquor liability coverage, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Five Million Dollars (\$5,000,000), shall name Landlord as an additional insured. The Commercial General Liability policy shall be written on an occurrence basis and shall include, at a minimum, bodily injury, property damage, personal injury, advertising injury and contractual liability. Each insurance policy required hereunder shall be evidenced by a certificate of insurance and Additional Insured Endorsement. If Tenant fails to procure or cause to be procured and maintained, said insurance, Landlord may, but shall not be required to, procure and maintain same, but at the expense of the Tenant. Insurance required hereunder shall be placed with and issued by companies rated A-; VII or better in "Best's Key Rating Guide."

B. Landlord shall procure and maintain at all times during the term of this Lease, the following policies of insurance:

(1) a Commercial General Liability policy covering all liability arising out of and in connection with the use of the Premises by Landlord, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$2,000,000); (2) Workers' Compensation insurance, including Employer's Liability coverage, in compliance with statutory requirements, if Landlord has employees, and a Waiver of Subrogation in favor of Tenant; (3) Automobile Liability insurance covering all owned and hired automobiles of Landlord, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$1,000,000); and (4) Fire and Casualty insurance covering fire and other property casualty, including without limitation, extended coverage, special extended perils (all-risk coverage), vandalism, malicious mischief, and sprinkler leakage insurance, insuring the Improvements and any and all other improvements

affixed to the Great Park Parcels (together with any and all furniture, furnishings, fixtures, equipment, inventory, supplies and other personal property belonging to Landlord and located in, on or about the Great Park Parcels), in an amount equal to one hundred percent (100%) of the actual replacement value thereof, and shall include a Waiver of Subrogation in favor of Tenant. Each of the foregoing coverages shall name Tenant as an additional insured (except for the Workers' Compensation coverage). In the event liquor is to be served or sold at any event operated by or through Landlord on the Premises, (i) the Commercial General Liability policy shall include host liquor liability coverage, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Ten Million Dollars (\$10,000,000), and shall name Tenant as an additional insured, and (ii) the Commercial General Liability policy for the vendor providing or serving any alcohol on the Premises shall include host liquor liability coverage, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Five Million Dollars (\$5,000,000), and shall name Tenant as an additional insured. The Commercial General Liability policy shall be written on an occurrence basis and shall include, at a minimum, bodily injury, property damage, personal injury, advertising injury and contractual liability. Each insurance policy required hereunder shall be evidenced by a certificate of insurance and Additional Insured Endorsement. If Landlord fails to procure or cause to be procured and maintained, said insurance, Tenant may, but shall not be required to, procure and maintain same, but at the expense of the Landlord. Insurance required hereunder shall be placed with and issued by companies rated A-; VII or better in "Best's Key Rating Guide", except that in the case of insurance obtained by Landlord, insurance may be obtained through the California Insurance Pool Authority, a multi-agency insurance pool.

2. <u>Blanket Policies</u>. Any policy required by the provisions of this <u>Exhibit D</u> 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 Lease.

<u>EXHIBIT E</u>

Site-Specific Provisions

E-1

EXHIBIT E

Special Conditions Applicable to the Agricultural Subleases

At all times during the Term of any Sublease, Subtenant shall at its sole cost and expense perform or cause to be performed the following obligations:

1. CARE AND USE OF THE PREMISES

- (a) Use. Subtenant shall prepare and plant the Premises with crops from a list of crops approved by Landlord and Sublandlord (the "Approved Crops"), and shall cultivate, irrigate, raise and harvest each crop, and shall otherwise use the Premises continuously for growing crops during the Term, and for no other use or purpose whatsoever without Sublandlord's prior written approval in its sole discretion. Notwithstanding the foregoing, Sublandlord shall not unreasonably withhold its consent to Subtenant's use of the Premises for selling of produce and related goods and/or educational exhibits. Prior to planting crops, Subtenant shall review its proposed planting plan with Sublandlord, and shall in good faith consider Sublandlord's comments with respect to types and proportion of crops, and shall use best efforts to accommodate such comments in the planting plan.
- (b) <u>Only Approved Crops</u>. Subtenant shall not use the fields or the parcels of the Premises for the growing of any crops other than the Approved Crops.
- Good Management Practices. Subtenant shall procure and supply all necessary (c) labor, tools, machinery, utilities and supplies, and cultivate, irrigate, fertilize, grow, harvest, control pests, amend and improve soil fertility in crop areas, and do and perform all other acts and things which may be required to fully carry out the operations herein described, all of which shall be done and performed by Subtenant at its sole cost and expense and without cost to or liability of Sublandlord, except as hereinafter provided, at the proper season and in a good husbandlike manner in accordance with best farming practices consistent with the area and the best management practices outlined by the Soil Conservation Service and as enforced by the Environmental Management Agency of the County of Orange. Subtenant shall comply with all restrictions in any Interim Use Permits that are required for Subtenant's activities. Subtenant shall not disturb the ground in any way, including but not limited to ripping, disking or plowing, within twenty feet (20') of the Bee Canyon Channel, and shall otherwise comply with all use restrictions imposed upon Subtenant's use of the Premises by any entity with jurisdiction over the Premises.
- (d) <u>Minimize Soil Erosion</u>. Subtenant shall manage its irrigation water used for the Premises and otherwise control surface water in order to minimize soil erosion and silt runoff from the Premises. Sublandlord shall, at its sole discretion, determine whether Subtenant is exercising reasonable care in the control of soil erosion and silt run-off. Subtenant shall promptly implement, at Subtenant's cost and expense, Sublandlord's requirements for such control.

- (e) <u>Keep Free of Weeds</u>. Subtenant shall keep the Premises reasonably free and clean of noxious weeds and other volunteer growth.
- (f) Protect Water Transmission and Other Utilities. Subtenant shall protect in place and maintain in good condition, all in connection with Subtenant's use of the Premises, any water transmission or other utility facilities located upon the Premises. Subtenant shall exercise due care in carrying out Subtenant's operations on the Premises so as not to damage any known or unknown water transmission or utility facilities. Provided that Subtenant has exercised such due care, Subtenant shall not be liable to Sublandlord for the cost to repair any such facilities that may be damaged by Subtenant if such facilities were not previously disclosed by Sublandlord or identified by Subtenant and could not have been discovered by Subtenant in its exercise of reasonable due care to protect the same.
- (g) <u>Repair</u>. Subtenant shall maintain and repair all improvements on the Premises, including fences (with the exception of the existing vinyl, horse fence border-security fences that may be installed by Sublandlord in Sublandlord's sole and absolute discretion, and which if installed shall be maintained by the Sublandlord at Sublandlord's cost and in accordance with Sublandlord's schedule and design for the same, in Sublandlord's sole discretion), and shall keep all such improvements in a good and safe condition, reasonable wear and tear excepted.
- (h) <u>Signs</u>. Signs will be installed and maintained by the Sublandlord in Sublandlord's sole discretion, and Sublandlord shall have the right to enter the Premises at any time for such purpose.

2. SUBTENANT'S OPERATIONS

- (a) <u>Compliance with Laws</u>.
 - Comply With Air Quality Requirements. Subtenant shall at its sole cost (i) and expense comply with all requirements of the South Coast Air Quality Management District ("SCAOMD") Rule 403 (governing fugitive dust emissions), including, if applicable, the requirements of any approved fugitive dust emission notification, control plan, acknowledgment, response, permit, agreement or other control measure filed, issued, obtained, prepared or agreed to by Sublandlord or Subtenant for or otherwise applicable to the Premises ("Dust Control Measures"). If any further Dust Control Measure is required by SCAQMD or other applicable governmental agency for the Premises, Subtenant shall at its sole cost prepare and implement such Dust Control Measure in accordance with Rule 403 and other applicable Public Laws, and in such event Subtenant shall provide Sublandlord with a copy of such Dust Control Measure within ten (10) days of submission to, or issuance by, SCAQMD or other governmental agency.

Comply With Storm Water Regulations and Best Management. Subtenant shall at its sole cost and expense comply with and give all notices required by all applicable laws related to the control of soil erosion, water and/or waste discharge and silt run-off on or from the Premises, including the federal Clean Water Act, 33 U.S.C. §§ 1251 et seq., regulations and orders of the State Water Resources Control Board, regulations and orders of the Regional Water Quality Control Board, any Notice of Intent ("NOI") or Storm Water Pollution Prevention Plan ("SWPPP") applicable to the Premises, the Drainage Area Management Plan prepared by the County of Orange applicable to the Premises, any Total Maximum Daily Loads, or related restrictions issued by federal, state or local authorities for the watershed in which the Premises are located, and any Water Quality Management Plan ("WOMP") applicable to the Premises, whether imposed on the owners or operators of land, and any other regulatory requirement applicable to agricultural runoff. The foregoing requirements shall include, if applicable, compliance with all waste discharge requirements for construction dewatering as currently specified by the Regional Water Quality Control Board, Santa Ana Region. Subtenant shall install, maintain and observe such additional best management practices (BMPs) to control sediment and pollutants that adhere to sediment as are necessary to prevent any discharge of sediment and related pollutants in stormwater that could violate applicable water quality standards. Subtenant shall protect, indemnify, defend and hold harmless the Indemnified Parties (hereinafter defined) from any failure by Subtenant to implement and follow such BMPs that results in any claim against or liability of Sublandlord for civil or criminal penalties under state or federal water quality laws arising out of such failure.

(ii)

- (iii) Occupational Safety and Health Act. Subtenant shall at its sole cost and expense comply with the requirements of the Occupational Safety and Health Act of 1970, 29 U.S.C., Section 651 et seq. and any analogous legislation in California, as well as Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq. (collectively, the "Act"), to the extent that the Act applies to the Premises and any activities thereon and without limiting the generality of the foregoing, Subtenant covenants to maintain all working areas, all machinery, structures, electrical facilities and the like upon the Premises in a condition that fully complies with the requirements of the Act including such requirements as would be applicable with respect to agents, employees or contractors of Sublandlord who may from time to time be present upon the Premises.
- (b) <u>Use of Agricultural Chemicals</u>. Subtenant shall, at its sole cost and expense, comply with all Public Laws relating to Subtenant's storage, application, use, removal, transportation and, disposal of pesticide or weed control chemicals, agricultural fertilizers and other agricultural chemicals (collectively, "<u>Agricultural</u>

Chemicals"), including but not limited to the regulations of the Department of Food and Agriculture of the State of California and the Agricultural Commission of the County of Orange, shall use and/or handle any Agricultural Chemicals in a safe, reasonable and lawful manner. Notwithstanding the foregoing, Subtenant shall not permit or suffer placement, storage, disposal, discharge or use any "Prohibited Chemicals" (as defined below), and any chemicals included within the definition of "Prohibited Chemicals" shall not be considered "Agricultural Chemicals." In addition, and not by way of limitation of the foregoing, if Subtenant's use of Agricultural Chemicals restricts or inhibits the use of the Premises or surrounding property for agricultural purposes after the expiration or termination of this Sublease, whether because of restrictions under applicable law or because crops cannot reasonably and profitably be grown as a result thereof, then Subtenant shall indemnify and hold Sublandlord harmless from all losses, damages, costs and expenses, including loss of revenues, suffered because of such restriction or inhibition. Subtenant acknowledges that the Premises may be situated proximate to urban and/or suburban areas and Subtenant agrees to use extra precautions with regard to its use of Agricultural Chemicals to prevent such chemicals from affecting such areas. Subtenant shall keep and maintain, during the Term of this Sublease, accurate and complete records of the amount of, the time when, the location of, use of, the conditions under which use of and the type of Agricultural Chemicals are used by Subtenant on, under, in or about the Premises, which records shall evidence Subtenant's compliance with all such Public Laws. Sublandlord shall have the right to inspect such records and the Premises at any time and from time to time during the Term of this Sublease and to audit Subtenant's procedures to satisfy itself that Subtenant is in compliance with its obligations with respect to such matters. Subtenant shall provide Sublandlord, within two (2) business days after Subtenant's receipt of same, with a copy of any notice received from any governmental agency that Subtenant is not in compliance with any such law and with the description of the corrective action which Subtenant has taken or proposes be taken to bring the noticed matter into compliance. For purposes of this Sublease, the following chemicals shall be considered "Prohibited Chemicals": (i) Diazanon; (ii) Chlorpyfiros; and (iii) so long as there exists at the time of Sublandlord's notice a reasonable alternative Agricultural Chemical for accomplishing the same objective, any other chemical from time to time identified by Sublandlord as posing a threat to persons or the environment.

(c) <u>No Toxic Materials</u>. Subtenant shall not permit or suffer placement, storage, disposal or discharge of any Toxic Materials (as hereinafter defined) on, under or at the Premises and Subtenant shall not erect, emplace or maintain any tank, vessel or container designed or suitable for holding Toxic Materials on or about the Premises without the prior written consent of Sublandlord which consent may be withheld or denied or made subject to conditions in the sole discretion of Sublandlord. Sublandlord shall not be liable to any third party as a result of giving or withholding its consent. Subtenant shall, at its sole cost and expense and whether or not Sublandlord's consent has been obtained, also comply with all Public Laws relating to Subtenant's storage, discharge, application, use and

disposal of Toxic Materials on, under, in or about the Premises. As used in this Sublease, the Term "Toxic Materials" means any "Prohibited Chemicals" (described above) and any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government (other than the Agricultural Chemicals referenced above), including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substances Account Act), (iii) defined as a "hazardous material" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) polychlorinated biphenyls, (viii) formaldehyde, (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (x) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317), (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903) ("CERCLA") or (xii) defined as "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601). Upon the discovery by Subtenant of the presence of any Toxic Materials on, under, in or about the Premises, the Subtenant shall promptly notify Sublandlord of such discovery in accordance with Section 25359.7 of the California Health and Safety Code and, within 30 days after such discovery, submit to Sublandlord a written plan setting forth a description of the action which Subtenant proposes to take with respect thereto, including, without limitation, any proposed corrective work, the estimated time of completion, the person or persons to perform the work if other than Subtenant and such other information as is relevant to the action to be taken. If Subtenant does or proposes to discharge, apply, use, remove or dispose of any Toxic Materials on, under, in or about the Premises, Subtenant shall notify Sublandlord in writing at least ten (10) days prior to such activity on, under, in or about the Premises, which notice shall set forth the action which Subtenant proposes to take to comply with the storage, discharge, application, use, removal or disposal of the Toxic Materials in accordance with applicable Public Laws. Subtenant's failure to do so shall constitute a default under this Sublease. Sublandlord may, at any time or from time to time, require that Subtenant conduct, at Subtenant's sole cost and expense, reasonable monitoring activities with respect to Toxic Materials by Subtenant on the Premises satisfactory to

Sublandlord in its sole discretion. Subtenant shall not clean up, remove, dispose of or discharge any Toxic Materials from the Premises including, without limitation, disposal through public or private sewers or drainage systems, without (i) obtaining Sublandlord's prior written consent to such proposed clean up, removal, disposal or discharge, (ii) obtaining all required governmental approvals for such clean up, removal, disposal or discharge, (iii) obtaining all governmental and private approvals for neutralizing and/or storage of such Toxic Materials after clean up, removal, disposal or discharge.

(d) Subtenant to Give Sublandlord Notice of Environmental Issues. Subtenant shall notify Sublandlord of and provide to Sublandlord a copy of the following environmental entitlements or inquiries related to the Premises: third party claims, notices of violation, notices to comply, citations, inquiries, reports filed pursuant to self-reporting requirements, reports filed pursuant to any governmental law or regulation relating to underground tanks or Toxic Materials. In the event of release of any Toxic Materials to the environment, Subtenant will furnish to Sublandlord a copy of any and all reports, and correspondence with governmental agencies relating to the Premises. Upon request of Sublandlord, Subtenant will furnish to Sublandlord a copy of any and all environmental entitlements or inquiries relating to the Premises, including, but not limited to all permit applications, permits and reports, including those which may be characterized as confidential. Subtenant shall not take any remedial action related to Toxic Materials or underground tanks located in or about the Premises, and shall not enter into any settlement, consent decree or compromise in response to any claim related to toxic materials or underground tanks which shall be in any way connected with the Premises, without first notifying Sublandlord of Subtenant's proposed action and affording Sublandlord a reasonable opportunity to appear, intervene, or otherwise participate in any discussion or proceeding for the purpose of protecting Sublandlord's interests in the Premises.

(e) Subtenant's Indemnity for Toxic Materials. Subtenant hereby waives all claims and demands relating to, and agrees to defend, indemnify and hold Sublandlord and its respective council members, officials, officers, employees, directors, shareholders, agents, representatives, attorneys and professional consultants, and its and their respective successors and assigns, (collectively, the "Indemnified Parties") harmless from and against any and all losses, liabilities, general, special, consequential and/or incidental damages, injuries, costs, expenses and claims of any and every kind whatsoever (including without limitation, court costs, attorneys' fees, damages to any person (including the Indemnified Parties), the Premises, or other property or loss of rents due under this Sublease) which at any time or from time to time, may be paid, incurred or suffered by, or asserted against them for, with respect to, or as a direct or indirect result of (i) breach by Subtenant of the covenants set forth in this "Compliance with Laws" section, or (ii) to the extent caused or allowed by Subtenant or by any agent, representative, employee, contractor, invitee or licensee of Subtenant, (A) any accident, overspray, or occurrence causing injury to any person or property including that of Sublandlord, either directly or indirectly, due to the use of Agricultural

Chemicals on the Leased Premises, or (B) the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, or release from, onto or into the Premises, the land, the atmosphere, or any water course, body of water, sewer, or ground water of any Toxic Material or Agricultural Chemicals (including any Toxic Material, Agricultural Chemicals or other environmental conditions identified, described or disclosed within Sections 6(h) and (i) below); provided, however, that no Indemnified Party shall be entitled to indemnification hereunder to the extent any such claim is ultimately established by a court of competent jurisdiction to have been caused solely by the gross negligence or willful misconduct of such Indemnified Party. Sublandlord retains the right to (x) refuse Subtenant's proffered defense of any action or proceeding brought against Sublandlord or the Indemnified Parties regarding which Subtenant is obligated to indemnify as provided above, and (y) to select and direct independent legal counsel, and Subtenant shall nevertheless pay all of Sublandlord's attorneys' fees and costs of litigation incurred in connection therewith. The provisions and undertakings and indemnifications in this "Compliance with Laws" section shall survive termination of this Sublease. Payment shall not be a condition precedent to recovery under any indemnification in this Sublease, and a finding of liability or an obligation to indemnify shall not be a condition precedent to the duty to defend.

(f) Potable Water, Groundwater. Subtenant acknowledges that there is no domestic water serving the Premises, and Sublandlord has no obligation to provide potable water to the Premises. Subtenant shall take such actions and preventative measures that Sublandlord deems appropriate to prevent any person from accessing, drinking or otherwise using the recycled water serving any portion of the Premises for any use other than farming. Subtenant hereby expressly waives, releases and relinquishes any and all claims, causes of action, rights and remedies Subtenant may now or hereafter have against the Indemnified Parties, whether known or unknown, with respect to any past, present or future claimed or actual personal injuries, property damages or losses of any kind arising out of or in any way relating to the consumption or use of domestic water within the Premises (collectively, "Water Claims"), and Subtenant shall defend, indemnify and hold harmless the Indemnified Parties with respect to any Water Claim raised by any third party.

EXECUTION COPY

EXHIBIT F-2

Form of Maintenance Agreement

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<u>ORANGE COUNTY GREAT PARK MAINTENANCE AGREEMENT</u> (<u>(**INSERT DESCRIPTION OF IMPROVEMENT(S)**</u>))

This ORANGE COUNTY GREAT PARK MAINTENANCE AGREEMENT ([**INSERT DESCRIPTION OF IMPROVEMENT(S)**]) (this "Agreement") dated as of [_____] ("Effective Date"), is made and entered into by and between THE CITY OF IRVINE, CALIFORNIA, a charter city ("City"), and HERITAGE FIELDS EL TORO CONTRACTOR G.P., INC., a Delaware corporation ("HF Contractor") (City and HF Contractor are hereinafter referred to, as the context requires, individually as "Party" and collectively as "Parties"), with reference to the following Recitals:

RECITALS

A. City owns in fee simple certain real property (the "Great Park Parcels") more particularly described and/or depicted in <u>Exhibit A</u> which is attached hereto and incorporated herein by reference.

B. City and Heritage Fields El Toro, LLC, a Delaware limited liability company ("HFET"), are parties to that certain Second Agreement with City of Irvine as Adjacent Landowner, dated _____, 2013 (the "Second ALA").

C. Pursuant to the terms of the Second ALA, HFET agreed to fund, oversee, and cause the phased construction of certain improvements to the Orange County Great Park ("Great Park" or the "Park") on the Great Park Parcels (the "Great Park Improvements"). As each phase of construction of the Great Park Improvements is completed and the Acceptance Date (as that term is defined in the Second ALA) occurs, title to the Great Park Improvements vests in the City. The parties to the Second ALA further agreed that the City would enter into this Agreement with respect to the Great Park Parcels and the Improvements (as defined below), including without limitation the following: [general description of improvements to be maintained to be inserted here].

D. The purpose of this Agreement is to provide for the maintenance of the Great Park Parcels, so that the portion of the Great Park subject to this Agreement will be maintained throughout the term hereof as a public park, and to provide for the maintenance of the Improvements (as defined below) in accordance with the standards set forth herein.

NOW, THEREFORE, in consideration of the above recitals and the covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

PART I FUNDAMENTAL TERMS

A. <u>Location of Project</u>: The City of Irvine location(s) specified as the Great Park Parcels on <u>Exhibit</u> <u>A</u>, which is attached hereto and incorporated herein by reference. B. <u>Description of Services/Goods to be Provided</u>: The maintenance of [general description of improvements to be maintained to be inserted here] located within the Great Park Parcels (collectively, the "Improvements") in accordance with the maintenance standards and specifications set forth in <u>Exhibit B</u> attached hereto and incorporated herein by reference ("Maintenance Standards & Specs") and the other services described herein below as the Scope of Services. HF Contractor may make minor amendments to the Maintenance Standards and Specs that do not materially deviate from the pre-existing standards without City consent.

C. <u>Term</u>: The services shall commence on the Effective Date and shall expire on December 31, 2023, unless terminated earlier as set forth in this Agreement [***FOR WILDLIFE CORRIDOR: MINIMUM TERM OF THREE (3) YEARS, AND ADD FOLLOWING LANGUAGE: "(or notwithstanding any other provision herein, on such later date as may be required by the terms of that certain Irvine Wildlife Corridor Plan (Glen Lukos Associates 2013), approved by the City Council of Irvine"***]. The Term of this Agreement may be subject to three (3) extension options of one (1) year each as follows:

(1) If as of July 1, 2023, the City has not received any Secondary Amount (as such term is defined in the ARDA (as defined in the Second ALA)), and does not reasonably expect to receive any Secondary Amount for fiscal year 2023-2024, then the City shall have the right (but not the obligation) to send a written notice to HF Contractor of such fact, and the Term of this Agreement shall be extended for an additional one (1) year and shall expire on December 31, 2024. To the extent the City does not deliver a written notice in the time period specified above, then it shall be deemed to have elected not to extend the Term, in which event this Agreement shall expire.

(2) If as of July 1, 2024, the City has not received any Secondary Amount, and does not reasonably expect to receive any Secondary Amount for fiscal year 2024-2025, then the City shall have the right (but not the obligation) to send a written notice to HF Contractor of such fact, and the Term of this Agreement shall be extended for an additional one (1) year and shall expire on December 31, 2025. To the extent the City does not deliver a written notice in the time period specified above, then it shall be deemed to have elected not to extend the Term, in which event this Agreement shall expire.

(3) If as of July 1, 2025, the City has not received any Secondary Amount, and does not reasonably expect to receive any Secondary Amount for fiscal year 2025-2026, then the City shall have the right (but not the obligation) to send a written notice to HF Contractor of such fact, and the Term of this Agreement shall be extended for an additional one (1) year and shall expire on December 31, 2026. To the extent the City does not deliver a written notice in the time period specified above, then it shall be deemed to have elected not to extend the Term, in which event this Agreement shall expire.

The City's election to extend (or deemed election not to extend) the Term of this Agreement shall apply to all "Leases" and "Maintenance Agreements" entered into by City pursuant to the Second ALA, it being the intent of City and HFET that the City's election to extend this Agreement shall not be effective unless the City has made the same election under all "Leases" and all "Maintenance Agreements" entered into by City pursuant to the Second ALA.

D. <u>Party Representatives</u>:

(1) The City designates the following person/officer to act on City's behalf pursuant to this Agreement: [_____].

(2) HF Contractor designates the following person to act on HF Contractor's behalf pursuant to this Agreement: [_____].

E. <u>Attachments/Exhibits</u>: This Agreement incorporates by reference the following Exhibits:

Exhibit A – Great Park Parcels Exhibit B – Maintenance Standards & Specs Exhibit C – Insurance Requirements

F. Integration; Amendments In Writing: This Agreement represents the entire understanding of City and HF Contractor as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with regard to those matters covered by this Agreement. This Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No parole evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement. Any amendments or modifications to this Agreement must be in writing, signed by duly authorized representatives of each of the Parties hereto. To the extent permitted by law, neither Party shall require that any amendments or modifications to this Agreement require a vote of the people.

PART II GENERAL PROVISIONS

SECTION ONE: SERVICES OF CONTRACTOR

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, HF Contractor shall engage and cause one or more licensed maintenance service providers ("Service Providers") to provide, at no cost to the City, maintenance of the Improvements within the Great Park Parcels and the other goods and/or services described as part of the Maintenance Standards & Specs ("Scope of Services"), which may be referred to herein as the "services" or the "work." If this Agreement is for the provision of goods, supplies, equipment or personal property, the terms "services" and "work" shall include the provision (and, if designated in the Scope of Services, the installation) of such goods, supplies, equipment or personal property. If HF Contractor enters into any agreement with a Service Provider that is an Affiliate of HF Contractor, then such agreement shall contain terms and conditions at least as favorable to HF Contractor as the terms and conditions which could have been obtained in a similar arm'slength transaction with a third-party. As used herein, the term "Affiliate" shall mean any other entity which, directly or indirectly through one or more intermediaries, controls, is under common control with, or is controlled by, HF Contractor. As used in this Agreement, "control" (and its correlative meanings, "controlled by", "controlling" and "under common control with") means possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership, membership or other ownership interests, by contract, family relationship or otherwise). Any Service Providers shall, in the reasonable business judgment of HF Contractor, be competent to undertake the activities for which they are contracting and have appropriate experience in the provision of services to, or conduct of activities on, the type of facilities for which they are contracting

within the Great Park Parcels.

1.2 <u>No Changes or Additions to Scope of Services</u>. City shall not have the right to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from said work, without HF Contractor's written consent (which may be given or withheld in HF Contractor's sole and absolute discretion). If any such request from the City is approved by HF Contractor, City acknowledges and understands that HF Contractor may require City to pay a fee or costs for HF Contractor to cause the same to be performed. However, no such work shall be undertaken under this Agreement unless a written order is first executed by City and HF Contractor, incorporating therein (i) the applicable fee or cost to be charged to and paid by the City, and/or (ii) the time to perform such additional work.

1.3 <u>Standard of Performance</u>. HF Contractor agrees that it shall require all Service Providers to provide the services in a competent, professional, and satisfactory manner in accordance with the standards prevalent in the industry and in compliance with applicable law, and that all goods, materials, equipment or personal property included within the services herein shall be of good quality, fit for the purpose intended.

1.4 <u>Performance to Satisfaction of City</u>. HF Contractor agrees to cause the Service Providers to perform all work to the reasonable satisfaction of City. If City reasonably determines that the work is not satisfactory, City and HF Contractor shall meet and confer with the applicable Service Provider to review the quality of the work and mutually resolve matters of concern.

1.5 <u>Instructions from City</u>. In the performance of this Agreement, HF Contractor shall report to and receive instructions from the City's Representative designated in Paragraph D(1) of Part I ("Fundamental Terms") of this Agreement. Tasks or services other than those specifically described in the Scope of Services shall not be performed without the prior written approval of the City's Representative in accordance with Paragraph 1.2 of this Part II ("General Provisions").

1.6 <u>Familiarity with Work</u>. By executing this Agreement, HF Contractor acknowledges that HF Contractor (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Scope of Services should be performed, and (iii) fully understands the facilities, difficulties, and restrictions attending performance of the Scope of Services under this Agreement.

1.7 Intentionally Deleted.

1.8 <u>Assignment</u>. If HFET assigns the ARDA to a successor developer that acts as master developer (as opposed to, for example, a merchant builder) of the property owned by HFET in connection with the transfer of some or all of HFET's interest in such property, then HF Contractor shall assign and require such successor to assume the duties and obligations of HF Contractor under this Agreement. The foregoing is not intended to apply to partial assignments of the ARDA to parties that are not a successor to HFET as master developer. HF Contractor shall have the right, without City's consent, to assign this Agreement and/or its rights hereunder to any entity to whom HFET, with the City's consent (as required by the ARDA), assigns the ARDA; provided, however, that (i) the assignee of Contractor shall, by written instrument, assume all obligations of such Party hereunder, and (ii) Contractor shall promptly deliver a copy of the fully executed assignment and assumption agreement to City. An assignment of this Agreement to a lender or mortgagee shall not require City's consent. Any assignment of this Agreement not otherwise addressed in this Section 1.8 shall require City's consent, not to be unreasonably withheld, conditioned or delayed. This Agreement shall inure to the benefit of and be binding upon HF Contractor and City and their respective heirs, executors, legal representatives, successors and assigns.

SECTION TWO: INSURANCE

2.1 <u>Insurance</u>. Neither HF Contractor nor City, in connection with the exercise of its rights or the performance of its obligations hereunder, shall permit to be done any act or thing upon the Great Park Parcels which would invalidate or be in conflict with the terms of any fire and/or casualty insurance policies covering the Great Park Parcels and the fixtures and personal property thereon. Each of HF Contractor and City shall comply or cause compliance with all of its respective insurance requirements, as set forth on <u>Exhibit C</u> ("Insurance Requirements"), provided that City shall not be required to expend funds to comply with the Insurance Requirements except as otherwise expressly provided in this Agreement, and neither shall knowingly do or permit to be done in or upon the Great Park Parcels, or bring to keep anything therein or use the same in any manner, which could result in the denial of such fire and casualty insurance coverage.

2.2 <u>Contest of Insurance Requirements</u>. If any Insurance Requirement shall require HF Contractor or City to perform any work or meet any condition which HF Contractor or City in good faith may deem unfair, unreasonable, or otherwise improper, HF Contractor or City may contest the validity of such Insurance Requirement, provided that noncompliance therewith shall not adversely affect the Great Park Parcels, or result in the cancellation or interruption of any insurance coverage required hereunder. HF Contractor's or City's good faith noncompliance with such Insurance Requirement during such contest shall not be deemed a breach of this Agreement.

2.3 <u>Waiver of Subrogation</u>. Without affecting any other rights or remedies, City and HF Contractor each hereby release and relieve the other, and waive their entire right to recover damages (whether in contract or in tort) against the other, for the loss of or damage to either Party's property arising out of or incident to the perils required to be insured against under this Agreement. The effect of such releases and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required, or by any deductibles applicable thereto.

SECTION THREE: LEGAL RELATIONS AND RESPONSIBILITIES

3.1 <u>Compliance with Laws</u>. HF Contractor shall keep itself reasonably informed of all existing and future state and federal laws and all county and city ordinances and regulations which in any manner affect those employed by it or in any way affect the performance of services pursuant to this Agreement. HF Contractor shall at all times observe and comply with all such laws, ordinances, and regulations and shall be responsible for the compliance of all work and services performed by or on behalf of HF Contractor. When required by applicable law, HF Contractor shall not pay less than the prevailing wage, which rate is determined by the Director of Industrial Relations of the State of California. To the extent applicable, HF Contractor shall comply with City Council Ordinance 07-15, codified in the Irvine Municipal Code at Section 2-6-101 *et seq.* ("Living Wage Ordinance").

3.2 <u>No Further Licenses, Permits, Fees or Assessments Required</u>. Pursuant to the terms and conditions of this Agreement, the Improvements are now being maintained by HF Contractor on behalf of the City. Because the City, as landowner, would not be required to pay fees to itself with respect to a public improvement, neither HF Contractor nor any Service Provider on behalf of the City in accordance with this Agreement shall be required to pay any fees or costs to the City associated with the maintenance of the Improvements, whether customary, extraordinary, deferred, or otherwise.

3.3 <u>Third-Party Uses</u>. If and to the extent that the City elects to grant rights of use to any third-parties in any portion of the Great Park Parcels, then HF Contractor and City shall enter into an amendment of this Agreement to provide that HF Contractor shall have no obligation to perform the Scope of Services with respect to such portion of the Great Park Parcels for the duration of said use by the third-party. By way of example and without limiting the generality of the foregoing, HF Contractor shall have no obligation to maintain any portion of the Great Park Parcels used for the Farm + Food Lab, which will be operated and maintained by City or the applicable operator.

3.4 <u>Covenant Against Discrimination</u>. HF Contractor covenants that there shall be no discrimination against, or segregation of, any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, sex, sexual orientation, age, disability, medical condition, or marital status, in the use, occupancy, tenure, or enjoyment of the Great Park Parcels.

3.5 Independent Contractor. HF Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor. City shall not in any way or for any purpose become or be deemed to be a partner of HF Contractor in its business or otherwise, or a joint venturer, or a member of any joint enterprise with HF Contractor. HF Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. Neither HF Contractor nor any of HF Contractor's employees shall, at any time, or in any way, be entitled to any sick leave, vacation, retirement, or other fringe benefits from the City; and neither HF Contractor nor any of its employees shall be paid by City time and one-half for working in excess of forty (40) hours in any one week. City is under no obligation to withhold State and Federal tax deductions from HF Contractor's compensation. Neither HF Contractor nor any of the rights an employee may have in the event of termination of this Agreement.

3.6 <u>Use of Patented Materials</u>. HF Contractor shall assume all costs arising from the use of patented or copyrighted materials, including but not limited to equipment, devices, processes, and software programs, used or incorporated in the services or work performed by HF Contractor under this Agreement.

3.7 <u>Waiver</u>. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing.

3.8 <u>Applicable Law: Venue</u>. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Any arbitration of this matter must occur in the County of Orange, State of

California. Any action seeking to enforce the terms of this Agreement, or remedy of breach of this Agreement, shall be commenced either in Orange County Superior Court or in the United States District Court for the Central District of California.

3.9 <u>Rights and Remedies are Cumulative</u>. The rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

3.10 <u>Attorneys' Fees</u>. In any proceeding between the City and HF Contractor seeking enforcement of any of the terms and provisions of this Agreement ("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, attorneys' 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.

3.11 Force Majeure. HF Contractor's performance of any services, obligations or undertakings under this Agreement shall be postponed in the event HF Contractor 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 or failure to decide of any private party or governmental authorities having jurisdiction over any of the activities or matters for which HF Contractor is responsible under this Agreement (it being understood that regulatory or statutory timelines in effect as of the date hereof with respect to giving public notice in advance of discretionary actions of a governmental authority, and normal and typical timeframes for processing plans and specifications, shall not be considered a Force Majeure Delay), 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 HF Contractor or City), civil disturbance, order of any government, court or regulatory body claiming jurisdiction over the Premises or the action proposed to be taken, 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.

3.12 <u>Non-liability of Officers, Employees and Other Parties; Available Remedies</u>. Notwithstanding anything in this Agreement to the contrary, (1) no official, officer, or employee, attorney, board member, council member, or elected or appointed official of the City shall be personally liable to HF Contractor or

its respective predecessors, successors and assigns for any loss arising out of or connected with this Agreement, and (2) no partner, member or affiliate of HF Contractor, nor any such partner's, member's or affiliate's separate property shall be personally liable for any claim arising out of or related to this Agreement.

Further, the Parties acknowledge that they would not have entered into this Agreement if either Party were to have any monetary liability to the other beyond the financial obligations specifically set forth in this Agreement. Accordingly, HF Contractor covenants on behalf of itself and its successors and assigns, not to sue the City, and the City on behalf of itself and its successors and assigns, not to sue HF Contractor, for any form of monetary relief for any breach arising under or related to this Agreement, the Parties agreeing that declaratory and injunctive relief, mandate, and specific performance (including specific performance of the financial obligations described herein) shall be their sole and exclusive judicial remedies.

SECTION FOUR: MISCELLANEOUS PROVISIONS

4.1 <u>Notices</u>. Unless otherwise provided herein, all notices required to be delivered under this Agreement or under applicable law shall be personally delivered, or delivered by United States mail, prepaid, certified, return receipt requested, or by reputable document delivery service that provides a receipt showing date and time of delivery. Notices personally delivered or delivered by a document delivery service shall be effective upon receipt. Notices delivered by mail shall be effective at 5:00 p.m. on the second business day following dispatch. Notices to the City shall be delivered to the following address, to the attention of the City Representative set forth in Paragraph D.1 of the Fundamental Terms of this Agreement:

To City:	City of Irvine One Civic Center Plaza (Hand Deliveries) P. O. Box 19575 Irvine, CA 92623-9575
To HF Contractor:	Heritage Fields El Toro Contractor G.P., Inc. 25 Enterprise, 4th Floor Aliso Viejo, CA 92625 Attn: Legal Notices

Notices to HF Contractor shall be delivered to the attention of Contractor's Representative set forth in Paragraph D.2 of the Fundamental Terms of this Agreement. Changes in the address to be used for receipt of notices shall be effected in accordance with this <u>Section 4.1</u>.

4.2 <u>Construction and Amendment</u>. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The headings of sections and paragraphs of this Agreement are for convenience or reference only, and shall not be construed to limit or extend the meaning of the terms, covenants and conditions of this Agreement. This Agreement may only be amended by the mutual consent of the Parties by an instrument in writing.

4.3 Severability. Each provision of this Agreement shall be severable from the whole. If any

provision of this Agreement shall be found contrary to law, the remainder of this Agreement shall continue in full force.

4.4 <u>Special Provisions</u>. Additional or supplementary provisions or modifications or alterations of these General Provisions, if any, shall be set forth in Part III of this Agreement ("Special Provisions").

4.5 <u>Precedence</u>. In the event of any discrepancy between Part I ("Fundamental Terms"), Part II ("General Provisions"), and <u>Exhibit B</u>, <u>Exhibit B</u> shall take precedence and prevail over Parts I and II, and Part II shall take precedence and prevail over Part I.

4.6 <u>Execution in Counterparts</u>. 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.

4.7 <u>No Third-Party Beneficiary</u>. 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 City and HF Contractor 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.

4.8 <u>Partial Invalidity</u>. If any term or provision or portion thereof of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision or portion thereof to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

4.9 <u>No Partnership/Fiduciary Relationship</u>. The City and HF Contractor acknowledge and agree that the relationship created by this Agreement between HF Contractor and the 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.

4.10 <u>Estoppel Certificate</u>. 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: (i) it knows of any default under this Agreement; (ii) to its knowledge, the Agreement has been assigned, modified or amended in any way (and if it has, then stating the nature thereof); and (iii) 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. Nothing in this <u>Section 4.10</u> shall be interpreted to permit HF Contractor to mortgage, pledge, or otherwise encumber any right, title or interest of HF Contractor in the City Property.

4.11 <u>Guaranty</u>. By its signature below, HFET hereby (i) acknowledges, consents and agrees to the obligations of HFET with regard to assignment of this Agreement pursuant to <u>Section 1.8</u> and (ii) guarantees the obligations of HF Contractor hereunder. To the fullest extent permitted by law, HFET waives diligence, protest, notice of protest, presentment, demand of payment, notice of dishonor and all other suretyship defenses. HFET acknowledges that it is a direct or indirect owner of HF Contractor, that it will derive substantial benefits by reason of HF Contractor's performance of its duties and obligations

under this Agreement, and that the agreement of the City to enter into this Agreement is subject to HFET's agreement to the above.

PART III SPECIAL PROVISIONS

[***TO BE INSERTED UPON THE MUTUAL CONSENT OF CITY AND HF CONTRACTOR***]

[Signatures follow on next page.]

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

CITY OF IRVINE,

a California charter city

By:	
Name:	
Title:	

ATTEST:

City Clerk

APPROVED AS TO FORM:

RUTAN & TUCKER, LLP

City Attorney, City of Irvine

[Signatures continue on next page.]

Signature Page – Maintenance Agreement

HERITAGE FIELDS EL TORO CONTRACTOR G.P., INC.,

a Delaware corporation

By:	Name:	
	Title:	
By:		
	Name:	
	Title:	

ACKNOWLEDGED AND AGREED WITH RESPECT TO SECTION 4.11:

HERITAGE FIELDS EL TORO, LLC,

a Delaware limited liability company

- By: Heritage Fields El Toro Sole Member LLC, a Delaware limited liability company
- Its: Sole Member
 - By: Heritage Fields LLC, a Delaware limited liability company Its: Sole Member
 - By: Lennar Heritage Fields, LLC, a California limited liability company
 - Its: Administrative Member
 - By: Lennar Homes of California, Inc., a California corporation lts: Sole Member

n		

Bv:	
-	

Name:_____

Title:_____

EXHIBIT A

Great Park Parcels

<u>EXHIBIT B</u>

Maintenance Standards & Specs

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EXHIBIT B

Maintenance Guidelines for the Orange County Great Park Sports Park, Upper Bee, Bosque, and Golf Course

SECTION 1 LANDSCAPE

TURF

SHRUBS, GROUND COVERS, ORNAMENTAL GRASS AND VINES

TREE CARE

IRRIGATION

WATER MANAGEMENT

PESTICIDES

Mow, edge, and trim all turf areas weekly, 52 weeks per year on a regular schedule. This schedule will provide that all areas will be mowed not less than once a week. Fescue turf shall be mowed using a rotary mower, minimum height shall be one and one-half $(1-\frac{1}{2})$ inches and maximum height shall be three and one-half $(3-\frac{1}{2})$ inches. Bermuda turf shall be mowed using a hydraulic driven reel mower, minimum height shall be one-half $(1-\frac{1}{2})$ inches and maximum height shall be one and one-half $(1-\frac{1}{2})$ inches. Bermuda turf that has been over-seeded with Rye shall be mowed between one (1) inch and one and one-half $(1-\frac{1}{2})$ inches with either a reel or rotary mower.

<u>All turf, planters and appurtenant hardscape areas</u>, gutters and related drainage structures <u>areas shall be free of turf clippings</u>, leaves or other debris at the end of the scheduled mow day.

Trim growth around all sprinkler heads, valve boxes, lamp posts, drains and other permanent structures located in the turf on a <u>weekly</u> basis or whenever turf interferes with sprinkler performance. String trimmers shall be used to keep the turf at approximately the same height as mowers, except around sprinkler heads and valve boxes where the turf <u>should not</u> be trimmed to below one (1) inch.

Chemically edge and <u>manually trim</u> around fences without mow strips, and around trees monthly. A green turf dye shall be used around trees to prevent a brown dead turf appearance until trimming. Maximum distance for chemical edging is eight (8) inches for fences and eighteen (18) inches for trees. Some trees may have a mulched area greater than eighteen (18) inches from the trunk; this is to be maintained at existing distances.

Aerate all turf other than designated sports fields as needed or as determined by consulting a an agronomist. Aerate by removing ³/₄" X 2-¹/₂" to 3" depth cores at not more than six (6) inch spacing, twice over at 90 degrees or twice over in the same direction with an approved aerating machine. <u>Plugs/cores shall be removed, or broken up and spread over the turf area being treated by mowing, with the use of a drag mat, or during the de-thatching process, at the time of the aeration. Contractor is responsible for locating and marking irrigation and other components in turf prior to aerating.</u>

Fertilization/soil analysis: Fertilization is a seasonal season duty and the actual material applied will be based on soil reports and field conditions.

Weeds: Control weeds in all areas of turf. Chemicals for broadleaf weed control and pre-emergent control of weeds, including grasses, such as Poa annua and crabgrass in turf shall be furnished by the Contractor and applied per the direction of the manufacturer. Broadleaf and grassy weed applications as necessary and Pre-emergents are done 2 times a year.

Note: All walkways, roadways, trails, landscape areas or other areas dirtied by maintenance or renovation operations shall be cleaned prior to the completion of this operation or the end of the day, whichever occurs first. The Contractor shall water-in all fertilizers, chemicals if required, or amendments after each application and prior to moving to the next location, as directed or by the end of the workday at the very latest. The Contractor must follow all NPDES Watershed Protection Standards.

SHRUBS, GROUND COVERS, ORNAMENTAL GRASS AND VINE CARE:

Prune to maintain a healthy and natural appearance. Under no circumstances shall any shrubs be poodled or balled. If shrubs are not in a hedge do not cube or square them.

Restrict growth to area behind curbs, mow-strips, and sidewalks, to tops of walls and fences, and two (2) feet from all private residences. Also, restrict growth of ground covers away from shrubs, trees, and other structures.

The Contractor shall restrict growth, through pruning, to maintain safe road visibility and optimum irrigation coverage (refer to Standard Plan 403, Section 9). The use of pre-emergence herbicides is allowable; a small test application shall be required for each product to be used prior to broader applications to assure safety.

Keep all planters, shrubs and ground cover areas free of visible weeds at all times. Where ground cover grows under pine trees, the contractor shall use a combination of techniques (raking and blowing) to prevent the build-up of needles from forming on the ground cover.

Remove dead plant material and replace within 10 working days and backfill to existing grade. Replacement of shrubs and vines will be in accordance with City of Irvine Standard Plan numbers 601, 602 and 603.

Ground covers shall be managed so the plants do not exceed 11 inches in height, and at no single time shall more than 3 inches of material be removed at one time. Sprinklers must not be impacted or blocked by the growth of the ground cover. An annual renovation may be required for shrubs and ground covers. Ornamental grasses shall be mowed or pruned annually between December and March.

Do not use weed eaters to trim Star or Asian jasmine. Extension hedge trimmers ('stick' trimmers) shall be used for all trimming operations on these plants to reduce the shredding that is typical when weed eaters are used.

All annual color, agapanthus, day lilies, and roses are to be detailed monthly with all dead flowers and suckers growth removed.

Contractor will be responsible for mulch added to the planters to a depth of two (2) inches annually. Use "1/2 to 1-1/2 inch Forest Floor" shredded bark surface mulch. Use of any other mulch product shall be dependent upon submission of a sample for approval. The supplier must be able to demonstrate the suitability of the product for

use in public parks by certifying in writing that the material does not contain sewage sludge, animal wastes, heavy metal contaminants or other products that could harm people or pets.

TREE CARE:

Prune, stake, and support trees in accordance with City of Irvine Standard plans. The Contractor shall provide all arbor guards, tree stakes and approved hardware as part of this contract.

Place stakes, ties and arbor guards so that no chafing or girdling of bark occurs.

Check all guys, ties, arbor guards and stakes monthly to avoid girdling and damage to trees.

Remove dead trees up to 4" DBH, backfill and compact to existing grade. The exact location of any tree removed must be reported in writing to the City's Representative. Replacement of trees will be in accordance with City of Irvine Standard Plan numbers 604, 605, 606 and 607.

Pick up branches and tree debris (Eucalyptus bark shreds) on the ground. Re-stake or remove leaning trees.

Arbor guards are to be kept on all trees in turf until they are at least 4" DBH.

Contractor shall replace trees whose trunks are significantly damaged by Contractor's personnel with trees of equal size and specie at the Contractor's expense.

Maintain all City trees at eight (8) feet above sidewalks and landscapes and 13 feet 6 inches over streets and bike trails.

Do not remove lower branches except if dead or unsightly or to provide vehicle or pedestrian clearance. Contractor shall remove all growth where low branches adversely impact irrigation coverage. Remove all sucker growth.

IRRIGATION:

The Contractor shall provide all labor, supervision, equipment and supplies, as needed, to service and repair the landscape irrigation systems including master valve, pressure regulator and strainer basket assemblies. The irrigation technician shall have a truck stocked with all common components (e.g., Rain Bird 1806/1812 bodies and a full selection of U-series nozzles), as well as gear driven rotors to replace failed parts with original equipment hardware. Aftermarket "knock-off" parts, such as pop-up bodies and nozzles, will not be acceptable replacement hardware.

Service and repair includes, but is not limited to, testing, adjusting, troubleshooting and repairing of all system components from the male adapter going into the irrigation control valve to the sprinkler heads. This includes the valve and its components, lateral lines, swing joints, sprinklers, nozzles, and drip system components within the boundaries of this contract on a <u>scheduled</u>, and as <u>required</u> basis.

The Contractor shall allow 3 minutes minimum, for the irrigation technician to check each valve as described in section 4.5.5 of the Irrigation System Servicing section (below) of this contract.

The Contractor is responsible for the maintenance, repair and, if necessary, replacement of the remote control connector. Each controller is equipped with a remote control testing device connection. This hook-up is adaptable with other brand devices (i.e., Rain Master, TRC). This connector is provided for the convenience of the contractor to facilitate routine tracking of systems.

Irrigation Systems Servicing:

All systems shall be serviced according to the following frequencies and procedures:

- 1. Once every 7 calendar days from April 1 through November 15.
- 2. Once every 14 calendar days from November 16 through March 31.

System servicing includes, but is not limited to, the following procedures and tasks:

Testing/checking each control valve via the ELM connector at the controller for:

- 1. Control valve opening and closure, so as not to interfere with other control valves operation. (RCV to be tuned to achieve full closure within 15 seconds).
- 2. Optimum flow to allow sprinklers to operate at manufacturer's specifications. Systems that "fog" (exceed manufacturer's recommended operation pressure) shall be corrected by incrementally closing the flow control on the RCV until working pressure falls within the manufacturer's recommendation. Each booster pump shall be tested to verify operation. If pumps fail to start, this condition must be noted on the tracking sheet. Failure of the contractor to verify pump operation will incur deductions for failure to perform. Contractor will bear the cost of replacement of any material that is lost as a result of such a failure.
- 3. Leaks at the solenoid, manual actuator valve and fittings. Solenoid wire connections, to be connected with the proper watertight connectors.
- 4. Check sprinklers and valves on all manual systems. Replace and repair as needed.

Testing the lines for leaks:

- 1. Pressurize all lateral lines by activating the control valve via the controller.
- 2. Visually inspect the control valve zone of irrigation for water surfacing/puddles.
- 3. Inspect around each sprinkler for leaks at the swing joint assembly.

Testing irrigation heads for proper operation and coverage including the heads on the infield manual systems. Activate the control valve via the controller/ELM. Inspect each sprinkler for:

- 1. Leaks at the wiper seal
- 2. Damaged sprinkler body
- 3. Damaged, missing or plugged nozzles
- 4. Correct nozzle, radius and arc
- 5. PCS screens (if applicable)
- 6. Rotors check for complete rotation to required arc and for slow rotation compared to other sprinklers in same zone.
- 7. Proper alignment, both in terms of vertical straightness (or orientation relative to slope) and operational height of nozzle above the plant material being irrigated. This will require occasional raising/leveling of the sprinklers, done at no additional cost to the city. If plants block sprinkler pattern, the technician is to mark the plant material with paint and coordinate the trimming/removal with the maintenance crew.
- 8. Check Valve operation visually inspect for slow sprinklers weeping on the lowest head on a lateral after control valve is deactivated.

Troubleshooting each system, as required and shall include:

- 1. Check for solenoid wire connections to be connected with the proper watertight connectors.
- 2. Pressure test at the last sprinkler on the lateral line to verify manufacturer's recommendations for operation.
- 3. Mixed sprinklers with different precipitation rates. Check irrigation component boxes for excessive soil; soil should be 2" below control valve/component with 2" of clean gravel above the soil. All boxes are to be level and at grade. Replace all lids that have holes, cracks, breaks or that do not fit properly. Lids will be provided by the city. All replacement lids are to be branded with the appropriate valve number or device per City Standards.

Remote control connector (ELM):

- 1. Maintain reciprocal plug in operational order.
- 2. Maintain wiring to terminal board in operating condition.
- 3. Replace connectors that are irreparable at no additional cost to the City.

Complete all routine repairs and adjustments on the day of scheduled service.

No system shall be shut down for more than 72 hours at one time because of a system failure.

Scheduled servicing shall occur within one working day after scheduled mowing operations.

All non-routine repairs shall be completed within 72 hours of awareness.

The Contractor shall be responsible for the replacement of plant material (with the same size) due to improper irrigation maintenance techniques.

The irrigation service technician must be able to write and communicate in English.

The irrigation technician shall mark on the irrigation tracking sheets the overall appearance of the landscape condition. Dead or dying grass, shrubs, ground covers or trees shall be noted the irrigation service cycle.

Annual Irrigation Systems Maintenance:

Adjust all irrigation control valves to meet the manufacturers' specifications. The Contractor's Representative shall test the last sprinkler on each control valve with a pressure gauge installed in line with the nozzle or with a pivot tube and gauge.

Raise/lower all irrigation components to grade as necessary. This includes all irrigation component boxes and sprinklers. All damaged valve box lids shall be replaced with an appropriate "branded" lid. Work shall be per City Standard Plans. Install pea gravel under each sprinkler after it has been raised to prevent them from settling back to the previous level.

The manufacturer's authorized representative will service all irrigation pumps.

All annual irrigation systems maintenance is to be completed between December 1 and March 31 each year.

Irrigation Systems Maintenance Every Other Year:

All pressure regulator and strainer assemblies shall be rebuilt, cleaned and adjusted every other year per schedule. All pressure regulators shall have the diaphragm and spring assemblies replaced.

Each regulator shall be adjusted in order to maintain sprinkler-operating pressure to meet manufacturer's recommended operation. Strainer baskets shall be removed and cleaned.

WATER MANAGEMENT:

Contract personnel performing water management duties shall have the following abilities and meet the following requirements.

Abilities:

- Meet Irvine Ranch Water District Landscape Irrigation Guidelines.
- Maintain a healthy landscape.
- Maintain all parks and landscape in a usable condition (no flooding due to overirrigation).
- Program all controllers as needed.

• Troubleshoot and diagnose irrigation systems and take corrective action.

Requirements:

The Water Manager shall program all controllers as needed according to the Irvine Ranch Water District allocation. The Contractor shall apply 10% below IRWD monthly water allocations for each meter on all park applications. Maintain healthy plant material and avoid monthly IRWD penalties. (Majority of controllers are Cal Sense)

PESTICIDES:

A written recommendation of proposed pesticides, including commercial name, concentrations, application rates, usage and re-entry time shall be prepared by a licensed California Pest Control Advisor and site specific schedule submitted a minimum of fourteen (14) days prior to intended use. Copies of Material Safety Data Sheets, specimen labels and schedules shall be kept on site by Contractor.

No work shall begin until written approval of use is obtained and a notice of intent has been filed with the County Agricultural Commissioner's office, as required.

Chemicals shall only be applied by those persons possessing a valid California Qualified Applicator License/Certificate or under the direct, on-site supervision of a Q.A.L./C. Applications shall be in strict accordance with all governing regulations. Records of all operations shall be kept per California Department of Pesticide Regulations. Pesticides shall be applied in a manner to avoid contamination of nontarget areas. Precautionary measures shall be employed to keep the public from entering the spray zone until the restricted entry interval (REI) time (per label direction) has been achieved. The contractor's staff will remain on site keeping people and pets out until the REI has been achieved. A temporary mesh fence such as orange plastic construction fencing might need to be erected on the perimeter of an area that is to be treated with a broad application of materials. The intent is to keep people and pets off for a minimum of 24 hours. This will be based on the unit price on the bid sheet.

Whenever there are broad applications of pesticides, other than incidental weed control, such as with Roundup®, the areas to be treated shall be posted 48 hours prior and for 72 hours after, with the product name, type of the pesticide (herbicide, insecticide, fungicide etc.), date of application and the Contractor's phone number.

Whenever possible use chemicals with low or no odor. Products that are known carcinogens or mutagens are not to be used and are to be avoided whenever possible.

SECTION 2: SPORTS TURF MANAGEMENT (SPORT PARK ONLY)

AERATION

:

SPECIALTY AERATION

SAND TOP-DRESSING

OVER-SEEDING

INTER-SEEDING

SOD

PERFORMANCE REQUIREMENTS SPORTS TURF MANAGEMENT (STM)

All Sports Turf Management Tasks shall be performed on an "as needed" basis.

AERATION (STM):

Aerate sports turf by removing %" to %" diameter hollow tine cores to a depth of 2-%" to 3" with spacing between cores, not to exceed 3", using a piston type aeration machine. <u>All</u> cores must be removed on the same day aeration takes place with the use of a core harvester or core pulverizer or other approved method. <u>This is the minimum requirement for aeration</u>.

Contractor will be required to complete a minimum of 4 acres per day per the standards specified above. The contractor is also responsible for locating and marking irrigation and other components prior to aeration. Any irrigation component damaged from the aerification process will be replaced by the contractor at no charge. Sports turf areas are aerated between 4 and 6 times per year on average.

The above specified STM aeration machine/s must be owned or leased and kept in the contractor's equipment yard so as to be available for possible aeration of problem areas encountered on the sports fields.

Slicing, spiking aerators will be used throughout the year in order to avoid the debris from hollow core aeration on the sports fields.

SPECIALTY AERATION:

Specialty aeration shall be required periodically throughout the year; the contractor must have the ability to provide "Vertidrain" type aeration with %", %" and 1" diameter with up to a <u>10" depth</u> solid and hollow core times with spacing between cores, not to exceed 4".

Access to other specialized aeration equipment may be required at negotiated unit prices. This could include "Deep Drill," "Dryject," "Planet Air" or other types of aeration.

SAND TOP-DRESSING:

Olgebay Norton #50, or approved equal, shall be applied to a depth of up to %" using a top dressing machine, evenly spreading the sand over the designated area. After the sand has been applied the entire area shall be dragged with an appropriate drag mat, going over the area in a circular pattern until the sand is evenly distributed and with a smooth surface and watered in thoroughly by the end of the workday.

OVER-SEEDING:

Seed shall be spread by a broadcast type spreader and covered (optional) with a top dressing material, all seed and material supplied by the contractor. This may be done in conjunction with a scalping/de-thatching process. This will be billed at materials plus the labor unit price.

INTER-SEEDING:

Seed shall be inserted into the soil using an inter-seeding machine, applying the seed in two different directions over the designated area. After completion of the interseeding, the debris shall be removed. An application of %" organics <u>may</u> be scheduled immediately after this process. This will be billed at the "per unit" price plus the <u>actual cost</u> of the seed. The contractor must have the ability to inter-seed 100 acres of sports turf in four (4) weeks.

<u>SOD</u>:

Sodding shall be accomplished by removing existing turf and soil with the use of a sod cutter (if no soil prep is to be done). New sod shall be installed and the height of the grade shall be level with existing turf and grade. All new sod areas will be rolled with an appropriate size and weight non-vibrating roller until the area is free of bumps and low spots GN-1 and Tifway hybrid Bermuda (for sports fields) or "Dwarf" turf type tall Fescue (for non-sports fields), or approved equal. Most sports field locations shall require the use of sand-based sod; this shall be

ANNUAL FIELD RENOVATIONS:

Annual field renovations are required and generally occur during the months of June, July and August. The contractor must have adequate staff and equipment to be able to perform this task, and all required work must be completed during the first week of down time to allow for sod establishment.

Specifications for renovation process may include:

- a. Aerate, STM aerate or specialty aeration per specifications in this section.
- b. Verticut in 2 directions, sweep, vacuum mow, and sweep vacuum again.
- c. Remove and replace sod per specifications in this section.
- d. Soil preparation to include applying soil amendments.
- e. Hand watering is to be done with a hose and is meant to provide adequate water to get the new sod rooted and established.
- f. Removal and replacement of soccer goals and field closure signs.

CHEMICAL APPLICATIONS/LINE SPRAYING:

- Spraying of sport field lines with Roundup® or Rodeo®. Line width is not to exceed 6". Operator Decision
- Spraying of sport field lines with turf paint.

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CHEMICAL APPLICATIONS/LINE SPRAYING:

- Spraying of sport field lines with Roundup® or Rodeo®. Line width is not to exceed 6". Operator Decision
- Spraying of sport field lines with turf paint.

Note: Line spraying will be accomplished with the use of a taut string line to ensure straight lines. Lines that are not straight will be re-done.

FILLING:

Filling of low areas shall be required upon request. Overall field cover/filling will be required for correction of low areas or wet zones or to fill in old field lines. Soil that is similar in consistency for the location of the work or dry topper (for wet fields) will be required. The supplier must be able to demonstrate the suitability of the product for use in public parks by certifying in writing that the material does not contain sewage sludge, animal wastes, heavy metal contaminants or other products that could harm people or pets.

SECTION 3: INFIELD MAINTENANCE (SPORTS PARK ONLY)

DAILY WORK REQUIREMENTS/FIELD PREPS WEEKLY WORK REQUIREMENTS EVERY OTHER WEEK REQUIREMENTS BI-ANNUAL WORK REQUIREMENTS OTHER TASKS/REQUIREMENTS

PERFORMANCE MEASUREMENT/SPECIFICATIONS (INFIELD MAINTENANCE)

- 1. Daily: Patching/tamping, dragging, watering, setting out bases, sweeping and weeding.
- 2. Weekly: Nail drag.
- 3. Every other week. Edging and water blasting.

DAILY WORK REQUIREMENTS/FIELD PREPARATIONS:

Patching and tamping

The areas that usually require this are the batters' boxes, pitchers' mound area, catchers' areas and around the bases:

- a. Sweep out loose brick dust.
- b. Fill hole with water and let soak into about half the depth of the hole.
- c. Push loose or new brick dust or fresh mound mix into the hole, mixing with water. It is generally better to use mound mix for the pitchers' mound and around home plate for better adhesion and compaction.
- d. Let this set until firm, but still damp and then tamp.

Dragging

- a. Prior to dragging, clean out and place the plugs in all base pegs if available and hand-water the brick dust lightly to reduce dust.
- b. Hand-drag the fence lines, pitchers' mounds, outfield apron edge and base lines on turf infields with a small drag or hand rake/lute.
- c. Drag the infield using a tight loop pattern, circular pattern or criss-cross pattern, alternating daily. Care must be taken so as not to pull the drag mat over turf, home plate or pitchers' mounds. When finished with dragging, do not pull the drag mat onto the turf, as this will deposit brick dust, gravel and trash into the grass.

Watering

This work will be based on weather and actual field conditions. If it is cool or during rainy periods less water will be needed. If it is warm or windy, more will be required.

- a. Set out sprinklers or use manual systems after dragging and water heavily, but stop if and when water starts to puddle. Care must be taken not to over water areas that have been patched. Too much water can cause the field to become slippery and a hazard to players.
- b. Hand water areas that may require additional water such as base lines.
- c. When possible or applicable, hand water again just prior to games.

Bases

a. Expose the appropriate base pegs, and clean them out, if needed.

Sweeping

- a. Sweep up all the gravel and debris left from the dragging process and remove from site.
- b. Sweep off home plate, the pitching rubbers and any bases that are out.
- c. Sweep brick dust out of the turf along the apron edge or infield.
- d. Sweep brick dust or other debris out of the fence lines and dugouts.

OTHER DAILY TASK/REQUIREMENTS:

- a. Remove infield weeds.
- b. Repair/correct flooded fields

Push or drain off excess water. Fill in low areas with dry brick dust and/or Diamond Dry or Diamond Pro®, rake this into the top $\frac{1}{2}$ " to 1" of the brick dust. Allow to set for a while (depends on how wet and how large an area), rake again several more times. If the field is extremely wet, allow to dry until capable of walking on the brick dust without sinking. Then if directed by the City representative, scarify entire field alternating between wet and dry areas, to mix the soils, until the area is fluffy. Allow to air out until dry enough to drag without pulling up clumps of brick dust Drag and prep as normal chalk fields.

To include batters' boxes, foul lines, arc lines, on deck circles, coaches' boxes, pitchers' circle and out of play lines.

WEEKLY WORK REQUIREMENTS:

These tasks are expected to be done weekly unless directed to do otherwise.

Nail drag. Water lightly to prevent dust. Using a nail drag, go over the entire field in a tight circular pattern, loosening the top Y.." to %" of brick dust. Drag and prep the field as normal. This needs to be done weekly or as directed, to keep the surfaces firm enough for good footing but soft enough to prevent injuries from sliding.

EVERY OTHER WEEK REQUIREMENTS:

Edge infield turf with a mechanical edger, not to be a string trimmer. Remove all clippings and turf growing between the edge line and the brick dust.

Water-blast the brick dust out of the turf along the apron edge. This can only be done if there is sufficient time for drying.

BI-ANNUAL WORK REQUIREMENTS:

Lip-management of infield consists of:

- a. Scalp the edge of turf and infield mix:
- b. Aerification.
- c. Verticut in two directions.

OTHER TASKS/REQUIREMENTS:

Remove or install pitchers' mounds. Each mound is to be built to the specification provided. Some fields may have multiple use mounds and will require extended sized mounds with multiple rubbers.

Install/remove plastic home run fences, as needed.

Scarify and level. Water heavily prior to scarifying to soften the soil and prevent dust. Mark/flag the plates, pitching rubbers and base peg locations to prevent hitting them. Scarify with a pull type scarifier with adequate weights, or "Gill Pulverizer," using a tight circular pattern, go over the area several times to get the tines down to 1-%" to 2" depth (not to exceed 3" depth). Never scarify a pitchers' mound, home plate or turf areas. The first and third base lines of turf infields shall be done by hand with a bow rake. Using the flip side of the scarifier, level the field, taking care to knock down high spots and fill in low spots. Hand rake areas as needed to complete this. After this is completed, use a turf type roller to re-compact the surface and then drag as normal:

Spray field lines as needed. This is to be performed with a non-selective weed control chemical such as Roundup® unless directed to do otherwise and shall not exceed 6" in width. The lines will include foul lines, out of play lines and outfield arcs.

SECTION 4: GOLF COURSE MAINTENANCE

DAILY WORK REQUIREMENTS/FIELD PREPS
WEEKLY WORK REQUIREMENTS
EVERY OTHER WEEK REQUIREMENTS
BI-ANNUAL WORK REQUIREMENTS
OTHER TASKS/REQUIREMENTS

Mowing: (height of turf cut **TBD**)

- Greens -- daily (walking mowers or triplex IBD); groomers twice a month (Mar-Sep)
- Collars/Approaches three times a week with (2) mowers being used
- Tees three times a week with (2) mowers being used
- Fairways three times a week with (2) mowers being used
- Roughs two times a week with (2) mowers being used
- DR Tees three times a week
- DR Target Greens once a week
- DR Floor two times a month

Other Daily Duties:

- Change cups daily
- Repair ball marks on the greens
- Sand all divots (tees & fairways)
- Rake all bunkers
- Pick up trash/debris throughout course
- Straighten/replace hazard & OB stakes also monitor GUR and drop areas
- Move tee markers

Aerification:

- Greens pull cores twice a year (spring/fall); Solid quadratine 2-3 times a year
- Tees pull cores twice a year (spring/fall)
- Fairways pull cores twice a year (spring/fall)

Top Dressing:

- Greens performed with aerification; Also light applications every ten days (spring/fall)
- Tees performed with aerification
- Fairways new course so not needed

Fertilizing:

- Greens use granular application with aerification; Also spray twice month (Apr-Nov) and once a month (Dec-Mar)
- Tees use granular application with aerification; Also spray twice month (Apr-Nov) and once a month (Dec-Mar)

• Fairways – as needed

Other Turf Cultural Practices:

- Verticutt greens heavy during aerification: Also once a month (Apr-Jun & Sep-Dec)
- Soil testing in Spring greens, tees and fairways
- Pesticide treatment by licensed applicators for control of insects, weeds, fungus, nematodes and algae

SECTION 5: HARDSCAPES

ENVIRONMENTAL

ATHLETIC/RECREATIONAL FACILITIES

HARDSCAPES

.

PERFORMANCE MEASUREMENTS (HARDSCAPES)

ENVIRONMENTAL:

The Contractor shall respond within one (1) hour during regular working hours to meet litter pickup requirements.

The Contractor shall provide plastic bag liners for trashcans in the parks. The cans shall be washed inside and out when necessary to control odors or remove stains. Trash shall be hauled away by the contractor.

The Contractor shall patrol all parks as frequently as necessary to maintain clean facilities during holidays, and on high-use days. Holidays that traditionally require at least two (2) patrols daily are: Washington's Birthday, Easter week, Memorial Day, Independence Day, July 5, Labor Day and Christmas week. Peak weekends requiring a minimum of two (2) patrols daily shall be all weekends during the months of May through the end of October. There shall be a minimum of two (2) patrols daily during all Tournaments with the first patrol to be completed prior to 9:00 a.m. and the second after 1:00 p.m.

ATHLETIC/RECREATIONAL FACILITIES:

Sand in play areas must be kept clean and maintained for safe play. Each sandlot shall have trash, glass, and debris removed, and all areas hand-raked and depressions filled in <u>daily prior to 11 a.m. seven days per week</u>. All sand lots are to be rototilled monthly to a depth of 9 inches, minimum. Sandlots with rubberized play surfaces next to sandlots, the rototiller must keep a safe distance (18") away to prevent damage to this.

Additional sand must meet the following specifications:

Screen size	Percentage Passing
10	100
18	95-100
35	75-100
60	0-50
140	0-10
270	0-3

Sand is to be added when the level gets below an acceptable level (usually four (4) inches below top of curb or edge).

Sand around the edge of the sandlots shall be <u>swept</u> daily using a hand broom, and the sand shall be put back in the sand lot. <u>Use of blowers will not be allowed</u>.

Decomposed granite areas shall be kept level at grade and kept free of weeds, trash and debris at all times. Tennis courts and handball courts shall be airbroomed* daily and washed on scheduled days between 6:00 a.m. and 10:00 a.m. so as not to interfere with the normal playing activity. Washing of the courts shall be done using a "WatermiserTM" (www.watermiser.com), Water Broom, HOI model and <u>roll dried</u>. Additionally, tennis court screens shall be washed when necessary. See locations and numbers on the Inventory sheet.

Sand in volleyball play areas must be kept clean and maintained for safe playing. Remove trash, glass, and debris from volleyball court seven (7) days per week. Volleyball court are to be rototilled monthly to a depth of nine inches (9") Minimum.

Picnic areas in parks, including concrete slabs and tables, shall be washed and scrubbed on Mondays and Fridays prior to 11 a.m. using soapy water and scrub brushes. Barbeques and hot coal containers shall be emptied on Mondays and Fridays . prior to 11 a.m. and washed out or cleaned, as directed.

All concrete playing surfaces shall be kept clean and weed-free at all times. Airbroom* or sweep daily and wash as needed or directed. All bleacher, dugouts and seating areas shall be swept or air-broomed* daily and washed on Mondays and Fridays before 11:00 a.m. Additionally, backstop and dugout screens shall be washed when necessary.

HARDSCAPES:

All hardscape such as, but not limited to, sidewalks, curbs, mow strips, gutters, drains and drain structures, bicycle paths, medians and median noses, expansion joints and walls adjacent to landscapes shall be kept clear of dirt, mud, trash, weeds and any other substances which are either unsightly or unsafe.

All sidewalks and building entrances in parks and facilities shall be washed as directed with a pressure nozzle. Each park and facility is equipped with either a hose bib or quick coupler water supply device.

To comply with NPDES watershed protection standards the contractor is required to use care when cleaning hardscape surfaces to prevent sheet-flow run-off of rinse water from running into storm drain structures. All rinse water being generated during the execution of this contract shall be contained on-site and either collected or managed so that it is deposited in landscaped areas and absorbed into the soil.

ORDINANCE 90-02

The use of leaf blowers shall be regulated as follows:

1. Definition of leaf blower:

Leaf blowers are defined as portable power equipment that is powered by fuel or electricity and used in any landscape maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing or redistributing dust, dirt, leaves, grass clippings, cuttings and trimmings from trees and shrubs or other debris.

- 2. Limitations on use.
 - a. All leaf blowers shall be equipped with a permanently installed limiter that restricts the individual equipment motor performance to half throttle speed or less, and will produce not more than 70 decibels db(A) measured at the midpoint of a wall area 20 feet long and ten feet high and at a horizontal distance 50 feet away from the midpoint of the wall, or not more than 76 db(A) at a horizontal distance of 25 feet using a sound level meter set at level A.
 - b. Each individual leaf blower shall be tested and certified for use by the City of Irvine or its designated representative. Each individual leaf blower shall bear the label of required approval in a visible location on the equipment prior to use and at all times during use. A fee for the City to recover all costs connected with equipment approvals shall be charged in an amount set by City resolution.
 - c. The use of leaf blowers is prohibited except between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday.
 - d. Leaf blower operations shall not cause dirt, dust, debris, leaves, grass clippings, cuttings or trimmings from trees or shrubs to be blown or deposited on any adjacent or other parcel of land, lot, or public right-of-way/property other than the parcel, land, or lot upon which the leaf blower is being operated. Deposits of dirt, dust, leaves, grass clippings, debris, cuttings or trimmings from trees or shrubs shall be removed and disposed of in a sanitary manner which will prevent dispersement by wind, vandalism or similar means within six hours of deposit by the user or property occupant.
 - e. Leaf blowers shall not be operated within a horizontal distance of ten feet of any operable window, door, or mechanical air intake opening or duct.
 - f. No person using leaf blowers shall exceed noise limitations set by section 6-8-204 of the City Code of Ordinances.

3. Education.

a. Each person operating an individual leaf blower is required to complete not less than one training session of content and time approved by the City of Irvine Administrative

Authority prior to operation of leaf blower equipment. Training and qualification shall be required for certification at least every two years for each individual equipment user.

b. The equipment operator shall carry certification of the training and qualification at all times.

EXHIBIT C

Insurance Requirements

1. <u>Coverages</u>.

A. HF Contractor shall procure and maintain at all times during the term of this Agreement, the following policies of insurance:

(1) a Commercial General Liability policy covering all liability arising out of and in connection with the use of the Great Park Parcels by HF Contractor, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$2,000,000); (2) Workers' Compensation insurance, including Employer's Liability coverage, in compliance with statutory requirements, if HF Contractor has employees, and a Waiver of Subrogation in favor of City; and (3) Automobile Liability insurance covering all owned and hired automobiles of HF Contractor, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$2,000,000). Each of the foregoing coverages shall name City as an additional insured (except for the Workers' Compensation coverage). The Commercial General Liability policy shall be written on an occurrence basis and shall include, at a minimum, bodily injury, property damage, personal injury, advertising injury and contractual liability. Each insurance policy required hereunder shall be evidenced by a certificate of insurance and Additional Insured Endorsement. If HF Contractor fails to procure or cause to be procured and maintained, said insurance, City may, but shall not be required to, procure and maintain same, but at the expense of the HF Contractor. Insurance required hereunder shall be placed with and issued by companies rated A-; VII or better in "Best's Key Rating Guide."

B. City shall procure and maintain at all times during the term of this Agreement, the following policies of insurance:

(1) a Commercial General Liability policy covering all liability arising out of and in connection with the use of the Great Park Parcels by City, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$2,000,000); (2) Workers' Compensation insurance, including Employer's Liability coverage, in compliance with statutory requirements, if City has employees, and a Waiver of Subrogation in favor of HF Contractor; (3) Automobile Liability insurance covering all owned and hired automobiles of City, which shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$2,000,000); and (4) Fire and Casualty insurance covering fire and other property casualty, including without limitation, extended coverage, special extended perils (all-risk coverage), vandalism, malicious mischief, and sprinkler leakage insurance, insuring the Improvements and any and all other improvements affixed to the Great Park Parcels (together with any and all furniture, furnishings, fixtures, equipment, inventory, supplies and other personal property belonging to City and located in, on or about the Great Park Parcels), in an amount equal to one hundred percent (100%) of the actual replacement value thereof, and shall include a Waiver of Subrogation in favor of HF Contractor. Each of the foregoing coverages shall name HF Contractor as an additional insured (except for the Workers' Compensation coverage). The Commercial General Liability policy shall be written on an occurrence basis and shall include, at a minimum, bodily injury, property damage, personal injury, advertising injury and contractual liability. Each insurance policy required hereunder shall be evidenced by a certificate of insurance and Additional Insured Endorsement. If City fails to procure or cause to be procured and maintained, said insurance, HF Contractor may, but shall not be required to, procure and maintain same, but at the expense of the City. Insurance required hereunder shall be placed with and issued by companies

rated A-; VII or better in "Best's Key Rating Guide", except that in the case of insurance obtained by City, insurance may be obtained through the California Insurance Pool Authority, a multi-agency insurance pool.

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2. <u>Blanket Policies</u>. Any policy required by the provisions of this <u>Exhibit D</u> 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.

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SCHEDULE 1(A)-1

Form of Amendment to the Great Park Neighborhoods Master Affordable Housing Plan

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GREAT PARK NEIGHBORHOODS SECOND AMENDMENT TO MASTER AFFORDABLE HOUSING PLAN

A. Heritage Fields El Toro, LLC ("Heritage Fields"), submitted to the City of Irvine ("City") a Master Affordable Housing Plan and the Heritage Fields Density Bonus Application, both dated October 14, 2008 ("Original MAHP" and "Density Bonus Application", respectively).

B. City's Planning Commission approved the Original MAHP, including the Density Bonus Application, by adopting Resolution No. 08-2926 on November 6, 2008 ("Original MAHP Approval Date") and in doing so, recommended the City Council of the City of Irvine grant to Heritage Fields 1,269 density bonus units.

C. Heritage Fields and City entered into a Density Bonus Agreement dated August 11, 2009, and a First Amendment thereto approved by the City Council of the City of Irvine, dated September 13, 2011 (as amended, the "Density Bonus Agreement"). In connection with the Density Bonus Agreement, Heritage Fields and City entered into a First Amendment to Master Affordable Housing Plan (the "First Amendment to MAHP"). The Original MAHP, as modified by the First Amendment to MAHP, is hereinafter referred to as the "MAHP."

D. Heritage Fields, City and the City of Irvine Redevelopment Agency ("Agency") entered into an Amended and Restated Development Agreement dated December 27, 2010 ("ARDA"). Together, the ARDA, the MAHP, the Density Bonus Application, and the Density Bonus Agreement, affirm Heritage Fields' vested right to develop 4,894 total residential units within the Property, consisting of 3,081 market rate units and 544 affordable units, for a total of 3,625 units, plus 1,269 density bonus units (the "Original Component of the Project").

E. In December, 2011, the California Supreme Court rendered decisions upholding certain legislation passed in 2011. Those actions resulted in the dissolution of redevelopment agencies, including Agency.

F. This Second Amendment to the MAHP provides for, among other things, Heritage Fields' obligation to develop up to 512 additional affordable residential units within the Property, to support the affordable requirements for Heritage Fields' plan to develop within the Property up to 3,412 additional residential units. This will consist of 2,900 market rate units and 512 affordable units, plus up to 1,194 density bonus units applicable thereto (the "2012 Component of the Project").

G. This Second Amendment to the MAHP provides that the 2012 Component of the Project may be built at less than the maximum permitted by the Heritage Fields Project 2012 General Plan and Zoning and if developed at less than the maximum, the above affordable units will be constructed at proportional amounts to meet City of Irvine Inclusionary requirements and state Density Bonus law as further described in this Second Amendment to the MAHP.

H. Heritage Fields submits this Second Amendment to the MAHP for consideration and approval by City's Planning Commission.

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PC ATTACHMENT 1

I. The Planning Commission's approval of this Second Amendment to the MAHP is contingent on the City Council's approval of the Heritage Fields Project 2012 General Plan Amendment and Zone Change.

J. Capitalized terms used but not defined herein shall have the same meaning assigned to them in the MAHP.

Section 2. Executive Summary

In the Executive Summary chart, the phrase "Total Homes in the Development" in the first line is hereby changed to "Total Homes in the Original Component of the Project."

A new fifth paragraph is hereby added as follows:

"The Second Amendment to the MAHP provides for the delivery of 512 additional affordable homes within the Property to support the affordable requirements for the 2012 Component of the Project. The Very Low Income component and Moderate Income component for 11% and 4% respectively of Heritage Fields' residential entitlement for the 2012 Component of the Project is summarized below:

Description	Homes	Pct. of Total
Number of Homes in the 2012 Component of the Project	3,412	100%
Very Low Income (Up to 50% of Area Median Income)	376	11%
Moderate Income	136	4%
Total Affordable Homes	512	15%

The actual number of Very Low Income and Moderate Income homes required will be determined based on applying the percentages shown in this table to the actual number of market rate homes developed, not including the density bonus units."

A sentence is hereby added to the end of the existing fifth paragraph (which begins "The Great Park Neighborhoods affordable communities") as follows:

"The affordable communities in the 2012 Component of the Project shall be located within the Property's Development Districts (see Section 5 below)."

The last paragraph in Section 2 is hereby deleted and replaced with the following:

"As a result of providing Very Low Income homes, State density bonus law (Government Code Section 65915, et seq.) in effect as of the Original MAHP Approval Date and the City's Housing Ordinance (Chapter 2-3) in effect as of the Original MAHP Approval Date provide that Heritage Fields is entitled to receive a density bonus. Based on the number of Very Low Income affordable homes being provided (11% of the total residential entitlement), Heritage Fields is entitled to a density bonus of 35% of the total residential entitlement as provided for in the Second Amendment to Density Bonus Agreement."

Section 3. City and Agency Requirements

The first sentence of Section 3 is hereby modified to replace the reference to "Table 1" with a reference to "Table 1A and Table 1B."

Table 1 Heading is hereby modified to "Table 1A (Original Component of the Project)."

The phrase "Total Homes in Development" in the first line of Table 1A is hereby changed to: "Total Homes in the Original Component of the Project."

Table 1B is hereby inserted above Footnote (1) as follows:

Description	Homes	Pct. of Total
Total Homes in the 2012 Component of the Project	3,412	100%
Very Low Income (Up to 50% of Area Median Income)	376 (1) (2)	11%
Moderate Income	136 (2)	4%
Total Affordable Homes	512 (2)	15%

A new Footnote (2) is hereby inserted below Footnote (1) as follows:

"(2) The actual number of Very Low Income and Moderate Income homes required will be determined based on applying the percentages shown in these tables to the actual number of market rate units developed, not including the density bonus units."

Section 3A. City Requirements

The sentence before Table 2 is hereby deleted and replaced with the following:

"The following are the 2013 income and rental rate limits applicable to the affordable homes:"

Table 2 is hereby deleted and replaced with the following:

Table 2

Income Category	Income Limit (1)	Rental Rate Limit (2)
Very Low		
One Bedroom	\$38,550	\$872
Two Bedroom	43,350	981
Three Bedroom	48,150	1,090
Four Bedroom	52,050	1,178
Low		
One Bedroom	61,650	1,046
Two Bedroom	69,350	1,178
Three Bedroom	77,050	1,308

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Four Bedroom	83,250	1,413
Moderate		
One Bedroom	83,700	1,918
Two Bedroom	94,200	2,159
Three Bedroom	104,650	2,398

(1) The income limits shown are for calendar year 2013, as published annually by the California State Department of Housing and Community Development. The income limits will vary for smaller and larger household sizes and are subject to annual update. Income limits shown are based on household sizes consistent with California Health and Safety code rather than the City's Housing Ordinance. The Housing Ordinance provides for larger household sizes per bedroom, thus enabling (in a project not subject to California Health and Safety Code) higher income limits and rental rates. However, all units in this plan will be subject to California Health and Safety Code requirements.

(2) Rental rates are adjusted annually based on the number of bedrooms, and do not reflect a deduction for utilities. Actual unit rental rates will be established and adjusted for utilities at the time they are occupied, with such rental rates reviewed and approved by the City. If ownership housing is developed under this plan the affordable housing price calculations will be consistent with California Health and Safety code requirements."

The sentence before Table 3 is hereby modified to the following:

"The affordable homes required by the City's Housing Ordinance in effect as of the Original MAHP Approval Date are summarized as follows in Tables 3A and 3B:"

Table 3 is hereby modified to add the following heading: "Table 3A (Original Component of the Project)."

New Table 3B is hereby inserted before Footnote (1) to delineate the affordable housing requirements for the 2012 Component of the Project as follows:

	Minimum City Requirements
Description	(1)
Very Low Income Homes	171
Low Income Homes	171
Moderate Income Homes	170
Total	512

Table 3B (2012 Component of the Project)

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Section 3C. Policy Considerations

The first sentence in the last paragraph beginning "This MAHP meets" is hereby deleted and replaced with the following: "This MAHP (as amended) meets the first two goals set forth above through the delivery of 544 Very Low and Moderate Income units in the Original Component of the Project, and 512 additional Very Low and Moderate Income homes in the 2012 Component of the Project."

Section 4. Heritage Fields Proposal

In Subsection B, Sources of Funds, the bullet point referencing Redevelopment Agency Housing Set Aside Funding is hereby deleted.

A new bullet point is hereby inserted before "Developer Equity" as follows: "Other funding sources which may be available as a result of new legislative efforts to provide affordable housing; and"

The last paragraph in Subsection B is hereby deleted and replaced as follows:

"Depending on the availability of public and/or private funding for affordable housing (which could possibly include set aside funding), Heritage Fields may request use of such funding to subsidize the affordable homes. Specific funding applications may be submitted as the affordable housing projects and their financial requirements are further defined. Heritage Fields will consider a variety of land ownership and development structures as needed to accomplish the most effective and efficient use of available funding (both public and private) to create the affordable homes described in this MAHP. The City will reasonably consider any land ownership and development structures that are associated with any available public funding for affordable housing, but the City has no obligation to approve any land ownership and development structures and it is the sole obligation of Heritage Fields to ensure the affordable housing is developed to meet the requirement of the City's inclusionary ordinance in effect as of the Original MAHP Approval Date and the State's density bonus law in effect as of the Original MAHP Approval Date. Heritage Fields acknowledges and understands it is financially responsible pursuant to this MAHP for the development of 544 affordable units in connection with the Original Component of the Project, and an additional 512 affordable units in connection with the 2012 Component of the Project, that the City is under no obligation to provide financial assistance for the development of those affordable units, and that the development of those affordable units shall not be contingent on public financial assistance being available from any unit of local, state or federal government."

The fourth sentence in Subsection C, entitled "City Housing Ordinance Requirements," is hereby modified to add the following to the end of the sentence: "for the Original Component of the Project, and 119 excess Very Low Income credits for the 2012 Component of the Project."

Table 7 is hereby relabeled "Table 7A (Original Component of the Project)."

New Table 7B is hereby inserted immediately following Table 7A and above Footnotes (1) and (2) as follows:

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Table 7B (2012 Component of the Project) (3)

				Credits	
	Developer	Minimum City	Surplus/	Transferred	Remaining
Description	Proposal	Requirements	(Deficit)	(1)	Excess Credits
Very Low Income Homes (1)(2)	376	171	205	(86)	119
Low Income Homes (1) (2)		171	(171)	171	

A new Footnote (3) is hereby added as follows:

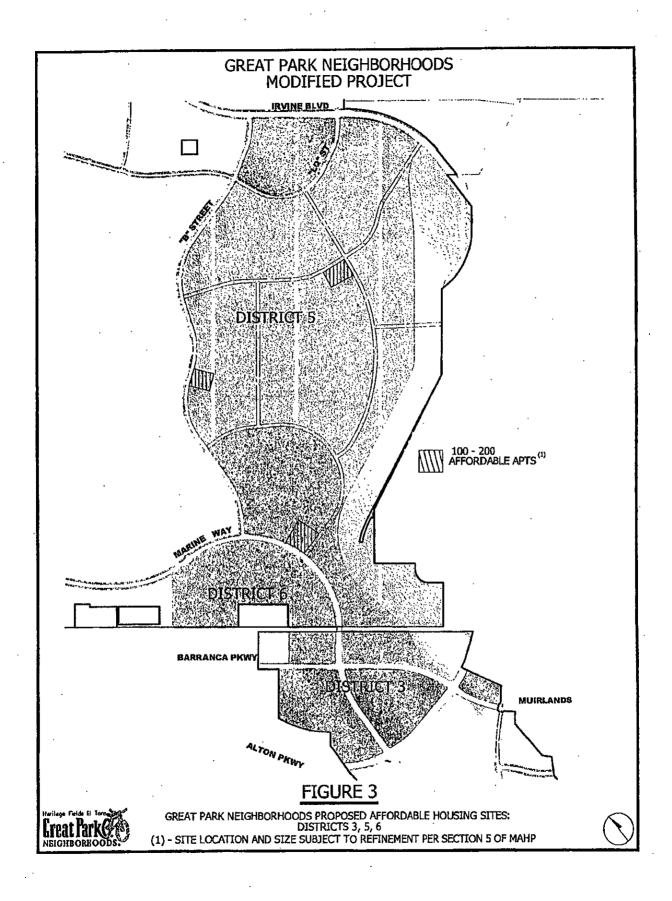
"(3) This table calculates the Developer Proposal, Minimum City Requirements, and Excess Credits assuming that all 3,412 units of the 2012 Component of the Project are developed. The calculation will be revised based on the actual number of units of the 2012 Component of the Project that are developed."

Section 5. Location of Homes

The word "Property" in the first sentence of the first paragraph is hereby deleted and replaced with "Original Component of the Project."

A new paragraph is hereby inserted between the first paragraph and the second paragraph as follows: "The affordable home sites for the 2012 Component of the Project will be located within the Property's Development Districts 5 and 6 (Figure 3) in those specific locations which will be identified as affordable housing sites in the subsequent vesting tentative tract maps, tentative tract maps and parcel maps for the Property which are approved by the City, as such maps and/or locations may be revised with City approval from time to time."

A new Figure 3 is hereby inserted as attached.



EXECUTION COPY

SCHEDULE 1(A)-2

Form of Amendment to the Density Bonus Agreement

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RECORDING REQUESTED BY AND WHEN RECORDED, MAIL TO:

City of Irvine Community Development Department One Civic Center Plaza Irvine, CA 92623-9575 Attn: Director of Community Development

> Recorded at the request and for the benefit of the City of Irvine - exempt from recording fee pursuant to Government Code Sections 6103 and 27383.

SECOND AMENDMENT TO DENSITY BONUS AGREEMENT

This Second Amendment to Density Bonus Agreement ("Second Amendment") is entered into as of ______, 2013, by and between the City of Irvine, a California municipal corporation ("City"), and Heritage Fields El Toro, LLC, a Delaware limited liability company ("Developer").

RECITALS

A. The City approved a Master Affordable Housing Plan, including a Density Bonus Application ("MAHP/Application"), on November 6, 2008 pursuant to Planning Commission Resolution No. 08-2926. The MAHP requires the Developer to provide, or cause to be provided, certain affordable units for very low income households and moderate income households (the "Affordable Units") on Developer's property located on a portion of the former Marine Corps Air Station El Toro in the City (the "Property"), in exchange for the City granting to Developer certain density bonus units and additional incentives in accordance with the State Density Bonus Law and the City Density Bonus Ordinance, as set forth therein.

B. City and Developer have entered into a Density Bonus Agreement dated August 11, 2009, which was recorded in the official records of Orange County on September 9, 2009, as Document No. 2009000482561, and a First Amendment to Density Bonus Agreement dated September 13, 2011, which was recorded in the official records of Orange County on November 16, 2011, as Document No. 2011000584018 (as so amended, the "Agreement"). Unless otherwise provided herein, all defined terms used herein shall be the same as those in the Agreement.

C. Recital G of the Agreement states that Developer has submitted to City a Master Affordable Housing Plan and Density Bonus Application dated October 14, 2008, which set forth a plan to develop on the Property a total of 4,894 residential units. The 4,894 residential units consist of 3,081 market rate units, 544 affordable units, and 1269 density bonus units (the "Original Component of the Project").

D. On or about December 22, 2011, Developer submitted to the City a General Plan Amendment/Zone Change application which includes a plan to reduce certain non-residential entitlements and in turn to convert that reduction to allow 4,606 additional residential units to be built within the Property. The residential units consist of 2,900 market rate units, 512 affordable units (the combined market rate units and affordable units are referred to herein as the "2012 base units"), and 1,194 density bonus units (the "2012 Component of the Project").

E. The City and Developer acknowledge that the total number of Units which may actually be constructed for the 2012 Component of the Project may be less than the total amount reflected in the General Plan Amendment and Zone Change. The numbers of affordable units and density bonus units will be adjusted to reflect the total number of Base Units (as defined below) actually constructed.

F. The City and the Developer desire to make certain revisions to the Agreement to set forth the requirements with respect to the 2012 Component of the Project, as set forth herein.

NOW, THEREFORE, in consideration of the above recitals, which are incorporated herein by reference, and the mutual covenants hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definitions**. The following definitions are added as follows:

a. Section 1.1.18 of the Agreement is hereby amended in its entirety and shall be replaced as follows: "Base Units' means the three thousand six hundred twenty-five (3,625) Units comprising the Original Component of the Project and the three thousand four hundred twelve (3,412) Units comprising the 2012 Component of the Project, all of which Developer is authorized to develop on the Property without application of the State Density Bonus Law."

b. Section 1.1.30 of the Agreement is hereby amended in its entirety and shall be replaced as follows: "Density Bonus Units' means the one thousand two hundred sixtynine (1,269) Original Component Units and the one thousand one hundred ninety-four (1,194) 2012 Component Units, in addition to the Base Units that Developer may develop pursuant to the density allowance in the State Density Bonus Law, City Density Bonus Ordinance, and the terms and conditions of this Agreement, of which Developer would not be entitled to develop without providing eleven percent of the Base Units as Affordable Units for Very Low Income Households, as proposed in the MAHP/Application and implemented in this Agreement."

c. Section 1.1.60 of the Agreement is hereby amended in its entirety and shall be replaced as follows: "'Project' means that certain housing development as more particularly described in Article 2 of this Agreement, and shall include the Original Component of the Project and the 2012 Component of the Project."

d. Section 1.1.91 of the Agreement is hereby added to the Agreement and shall read as follows: "2012 Component of the Project" or "2012 Component Units" shall

mean all Units within the Project in excess of the 4,894 Units comprising the Original Component of the Project."

e. Section 1.1.92 of the Agreement is hereby added to the Agreement and shall read as follows: "2012 Component Affordable Units' shall mean the Units in the 2012 Component of the Project required to be Affordable Units."

f. Section 1.1.93 of the Agreement is hereby added to the Agreement and shall read as follows: "'Original Component of the Project' or 'Original Component Units' shall mean all Units within the Project up to and including the first 4,894 Units."

2. Total Number of Units. Section 2.2 of the Agreement is hereby amended in its entirety and shall be replaced as follows:

"2.2 Total Number of Units. The Original Component of the Project includes the first four thousand eight hundred ninety-four (4,894) Units to be owned, occupied, operated, and maintained pursuant to the terms and conditions of this Agreement. The 2012 Component of the Project includes all Units in excess of the first four thousand eight hundred ninety-four (4,894) Units, to be owned, occupied, operated, and maintained pursuant to the terms and conditions of this Agreement. Developer expressly understands and agrees that the State Density Bonus Law at the time of this Agreement allows a thirty-five percent (35%) increase in the number of the Base Units because Developer shall restrict eleven percent (11 %) (the "11% Affordable Base Units") of the Base Units for use and occupancy by Very Low Income Households. Developer further expressly understands and agrees that, to comply with the City Inclusionary Housing Ordinance, no less than four percent (4%) of the Base Units shall be restricted for use and occupancy by Moderate Income Households. Developer further expressly understands and agrees that Developer shall not have the right to construct the Density Bonus Units unless Developer develops or causes to be developed the 11% Affordable Base Units in accordance with the Affordable Units Schedule of Development (as it may be revised from time to time)."

3. Market Rate Units. Section 2.3 of the Agreement is hereby amended in its entirety and shall be replaced as follows:

"2.3 <u>Market Rate Units</u>. The Original Component of the Project will have no more than four thousand three hundred fifty (4,350) Market Rate Units, and the 2012 Component of the Project will have no more than four thousand ninety-four (4,094) Market Rate Units, with unit sizes for the Affordable Units as may be proposed by the Developer and approved by City in accordance with Section 2.1 0.5 of this Agreement and the Other Land Use/Development Requirements."

4. Affordable Units. Section 2.4 of the Agreement is hereby amended in its entirety and shall be replaced as follows:

"2.4 <u>Affordable Units</u>. The Original Component of the Project shall have no less than five hundred forty-four (544) Affordable Units, and the 2012 Component of the Project

shall have five hundred twelve (512) Affordable Units, with unit sizes for the Affordable Units as may be proposed by the Developer and approved by City in accordance with Section 2.10.5 of this Agreement and the Other Land Use/Development Requirements. If less than the maximum number of Market Rate Units for the 2012 Component of the Project are actually built, the foregoing numbers of Affordable Units for that category shall be adjusted proportionately. Developer expressly understands and agrees that no less than fifteen percent (15%) of the Base Units shall be Affordable Units pursuant to the City Inclusionary Housing Ordinance, which equals the total of five hundred fortyfour (544) Affordable Units for the Original Component of the Project, and fifteen percent (15%) of the number of Base Units which are actually developed in the 2012 Component of the Project. City expressly understands and agrees that the 11% Affordable Base Units shall be counted towards the City Inclusionary Housing Ordinance's fifteen percent (15%) requirement. The Affordable Units shall remain available in perpetuity to Very Low Income Households and Moderate Income Households according to the following provisions in Sections 2.4.1 to 2.4.6. Sections 2.4.1 to 2.4.4 shall apply only to the Original Component of the Project, and Sections 2.4.5 to 2.4.6 shall apply only to the 2012 Component of the Project."

5. 2012 Component Affordable Units.

Sections 2.4.5 and 2.4.6 of the Agreement are hereby added to the Agreement and shall read as follows:

"2.4.5. 2012 Component Affordable Units for Very Low Income Households. Of the total number of Affordable Units in the 2012 Component of the Project (five hundred twelve (512)), no less than eleven percent (11%) of the 2012 Component Units comprising Base Units that are actually developed (three hundred seventy-six (376)) shall be Affordable Units for Very Low Income Households. If less than the maximum number of Market Rate Units for the 2012 Component of the Project are actually built, the foregoing numbers of Affordable Units shall be adjusted proportionately. The 2012 Component Affordable Units for Very Low Income Households shall be available in perpetuity. A Regulatory Agreement for the 2012 Component Affordable Units shall be executed and recorded against any portion of the Property that has 2012 Component Affordable Units for Very Low Income Households, in accordance with the terms and conditions of this Agreement. Developer shall determine the appropriate balance of Senior and Non-Senior 2012 Component Affordable Units for Very Low Income Households, based upon the demand in the City of Irvine at the time of submittal of the first residential tract maps for Market Rate Units for the 2012 Component of the Project; provided that in no event shall more than fifty percent (50%) of such Affordable Units be restricted to Senior Very Low Income Households, unless a higher percentage is approved by the City through its approval of residential subdivision maps, and/or modifications as permitted by the zoning ordinance."

"2.4.6 <u>2012 Component Affordable Units for Moderate Income Households</u>. Of the total number of Affordable Units in the 2012 Component of the Project (five hundred

twelve (512)), no less than four percent (4%) of the 2012 Component Units comprising Base Units that are actually developed (one hundred thirty-six (136)) shall be Affordable Units for Moderate Income Households. If less than the maximum number of Market Rate Units for the 2012 Component of the Project are actually built, the foregoing numbers of Affordable Units shall be adjusted proportionately. The 2012 Component Affordable Units for Moderate Income Households shall be available in perpetuity. A Regulatory Agreement for the 2012 Component Affordable Units shall be executed and recorded against any portion of the Property that has 2012 Component Affordable Units for Moderate Income Households, in accordance with the terms and conditions of this Agreement, Developer shall determine the appropriate balance of Senior and Non-Senior 2012 Component Affordable Units for Moderate Income Households, based upon the demand in the City of Irvine at the time of submittal of the first residential tract maps for Market Rate Units for the 2012 Component of the Project; provided that in no event shall more than fifty percent (50%) of such Affordable Units be restricted to Senior Moderate Income Households, unless a higher percentage is approved by the City through its approval of residential subdivision maps, and/or modifications as permitted by the zoning ordinance."

6. Ranges for Affordable Units' Sizes and Number of Bedrooms. The following is hereby added to the end of Section 2.10.5 of the Agreement:

"The above requirements for the Developer to propose unit sizes and a unit matrix based on economic feasibility for development shall not be construed to entitle Developer to construct fewer Affordable Units than the number of Affordable Units required pursuant to Sections 2.4 through 2.4.6 hereof as a result of the economic infeasibility of constructing such Affordable Units."

7. Map Depicting Property and Development Districts. The Revised Map Depicting Property and Development Districts attached hereto as Exhibit "B" and incorporated herein hereby replaces in its entirety and supersedes the Map Depicting Property and Development Districts attached to the Agreement as Exhibit "B." If the City Council or City Planning Commission subsequently approves revisions to the Development Districts, the City hereby authorizes the City Community Development Director (or his or her designee), with the joint approval of Developer, to make administrative changes to Exhibit "B" as may be necessary to reflect such modifications.

8. Affordable Units Site Map. The 2012 Component Affordable Units Site Map attached hereto as Exhibit "C-1" and incorporated herein is hereby added to the Agreement immediately after the Affordable Units Site Map attached to the Agreement as Exhibit "C." Exhibit "C-1" depicts the general locations of 2012 Component Affordable Units proposed to be constructed. The precise locations of the 2012 Component Affordable Units, and the number of Affordable Units to be constructed at each location, will be identified in conjunction with the submittal of each residential subdivision map for the portions of the 2012 Component of the Project in which Affordable Units are proposed to be located. The final selection of the locations for the 2012 Component Affordable Units to be constructed at each location. The final selection of the locations are proposed to be located. The final selection of the locations for the 2012 Component Affordable Units, and the number of Affordable Units to be constructed at each location. The final selection of the locations for the 2012 Component Affordable Units, and the number of Affordable Units to be constructed at each location 5 of the Master Affordable Housing Plan. The

final selection of the locations for the 2012 Component Affordable Units, and the number of Affordable Units to be constructed at each location, will take into consideration sound planning and design principles and the relationship of the 2012 Component Affordable Units to current and future nearby development and public services, including retail centers, schools, and public transportation. Upon the City's approval of precise locations of Affordable Units and the number of Affordable Units to be constructed at each location, through its approval of residential subdivision maps and/or modifications as permitted by the zoning ordinance, all exhibits to this Agreement, including the Master Affordable Housing Plan, shall be administratively changed as may be necessary to reflect the precise site locations and the number of Affordable Units to be constructed at each location.

9. Affordable Units Schedule of Development. The Revised Affordable Units Schedule of Development attached hereto as Exhibit "D" and incorporated herein hereby replaces in its entirety and supersedes the Affordable Housing Schedule of Development attached to the Agreement as Exhibit "D." If the number of Market Rate Units for the 2012 Component of the Project is revised by City Council or Planning Commission approval, and the number of required Affordable Units is thereby revised pursuant to the Agreement, the City hereby authorizes the City Community Development Director (or his or her designee), with the joint approval of Developer, to make administrative changes to Exhibit "D" as may be necessary to reflect such modifications.

10. Master Affordable Housing Plan. The Master Affordable Housing Plan, together with the First Amendment to Master Affordable Housing Plan and the Second Amendment to Master Affordable Housing Plan, attached hereto as Exhibit "L" and incorporated herein, hereby replaces in its entirety and supersedes the Master Affordable Housing Plan attached to the Agreement as Exhibit "L."

11. Remaining Terms of Agreement Unaffected. Except as expressly provided herein, nothing in this Second Amendment shall be deemed to waive or modify any of the other provisions of the Agreement. In the event of any conflict between this Second Amendment and the Agreement, the terms of this Second Amendment shall prevail. Any terms used in this Second Amendment that are not separately defined herein shall have the meanings as defined in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment as of the date set forth in the preamble above.

"CITY"

CITY OF IRVINE, a California municipal corporation

ATTEST:

Ву: ____ City Clerk

APPROVED AS TO FORM:

1033690.4

By:_____ City Attorney

"DEVELOPER"

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

- By: Heritage Fields El Toro Sole Member LLC, a Delaware limited liability company Its: Sole Member
 - By: Heritage Fields LLC, a Delaware limited liability company Its: Sole Member
 - By: Lennar Heritage Fields, LLC, a California limited liability company Its: Administrative Member
 - By: Lennar Homes of California, Inc., a California corporation Its: Sole Member

n		
HV'		

Print	Name:	
Print	Title:	

STATE OF CALIFORNIA)) ss. COUNTY OF ORANGE)

On ______, 20 ____, before me, ______ Notary Public, personally appeared _______ who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature of Notary Public (SEAL)

EXHIBIT "B" TO SECOND AMENDMENT TO DENSITY BONUS AGREEMENT REVISED MAP DEPICTING PROPERTY AND DEVELOPMENT DISTRICTS [Attached]

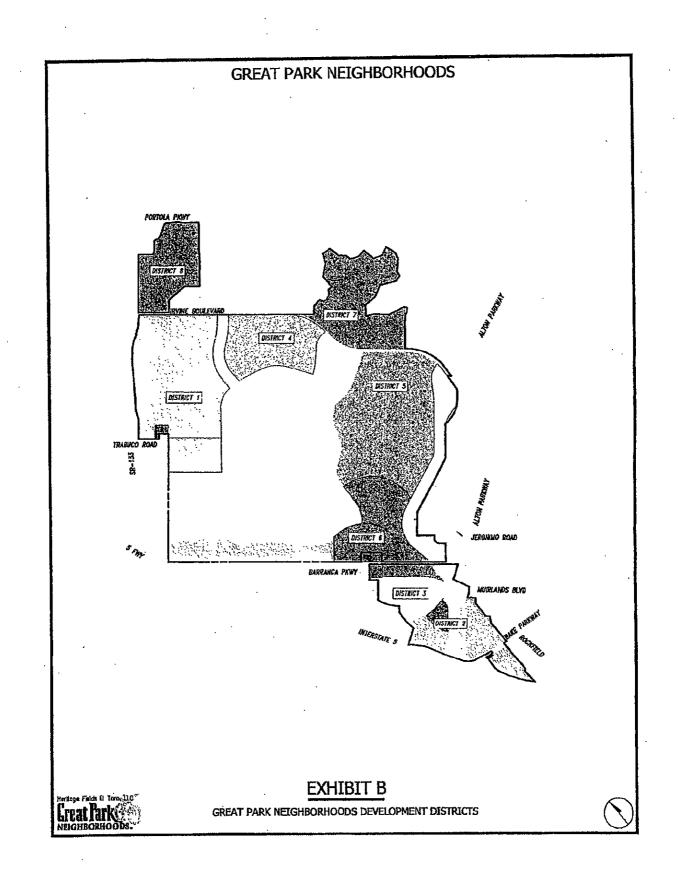


EXHIBIT "C-1" TO SECOND AMENDMENT TO DENSITY BONUS AGREEMENT 2012 COMPONENT AFFORDABLE UNITS SITE MAP [Attached]

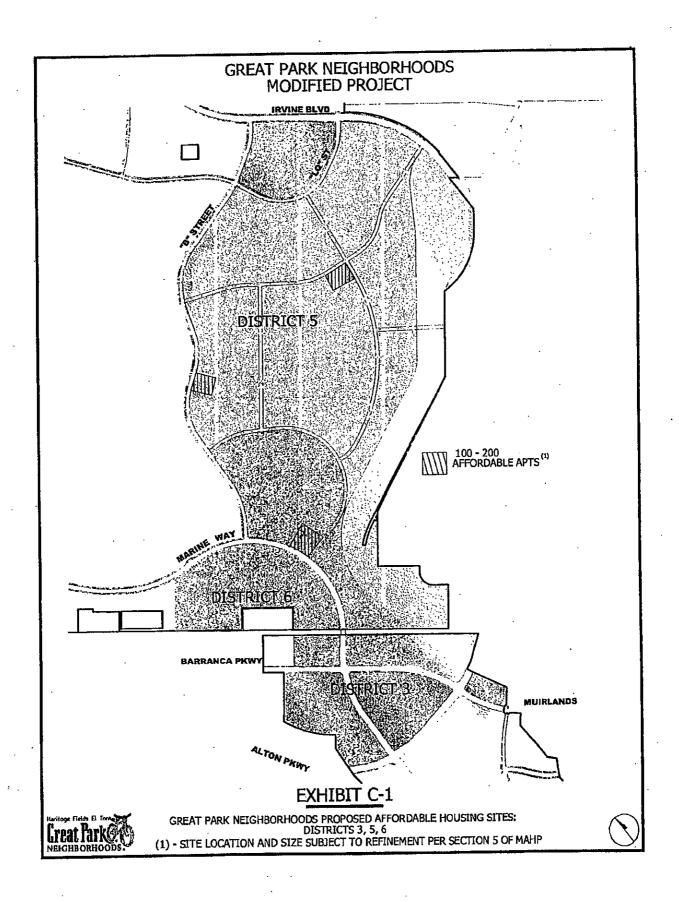


EXHIBIT "D" TO SECOND AMENDMENT TO DENSITY BONUS AGREEMENT

REVISED AFFORDABLE UNITS SCHEDULE OF DEVELOPMENT

Item No.	ACTIVITY TO BE PERFORMED	DATE OF COMPLETION
Item 1	Developer commences development of Market Rate Units in Residential Development District 8.	Completed.
Item 2	Developer shall have completed construction of, and received from City Certificates of Occupancy for, the initial 95 of the Affordable Units to be developed within the Property.	Prior to City's issuance of Certificate of Occupancy of the 300th Market Rate Unit in Residential Development District 1, 3, 4, 5, 6 and/or 7.
Item 3	Developer shall have completed construction of, and received from City Certificates of Occupancy for, the next 71 of the Affordable Units to be developed within the Property (for a total of 166 Affordable Units).	Prior to City's issuance of Certificate of Occupancy of the 800th Market Rate Unit in Residential Development District 1, 3, 4, 5, 6 and/or 7.
Item 4	Developer shall have completed construction of, and received from City Certificates of Occupancy for, the next 182 Affordable Units to be developed within the Property (for a total of 348 Affordable Units).	Prior to City's issuance of Certificate of Occupancy of the 1,972nd Market Rate Unit in the Project (including Market Rate Units in all Residential Development Districts).
Item 5	Developer shall have completed construction of, and received from City Certificates of Occupancy for, the next 196 Affordable Units to be developed within the Property (for a total of 544 Affordable Units).	Prior to City's issuance of Certificate of Occupancy of the 2,773 rd Market Rate Unit in the Project (including Market Rate Units in all Residential Development Districts).

Item No.	ACTIVITY TO BE PERFORMED	DATE OF COMPLETION
Item 6	Developer shall have completed construction of, and received from City Certificates of Occupancy for, the first 150 2012 Component Affordable Units to be developed within the Property.	Prior to City's issuance of Certificate of Occupancy of the 1,000th Market Rate Unit for the 2012 Component of the Project.
Item 7	Developer shall have completed construction of, and received from City Certificates of Occupancy for, the 330th 2012 Component Affordable Unit to be developed.	Prior to City's issuance of Certificate of Occupancy of the 2200th Market Rate Unit for the 2012 Component of the Project.
Item 8	Developer shall have completed construction of, and received from City Certificates of Occupancy for, the 512th 2012 Component Affordable Unit to be developed within the Property.	Prior to City's issuance of Certificate of Occupancy of the 3400th Market Rate Unit for the 2012 Component of the Project.

All capitalized terms in this Affordable Housing Schedule of Development shall have the same meanings as set forth in the Density Bonus Agreement, as amended ("Agreement"). It is expressly understood and agreed by the Parties that the foregoing schedule of development is subject to all of the terms and conditions set forth in the text of the Agreement. Times of performance under the Agreement may be extended by request of any Party memorialized by a mutual written agreement between Parties, which agreement may be granted or denied in the non-requesting Party's sole and absolute discretion (subject to events of force majeure set forth in Section 10.11 of this Agreement).

[END OF SCHEDULE OF DEVELOPMENT]

EXHIBIT "L" TO SECOND AMENDMENT TO DENSITY BONUS AGREEMENT

REVISED MASTER AFFORDABLE HOUSING PLAN

[Attach original MAHP, 1st Amendment & 2nd Amendment]

1033690.4

CONSENT OF LIENHOLDER AND SUBORDINATION OF LIEN AGREEMENT (SECOND AMENDMENT TO DENSITY BONUS AGREEMENT)

State Street Bank & Trust Company ("SSBT") is the current beneficiary under that certain Amended and Restated Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, originally recorded on December 29, 2010, as Instrument No. 2010000707704 of Official Records ("Official Records") of Orange County, California, and re-recorded January 5, 2011 as Instrument No. 2011000006923 of Official Records, as amended by that certain First Amendment to Amended and Restated Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, recorded on November 16, 2011, as Instrument No. 2011000584017 of Official Records, that certain Second Amendment to Amended and Restated Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, recorded on February 22, 2013, as Instrument No. 2013000112143 of Official Records, that certain Third Amendment to Amended and Restated Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, recorded on October 2, 2013, as Instrument No. 2013000565736 of Official Records, and that certain Fourth Amendment to Amended and Restated Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, recorded on October 2, 2013, as Instrument No. 2013000566208 of Official Records (as amended, the "ARDOT"), and subject to the provisions of Section 10.16 of the Density Bonus Agreement, as amended, hereby subordinates the lien and charge of the ARDOT to the Density Bonus Agreement as amended by the Second Amendment to which this Consent is attached, and agrees that the Density Bonus Agreement (as amended by the Second Amendment to which this Consent is attached) shall be and remain a lien prior and superior to the lien imposed by the ARDOT.

STATE STREET BANK & TRUST COMPANY,

a Massachusetts trust company

By: _____

COMMONWEALTH OF MASSACHUSETTS

SS

On this ______ day of ______, 20____, before me, the undersigned notary public, personally appeared _______, as _______ of State Street Bank and Trust Company, proved to me through satisfactory evidence of identification, which was to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as of said trust company.

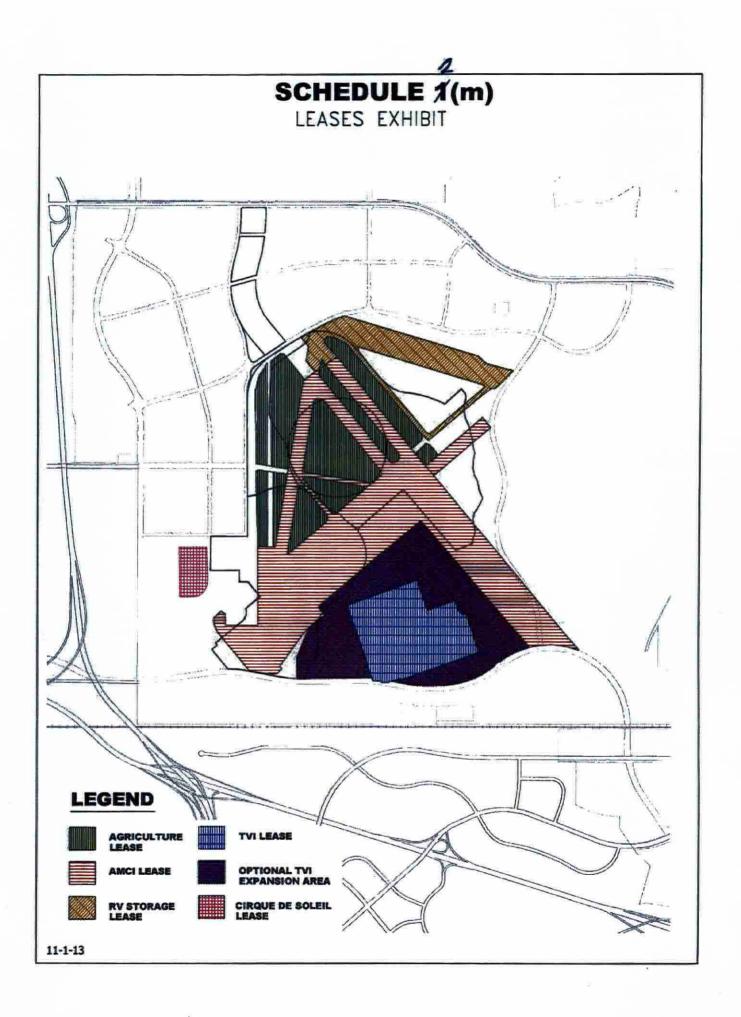
(official signature and seal of notary)

EXECUTION COPY

SCHEDULE 2(M)

Existing Encumbrances on OCGP Improvement Area

This list may be over-inclusive as it includes all existing unrecorded leases, license agreements, easements, and other encumbrances that the City has executed since July 12, 2005 or into which it has entered since July 12, 2005 pertaining to the Great Park.



Number	Contract_Name	Contract_Date	Contract_Subject	Department
5166A	LENNAR HOMES OF CALIFORNIA, INC.; HERITAGE FIELDS, LLC			ORANGE COUNTY GREAT PARK
5491	CALTRANS		AUTHORIZATION FOR THE DIRECTOR OF PUBLIC WORKS TO EXECUTE STATE PROGRAM AGREEMENTS FOR FEDERALLY FUNDED CAPITAL IMPROVEMENT PROJECTS, MASTER AGREEMENT NO. 125410R, CITY COUNCIL RESOLUTION NO.	
5163	1	2005-7-12 12:00 AM	T PARK DEVELOPMENT AGREEMENT BETWEEN THE CITY OF IRVINE AND AGE FIELDS	ORANGE COUNTY GREAT PARK
5164		2005-7-12 12:00 AM	CES FOR INTERIM OPERATION OF ONSITE WATER AND SEWER S ON FORMER MARINE CORPS AIR STATION EL TORO; ORANGE ARK	ORANGE COUNTY GREAT PARK
5165	È	2005-7-12 12:00 AM	7 ×	ORANGE COUNTY GREAT PARK
5166	LENNAR HOMES OF CALIFORNIA. INCORPORATED; HERITAGE FIELDS, LIMITED LIABILITY COMPANY	2005-7-12 12:00 AM	JOINT PROPERTY MAINTENANCE AGREEMENT; ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK
5062		2005-8-5 12:00 AM	LICENSE AGREEMENT FOR AUTOMOTIVE MARKETING, TEST DRIVING AND NON- AUTOMOTIVE EVENTS AT THE ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK
5175		2005-11-29 12:00 AM	REGARDING GREAT PARK DEVELOPMENT AGREEMENT	ORANGE COUNTY GREAT PARK
5290A	OUNTY LDS, LLC	2006-4-25 12:00 AM	MASTER IMPLEMENTATION: EXTENSION OF COMPLETION DATE FOR INFRASTRUCTURE AGREEMENT; ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK
GP06- 1016	HERITAGE FIELDS HARDSCAPE RECYCLING	2006-5-3 12:00 AM	ADMINISTERING AND CONTROLLING THE REMOVAL AND RECYCLING OF HARDSCAPE OF THE BASE PROPERTY, TERM SHALL TERMINATE UPON THE SUBSTANTIAL COMPLETION OF THE RECYCLING ACTIVITIES	ORANGE COUNTY GREAT PARK
5242	ORANGE COUNTY GREAT PARK CORPORATION; HERITAGE FIELDS EL TORO, LLC;	2006-5-3 12:00 AM	HARDSCAPE RECYCLING: ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK
5290	HERTAGE FIELDS EL TORO, LLC	2008-7-1 12:00 AM	ORANGE COUNTY GREAT PARK: OCGP; MASTER IMPLEMENTATION; HAZARDOUS MATERIAL REMOVAL	ORANGE COUNTY GREAT PARK
GP06- 1023	SOUTHERN CALIFORNIA EDISON	2006-7-7 12:00 AM	SUSTAINABLE AND ENVIRONMENTAL STEWARDSHIP AT THE ORANGE COUNTY GREAT PARK, OCGP	ORANGE COUNTY GREAT PARK
GP07- 1032	CAL STATE FULLERTON	2007-1-22 12:00 AM	GRANT TO ESTABLISH THE "EL TORO MARINE AIR STATION WORLD WAR IVKOREAN WAR ORAL HISTORY CLASS PROJECT' IN SUPPORT OF THE CENTER FOR ORAL AND PUBLIC HISTORY, ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK
5514	DEPARTMENT OF THE ARMY PERMIT; HERITAGE FIELDS EL TORO, LLC; ORANGE COUNTY GREAT PARK	2007-4-26 12:00 AM	DISCHARGE FILL INTO APPROXIMATELY 3.34 ACRES OF INTERMITENT AND EPHEMERAL NON-WETLAND WATERS AND 1.66 ACRES OF RIVERINE AND PALUSTRINE WETLAND WATERS	
5062A	AMCI MARKETING COMPANY	2007-8-15 12:00 AM	LICENSE AGREEMENT FOR AMENDMENT TO INCLUDE OPERATION OF GREAT PARK BALLOON VISITOR CENTER, LICENSE AGREEMENT FOR AUTOMOTIVE MAKETING, TEST DRIVING AND NON-AUTOMOTIVE EVENTS AT THE ORANGE (COUNTY GREAT PARK)	ORANGE COUNTY GREAT PARK
5880	BELAIRE-WEST LANDSCAPE, INC.	2008-4-23 12:00 AM	BALLOON PARK AND EXISTING SITE ENHANCEMENTS (PHASE 1C - PREVIEW PARK) CIP 3780905 BID NUMBER 08-2299	ORANGE COUNTY GREAT PARK
5891	A GOOD SIGN, INC.	2008 4-24 12:00 AM	SIGNAGE PACKAGE PHASE 1C * PREVIEW PARK	ORANGE COUNTY GREAT PARK
5964	HERITAGE FIELDS EL TORO	2008-7-1 12:00 AM	RIGHT OF ENTRY PERMIT; USE BY EL TORO FARMS; SEE CONTRACT 5064C	ORANGE COUNTY GREAT PARK
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Contract Number	Contract_Name	Contract_Date	Contract_Subject	Department
5062C	AMCI, AUTOMOTIVE MARKETING CONSULTANTS INC.	2008-8-1 12:00 AM	LICENSE AGREEMENT AMENDMENT TO EXPIRATION DATE FOR SERVICE COMPONENT ONLY, GREAT PARK PREVIEW PARK VISITOR MANAGER SERVICES	ORANGE COUNTY GREAT PARK
5999	CALIFORNIA STATE UNIVERSITY, FULLERTON	2008-8-20 12:00 AM	EL TORO MARINE AIR STATION WORLD WAR II / KOREAN WAR ORAL HISTORY (ICLASS AND PROJECT PHASE II	ORANGE COUNTY GREAT PARK
6788	THE SECOND HARVEST FOODBANK OF ORANGE COUNTY	2008-8-23 12:00 AM		ORANGE COUNTY GREAT
5984	AMCE, AUTOMOTIVE MARKETING CONSULTANTS INC.	2008-9-1 12:00 AM	MANAGEMENT SERVICES FOR GREAT PARK VISITIOR CENTER	ORANGE COUNTY GREAT
6109	COUNTY OF ORANGE, ORANGE COUNTY FLOOD CONTROL DISTRICT	2009-2-10 12:00 AM	COOPERATIVE AGREEMENT TRANSFERRING OWNERSHIP AND MAINTENANCE RESPONSIBILITIES FOR THE ALTON PARKWAY EXTENSION WITHIN CITY LIMITS	PUBLIC WORKS
6174	FLYING BULL, INC.	2009-4-27 12:00 AM	MANAGEMENT AND PRODUCTION CONSULTING SERVICES FOR PRIVATE RENTAL (PROGRAM AND OTHER SPECIAL EVENTS AND PROGRAMS	ORANGE COUNTY GREAT PARK
6459	THE IRVINE COMPANY, LLC; IRVINE COMMUNITY	2010-2-23 12:00 AM	<u> </u>	PUBLIC WORKS
6446	GILBERT & STEARNS, INC.	2010-5-16 12:00 AM	ORANGE COUNTY GREAT PARK WESTERN SECTOR PARK DEVELOPMENT	ORANGE COUNTY GREAT PARK
6712 6620	BELAIRE-WEST LANDSCAPE, INC. DEPARTMENT OF HOUSING AND URBAN	2010-6-22 12:00 AM 2010-5-19 12:00 AM	METRO LINK SHUTTLE STOP: CIP 378080 ASSIGNMENT AND ASSUMPTION AGREEMENT, FY 2009 EDL SPECIAL PROJECT NO.	ORANGE COUNTY GREAT ORANGE COUNTY GREAT
45620	OFANGE COUNTY FLOOD CONTROL DISTRICT, COUNTY OF ORANGE	2010-7-1 12:00 AM	JE OVER TO FUND NUTRIENT, FECAL COLFORM AND TOXICS TOTAL MAXIMUM PUBLIC WORKS DAILY LOAD (TMDL) STUDIES IN THE NEWPORT BAY WATERSHED THIRD LAMENIMENT AND FILL RESTATEMENT OF ACREEMENT	PUBLIC WORKS
6737	THE FOUNDATION FOR THE GREAT PARK DBA THE GREAT PARK CONSERVANCY	2010-7-20 12:00 AM	MASTER AGREEMENT BY AND BETWEEN THE CITY OF IRVINE, THE ORANGE COUNTY GREAT PARK CORPORATION AND THE GREAT PARK CONSERVANCY	ORANGE COUNTY GREAT PARK
6804	ICITY, IRVINE REDEVELOPMENT AGENCY, COUNTY OF ORANGE		1	PUBLIC WORKS
6785	LOS ANGELES ENGINEERING, INC.	2010-8-18 12:00 AM	ORANGE COUNTY GREAT PARK WESTERN SECTOR PARK DEVELOPMENT PLAN PHASE 1 - NORTH LAWN PROJECT: CIP 379090	ORANGE COUNTY GREAT PARK
6840	ORANGE COUNTY FARM BUREAU	2010-10-4 12:00 AM	-	ORANGE COUNTY GREAT PARK
6771	ORANGE COUNTY FLOOD CONTROL DISTRICT, IRVINE COMPANY, IRVINE LAND COMPANY	2010-10-5 12:00 AM	AGREEMENT DOB-107, NATURAL RIVER MANAGEMENT AGREEMENT II: SAN DIEGO CREEK (F05); VEEH (CANADA-F23) CREEK; VEEH (TRIBUTARY 1) CREEK; LAKE FOREST DRIVE AND BAKE PARKWAY	PUBLIC WORKS
6320	HERITAGE FIELDS EL TORO, LLC	2010-12-27 12:00 AM		COMMUNITY DEVELOPMENT
6896	ORO, LLC; GREAT PAR ENCY; RDA	K, IRVINE 2010-12-27 12:00 AM	10 L 05	DEVELOPMENT
6893	HERITAGE FIELDS LLC	2010-12-27 12:00 AM		COMMUNITY DEVELOPMENT
6897	HERITAGE FIELDS LLC	2010-12-27 12:00 AM	DECLARATION OF TERMINATION OF DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND GRANT OF EASEMENTS FOR THE IRVINE GREAT PARK; ALSO SEE AGREEMENTS 6896 AND 6320	ORANGE COUNTY GREAT PARK

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Number	Contract_Name	Contract_Date	Contract_Subject	Department
6895	HERITAGE FIELDS LLC	2010-12-27 12:00 AM	CONFIRMATION AND CLARIFICATION OF CERTAIN PROVISIONS UNDER AMENDED O AND RESTATED DEVELOPMENT AGREEMENT AND AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT IN VIEW OF EVENTS OCCURRING SINCE ORIGINAL APPROVAL, ALSO SEE AGREEMENTS 8806 AND 6320	COMMUNITY
6894	HERITAGE FIELDS LLC	2010-12-27 12:00 AM		DEVELOPMENT
6917	IRVINE REDEVELOPMENT AGENCY	2011-2-8 12:00 AM	FUNDING AGREEMENT PERTAINING TO THE FUNDING OF THE CONSTRUCTION OF CERTAIN PUBLICLY OWNED IMPROVEMENTS WITHIN OR PRIMARILY BENEFITTING F THE ORANGE COUNTY GREAT PARK REDEVELOPMENT PROJECT AREA	ORANGE COUNTY GREAT PARK
6952	AVICON, INC. DBA CA CONSTRUCTION	2011-3-7 12:00 AM	ORANGE COUNTY GREAT PARK WESTERN SECTOR PARK DEVELOPMENT PLAN ((PHASE I) - HANGAR 244 REHABILITATION, CIP 373031, 10-2593, B-09-SP-CA-0359 F	ORANGE COUNTY GREAT PARK
6948	IRVINE RÉDEVELOPMENT AGENCY	2011-3-8 12:00 AM	FUNDING AGREEMENT BY AND BETWEEN THE IRVINE REDEVELOPMENT AGENCY I AND THE CITY OF IRVINE PERTAINING TO THE FUNDING OF THE CONSTRUCTION IF OR REHABILITATION OF CERTAIN PUBLICLY OWNED BUILDINGS WITHIN THE ORANGE COUNTY GREAT PARK REDEVELOPMENT PROJECTAREA	ORANGE COUNTY CREAT PARK
7114	LOS ANGELES ENGINEERING, INC; LA ENGINEERING	2011-9-8 12:00 AM		ORANGE COUNTY GREAT PARK
7224	HERITAGE FIELDS EL TORO	2011-9-13 12:00 AM	π.	COMMUNITY DEVELOPMENT
7092	HERITAGE FIELDS EL TORO, LLC	2011-9-13 12:00 AM	LETTER OF INTENT - FULLY EXECUTED TO ALSO BE KNOWN AS CONTRACT [5:084; REFERENCE CONTRACT 7077]	ORANGE COUNTY GREAT PARK
2202	HERITAGE FIELDS EL TORO, LLC	2011-9-13 12:00 AM	CTS	ORANGE COUNTY GREAT PARK
6298A	HERITAGE FIELDS EL TORO, LLC	2011-9-13 12:00 AM		COMMUNITY DEVELOPMENT
7120	HERITAGE FIELDS EL TORO, LLC	2011-10-28 12:00 AM		DEVELOPMENT
7121	HERITAGE FIELDS EL TORO, LLC	2011-10-28 12:00 AM	SPECIFIC 7225, 7092,	DEVELOPMENT
7225	HERITAGE FIELDS EL TORO, LLC	2011-11-10 12:00 AM	RSUANT TO 238, 1237, 1235;	CITY MANAGER
6791A	HERITAGE FIELDS - BUILDING 873	2012-7-30 12:00 AM	THE TERM OF THE OFFICE LEASE	ORANGE COUNTY GREAT
5611B	LENNAR HOMES OF CALIFORNIA INC.; HERITAGE FIELDS, LLC	2012-8-22 12:00 AM		ORANGE COUNTY GREAT PARK
7520	ORANGE COUNTY HARVEST, IRVINE RANCH CONSERVANCY, BRANDMAN UNNERSITY, FARMER- VETERAN COALITION, ORANGE COUNTY PRODUCE	2012-9-7 12:00 AM	VETERANS' AGRICULTURAL LEARNING - OPPORTUNITIES & RESOURCES (VALOR PROGRAM)	ORANGE COUNTY GREAT PARK
7464	ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA)	2013-1-21 12:00 AM	MOU NO. C.2-1582 TO AMEND THE MASTER PLAN OF ARTERIAL HIGHWAYS MAP	PUBLIC WORKS
7667	HERITAGE FIELDS EL TORO, LLC	2013-3-26 12:00 AM	ACQUISITION AGREEMENT ON BEHALF OF ITSELF AND ON BEHALF OF CITY OF IRVINE COMMUNITY FACILITIES DISTRICT NO. 2013-3 (GREAT PARIO	ADMINISTRATIVE SERVICES
			-	

				GREAT	GREAT
Department	ADMINISTRATIVE SERVICES	ADMINISTRATIVE SERVICES	PUBLIC WORKS	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK
			Γ		
	ACILITIES	FORMATION ADVANCE TO PAY COSTS FOR THE FORMATION OF THE COMMUNITY FACILITIES DISTRICT AND TO PAY CERTAIN COSTS AND EXPENSES RELATED TO PROCEEDINGS FOR THE ISSUANCE OF NON-SUBORDINATE BONDS	REEMENT	AMENDMENT TO EXTEND TERM OF CONTRACT AND SECTION 8 OF THE BASIC TTERMS OF LEASE	PARK ARTIS
	PROTOCOL AGREEMENT FOR THE CITY OF IRVINE COMMUNITY FACILITIES DISTRICT NO. 2013.3 (GREAT PARK)	MATION OF UND EXPENS DINATE BON	IN PLAN AGE	SECTION 8 (THE GREAT
Contract_Subject	OF IRVINE C	OR THE FOR AIN COSTS A VON-SUBORI	E ALLOCATIC	TRACT AND	S DEPOT AT
Contract	RTHE CITY (PARK)	Y COSTS FOR PAY CERT	ID NITM FEE	RM OF CON	HE MAKERS
	EMENT FOF 3-3 (GREAT	NCE TO PA ICT AND TO DR THE ISSU	CREDIT AN	EXTEND TEI	OPERATET
	PROTOCOL AGREEMENT FOR THE C DISTRICT NO. 2013-3 (GREAT PARK)	ATTON ADVI TTIES DISTR SEEDINGS FO	AND 51 FEE	IDMENT TO	STALL AND
		[[
Contract_Date	2013-3-26 12:00 AM	2013-3-26 12:00 AM	2013-5-21 12:00 AM	2013-6-30 12:00 AM	2013-7-8 12:00 AM
	2013	2013	2013	2013	2013
Contract_Name	ko, LLC	0, LLC	JTTC		
Contr	LDS EL TOR	LDS EL TOR	LDS BL TOR	NS, LLC	DEPOT
	HERITAGE FIELDS EL TORO, LLC	HERITAGE FIELDS EL TORO, LLC	HERITAGE FIELDS EL TORO, LLC	EL TORO FARMS, LLC	THE MAKERS DEPOT
Contract Number		7669 HE	7714 HE	Ŧ	8022 TH

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Deed_Number	Deed_Type	Grantor	Deed_Date	Deed_Locations	Deed_Purpose	Deed_Entry_Date
1105	Ţ	ORANGE COUNTY FLOOD CONTROL DISTRICT	2007-5-10 12:00 AM	MARSHBURN CHANNEL, MARSHBURN RETARDING BASIN, RECEWAY STORM DRAIN, PLANNING AREASA 40 AND 51		2007-6-6 12:00 AM
1185	GIFT	UNITED STATES AVIATION INSURANCE GROUP (USAIG)	2008-2-20 12:00 AM	· ·	DONATION OF AIRCRAFT, APV-1 VENTURA, N234P SN/N 5336	2009-8-14 12:00 AM
1239	GRANT	HERITAGE FIELDS EL TORO LLC	· • •	LIFOC PARCELS I-D, CORRECTIVE PORTION OF II-K, GRANT DEED PORTION OF II-N, II- 0, PORTION OF III-B	GRANT DEED	2012-5-15 12:00 AM
1240	GRANT	CITY OF IRVINE		LĂND SWAP PARCELS H-3, H-4 AND H-5	GRANT DEED LAND 2012-5-15 12:00 AM SWAP PARCELS H-3, H-4 AND H-5	2012-5-15 12:00 AM

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Lessee	Lessor	Department	Contract Number	Description	Effective Date
CITY OF IRVINE	LENNAR PROPERTY CORPORATION, ORANGE COUNTY GREAT PARK; OCGP; HERITAGE FIELDS		5059	HERITAGE FIELDS/ MULTI TENANT LEASE HERITAGE FIELDS; BUILDING # 83; MONTH TO MONTH EFFECTIVE 09/01/05	2005-7-29 12:00 AM
ORANGE COUNTY FIRE AUTHORITY; OCFA	CITY OF IRVINE		5061	LICENSE AGREEMENT FOR USE OF BUILDING 244 FOR ORANGE COUNTY FIRE AUTHORITY (OCFA) FIRE STATION 52 AT THE ORANGE COUNTY GREAT PARK	2005-11-15 12:00 AM
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5063	RECREATIONAL VEHICLE (RV) STORAGE AND BUILDINGS LEASE	2005-8-5 12:00 AM
EL TORO FARMS	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5064	FARMING LEASE AT FORMER MCAS, EL TORO	2005-7-13 12:00 AM
CITY OF IRVINE	LENNAR HOMES OF CALIFORNIA, INCORPORATED; HERITAGE FIELDS, LIMITED LIABILITY COMPANY		5167	SINGLE TENANT LEASE; IRVINE POLICE DEPARTMENT; ORANGE COUNTY GREAT PARK	2005-7-12 12:00 AM
CITY OF IRVINE	HERITAGE FIELDS EL TORO, LLC; IRVINE REDEVELOPMENT AGENCY		5203	MULTI-TENANT LEASE (HERITAGE FIELDS; BUILDING 873); ORANGE COUNTY GREAT PARK	2006-4-10 12:00 AM
TIERRA VERDE INDUSTRIES	CITY OF IRVINE	QRANGE COUNTY GREAT PARK	5247	GREEN WASTE AND C & D (CONSTRUCTION AND DEMOLITION) RECYCLING OPERATIONS AT THE ORANGE COUNTY GREAT PARK	2006-5-8 12:00 AM
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5275	LEASE AGREEMENT WITH OCGP FOR BUILDING #29	2006-1-1 12:00 AM

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Effective Date	2005-7-12 12:00 AM	2009-2-10 12:00 AM	2009-1-1 12:00 AM	2009-8-17 12:00 AM	2009-8-17 12:00 AM	2009-11-15 12:00 AM	2009-10-27 12:00 AM	2010-8-10 12:00 AM	8/10/2010	2010-7-26 12:00 AM
Description	LEASE IN FURTHERANCE OF CONVEYANCE; MCAS EL TORO; PARCEL 3	SUBLEASE AGREEMENT FOR AGRICULTURAL / HABITAT MITIGATION AND ALTON PARKWAY EXTENSION WITHIN EL TORO LIFOC PARCFI 2	OFFICE SPACE LEASE LOCATED ON SITE AT THE GREAT PARK, MARINE WAY, AND SAND CANYON	ON SITE TAKE OVER FROM LEASE #F1251F (BOVIS LEND LEASE)	ON SITE TAKE OVER FROM LEASE #F1244 (BOVIS LEND LEASE)	LICENSE AGREEMENT FOR OPERATION OF IRVINE FLYAWAY SERVICE BETWEEN LOS ANGELES WORLD AIRPORTS, CITY OF IRVINE, AND IRVINE REDEVELOPMENT AGENCY	SITE LEASE FOR KOOZA CIRQUE DU SOLEIL	LEASE AGREEMENT NO F001435R	LEASE AGREEMENT NO F01300R1	REVENUE LEASE AGREEMENT; GREAT PARK FARMING LEASE/SUBLEASE; 114.2 ACRES
Contract Number	5475	6110	6151	6287	6288	6300	6336	6757	6758	6762
Department	ORANGE COUNTY GREAT PARK	PUBLIC WORKS	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK	PUBLIC WORKS	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK
Lessor	UNITED STATES OF AMERICA DEPARTMENT OF NAVY; HERITAGE FIELDS EL TORO	CITY OF IRVINE	CITY OF IRVINE	DESIGN SPACE MODULAR BUILDINGS	DESIGN SPACE MODULAR ORANGE COUNTY BUILDINGS GREAT PARK	CITY OF IRVINE	CITY OF IRVINE	DESIGN SPACE MODULAR BUILDINGS	DESIGN SPACE MODULAR BUILDINGS	CITY OF IRVINE
Lessee	CITY OF IRVINE UNITED STATES AMERICA DEPAR OF NAVY; HERIT/ FIELDS EL TORO	COUNTY OF ORANGE	MORENO VALLEY LANDSCAPE & IRRIGATION	CITY OF IRVINE	CITY OF IRVINE	THE CITY OF LOS ANGELES, LOS ANGELES WORLD AIRPORTS, LAWA	CIRQUE DU SOLEIL AMERICA, INC.	CITY OF IRVINE	CITY OF IRVINE	ORANGE COUNTY PRODUCE

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Effective Date	2006-4-10 12:00 AM	2010-8-17 12:00 AM	8/9/2011	2011-9-15 12:00 AM	2011-9-15 12:00 AM	2011-9-1 12:00 AM	2011-11-10 12:00 AM
Description	MULTI-TENANT LEASE; HERITAGE FIELDS; BUILDING 873	RECIPROCAL LICENSE AGREEMENT; ALSO SEE AMENDED AND RESTATED DEVELOPMENT AGREEMENT 6898 AND AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT 6320	LEASE AGREEMENT NO. F01571R	AGREEMENT INTERIM PLAN; REFERENCE CT 7077	LICENSE AGREEMENT; REFERENCE CONTRACT 7077	REVOCABLE LICENSE AGREEMENT FOR NON- FEDERAL USE OF REAL PROPERTY	NORTHERN ARDA TRANSFER SITE; AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT AND AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT; TRANSFER SITE; PORTION NOT SUBJECT TO LIFOC
Contract Number	6791	6898	7032	7083	7087	7105	7117
Department	ORANGE COUNTY GREAT PARK	DEVELOPMENT	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK	CITY MANAGER
Lessor		COUNTY OR ORANGE; HREITAGE FIELDS EL TORO, LLC	MODULAR			FEDERAL AVIATION ADMINSTRATION; FAA	HERITAGE FIELDS EL TORO, LLC
Lessee	CITY OF IRVINE	CITY OF IRVINE	CITY OF IRVINE	HERITAGE FIELDS EL CITY OF IRVINE TORO, LLC	HERITAGE FIELDS EL CITY OF IRVINE TORO, LLC	CITY OF IRVINE	CITY OF IRVINE

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Lessee	Lessor	Department	Contract Number	Description	Effective Date
CITY OF IRVINE	HERITAGE FIELDS EL TORO, LLC	CITY MANAGER	7118	NORTHERN ARDA TRANSFER SITE; PORTION SUBJECT TO LIFOC; AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT AND AMENDED AND RESTATED DEVELOPMENT AGREEMENT	2011-11-10 12:00 AM
CITY OF IRVINE	HERITAGE FIELDS EL TORO, LLC	CITY MANAGER	7119	PORTION OF LOT 68 SUBJECT TO LIFOC; AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT; AMENDED AND RESTATED DEVELOPMENT AGREEMENT	2011-11-10 12:00 AM
IRVINE RANCH WATER DISTRICT	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	7124	INSTALLATION OF A WEATHER STATION	2011-7-1 12:00 AM
HERITAGE FIELDS EL CITY OF IRVINE TORO, LLC	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	7149	SHUTTLE BUS WORK & ACCESS 2011-12-20 12:00 AM	2011-12-20 12:00 AM
GARY MATSUOKA AND NANCY MATSUOKA	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	7230	ORANGE COUNTY GREAT PARK 2012-3-15 12:00 AM SUB-LEASE	2012-3-15 12:00 AM
BACKYARD BEES, LLC	CITY OF IRVINE		7231	ORANGE COUNTY GREAT PARK 2012-3-15 12:00 AM SUB-LEASE	2012-3-15 12:00 AM
OMEGA GLOBAL ALLIANCE, INC. DBA F3 - FOOD AND FUEL OF THE FUTURE	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	7232	ORANGE COUNTY GREAT PARK 2011-9-1 12:00 AM SUB-LEASE	2011-9-1 12:00 AM
SOUTHERN CALIFORNIA EDISON; SCE	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	7244	7518 SQUARE FEET OF LAND FOR ZERO NET ENERGY HOME, ABC GREEN HOME	2012-5-1 12:00 AM
	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	, 7730	TEMPORARY INSTALLATION OF A COMMUNICATIONS FACILITY FOR THE SOLAR DECATHLON	2013-8-1 12:00 AM

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Lessee	Lessor	Department	Contract Number	Description	Effective Date
AMCI MARKETING COMPANY	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5062A	LICENSE AGREEMENT FOR AMENDMENT TO INCLUDE OPERATION OF GREAT PARK BALLOON VISITOR CENTER; LICENSE AGREEMENT FOR AUTOMOTIVE MARKETING, TEST DRIVING AND NON- AUTOMOTIVE EVENTS AT THE ORANGE COUNTY GREAT PARK	2007-6-15 12:00 AM
AMCI, AUTOMOTIVE MARKETING CONSULTANT, INC	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5062B	LICENSE AGREEMENT AMENDMENT TO EXPIRATION DATE, SPECIAL PROVISION, AND BUDGET SECTION OF CONTRACT	6/30/2008
AMCI: AUTOMOTIVE MARKETING CONSULTANTS INC.	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5062C	LICENSE AGREEMENT AMENDMENT FOR GREAT PARK PREVIEW PARK VISITOR MANAGER SERVICES	2008-8-1 12:00 AM
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5063A	RECREATIONAL VEHICLE (RV) STORAGE AND BUILDINGS LEASE	12/12/2005
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5063B	RECREATIONAL VEHICLE (RV) STORAGE AND BUILDINGS LEASE	6/1/2006
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5063C	RECREATIONAL VEHICLE (RV) STORAGE AND BUILDINGS LEASE	2007-7-1 12:00 AM
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5063D	RECREATIONAL VEHICLE (RV) STORAGE AND BUILDINGS LEASE	2007-10-1 12:00 AM
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5063E	RECREATIONAL VEHICLE (RV) STORAGE AND BUILDINGS LEASE	2008-2-1 12:00 AM

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Lessee	Lessor	Department	Contract	Description	Effective Date
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5063F	RECREATIONAL VEHICLE (RV) STORAGE AND BUILDINGS	2009-1-28 12:00 AM
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5063G	RECREATIONAL VEHICLE (RV) STORAGE AND BUILDINGS	3/30/2010
EL TORO FARMS	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5064A	AMENDMENT TO FARMING LEASE AT FORMER MCAS, EL TORO	2006-1-25 12:00 AM
EL TORO FARMS	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5064B	AMENDMENT TO FARMING LEASE AT FORMER MCAS, EL TORO	7/1/2007
EL TORO FARMS	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5064C	AMENDMENT TO FARMING LEASE AT FORMER MCAS, EL TORO	2008-7-1 12:00 AM
EL TORO FARMS	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5064D	AMENDMENT TO FARMING LEASE AT FORMER MCAS, EL TORO	2009-7-1 12:00 AM
EL TORO FARMS	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5064E	AMENDMENT TO FARMING LEASE AT FORMER MCAS, EL TORO, EXPIRATION DATE, TERMS AND PREMISES; 24 ACRE PARCEL AND 11.4 ACRE PARCEL; 35.4 ACRES OF STRAWBERRIES	2010-6-30 12:00 AM
EL TORO FARMS, LLC CITY OF IRVINE	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5064F	AMENDMENT TO FARMING LEASE AT FORMER MCAS, EL TORO	2011-7-1 12:00 AM
TIERRA VERDE INDUSTRIES	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5247A	AMENDED AND RESTATED LEASE AGREEMENT	2010-5-12 12:00 AM
ALL STAR SERVICES CORPORATION	CITY OF IRVINE	ORANGE COUNTY GREAT PARK	5275A	AMENDMENT TO TERM OF ORIGINAL CONTRACT	4/29/2008

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Lessee	Lessor	Department	Contract Number	Description	Effective Date
CITY OF IRVINE	UNITED STATES OF AMERICA DEPARTMENT OF NAVY; HERITAGE FIELDS EL TORO	ORANGE COUNTY GREAT PARK	5475A	MODIFY MAP AND LEGAL DESCRIPTION DESCRIBING THE PREMISES UNDER THE LEASE IN FURTHERANCE OF CONVEYANCE FOR MCAS EL TORO PARCFI 3	2007-3-15 12:00 AM
CITY OF IRVINE	UNITED STATES OF AMERICA DEPARTMENT OF NAVY	ORANGE COUNTY GREAT PARK	5475B	MODIFICATION 1 TO CORRECT THE MAP AND LEGAL DESCRIPTION DESCRIBING THE LEASED PREMISES FOR MCAS EL TORO PARCEL 3	2013-7-16 12:00 AM
EL TORO FARMS	CITY OF IRVINE	COMMUNITY DEVELOPMENT	5756A	FARMING LEASE AT FORMER MCAS, EL TORO; APPROVED BY REDEVELOPMENT AGENCY 07/22/2008, ITEM 2.1; 19.23 ACRES	2008-7-22 12:00 AM
EL TORO FARMS	CITY OF IRVINE	COMMUNITY DEVELOPMENT	5756B	FARMING LEASE AT FORMER MCAS, EL TORO; APPROVED BY REDEVELOPMENT AGENCY 08/11/2009, ITEM 3.1; 19.23 ACRES	2009-7-1 12:00 AM
CITY OF IRVINE	DESIGN SPACE MODULAR BUILDINGS	ORANGE COUNTY GREAT PARK	6288A	AMENDMENT TO MONTHLY CHARGES	2009-8-17 12:00 AM
CITY OF IRVINE	DESIGN SPACE MODULAR BUILDINGS	ORANGE COUNTY GREAT PARK	6757A	<u>ON SITE TAKEOVER FROM</u> LEASE #F1244 (BOVIS LEND LEASE)	2011-7-1 12:00 AM
CITY OF IRVINE		ORANGE COUNTY GREAT PARK	6757B	AMENDMENT TO LEASE AGREEMENT NO. F001435R-2	7/1/2012
CITY OF IRVINE	MODULAR	ORANGE COUNTY GREAT PARK		AMENDMENT TO LEASE AGREEMENT NO. F001435R	2013-7-1 12:00 AM
OKANGE COUNTY PRODUCE	CITY OF IRVINE		6762A	AMENDMENT NO. 1 TO REVENUE LEASE AGREEMENT	2012-1-10 12:00 AM

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Effective Date		2013-7-1 12:00 AM	
Description	AMENDMENT TO LEASE AGREEMENT NO. F01571R EXPIRATION DATE	AMENDMENT TO LEASE F1571 R1	
Contract Number		7032B	
Department	ORANGE COUNTY GREAT PARK	ORANGE COUNTY GREAT PARK	
Lessor	DESIGN SPACE MODULAR 0	DESIGN SPACE MODULAR O BUILDINGS	
Lessee	CITY OF IRVINE	CITY OF IRVINE	

EXECUTION COPY

SCHEDULE 6(F)

Existing Encumbrances on Wildlife Corridor Exchange Properties

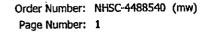
SCHEDULE 6(F)

PART 1: Permitted Encumbrances on Property Going to City of Irvine

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CLTA Preliminary Report Form

(Rev. 11/06)



First American Title

First American Title Company

1250 Corona Pointe Court, Ste 201 Corona, CA 92879

Jennifer Bohen Heritage Fields El Toro 25 Enterprise Aliso Viejo, CA 92656

Customer Reference: Order Number:

Title Officer:

Phone: Fax No.: E-Mail:

Buyer:

Property:

Wildlife Corridor to City/8145 NHSC-4488540-A (mw)

Mark Wardle (951)256-5830

MWardle@firstam.com

Irvine, CA

PRELIMINARY REPORT

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Echibit A attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount of a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of September 05, 2013 at 7:30 A.M.

The form of Policy of title insurance contemplated by this report is:

To Be Determined

A specific request should be made if another form or additional coverage is desired.

Title to said estate or interest at the date hereof is vested in:

Heritage Fields El Toro, LLC, a Delaware Limited Liability Company

The estate or interest in the land hereinafter described or referred to covered by this Report is:

A fee.

The Land referred to herein is described as follows:

(See attached Legal Description)

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

General and special taxes and assessments for the fiscal year 2013-2014, a lien not yet due or payable.

1.

General and special taxes	and assessments for the fiscal year 2012-2013.
First Installment:	\$0.00, NO TAX DUE
Penalty:	\$0.00
Second Installment:	\$0.00, NO TAX DUE
Penalty:	\$0.00
Tax Rate Area:	26-185
A. P. No.:	591-131-23

Affects: A portion of the land

Real property taxes are currently assessed under the State Board of Equalization Public Utility 3. Tax Roll; Code Area No. 804-30-15F-POR. 20 . Which includes this and other property; for full particulars, please contact the State Board of Equalization Property Tax Validation Division, Telephone Number (916) 322-2323. Additional information to follow upon request.

Affects: APN: 591-071-12

 The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.

 The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for Community Facilities District 2013-3 (Great Park), as disclosed by Notice of Special Tax Lien recorded April 04, 2013 as Instrument No. 2013000203337 of Official Records.

 The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for Community Facilities District 2013-3 (Great Park), as disclosed by Notice of Special Tax Lien recorded April 04, 2013 as Instrument No. 2013000203338 of Official Records.

7.

8.

- EASEMENT FOR SANITARY SEWER, STORM DRAINS, PIPELINES, PUBLIC UTILITIES IN FAVOR OF THE CITY OF IRVINE, AS SET FORTH IN THAT CERTAIN GRANT OF ROAD EASEMENTS (RELOCATED TRABUCO ROAD AND NEW ROAD) RECORDED JULY 1, 1944 IN BOOK 1263 PAGE 136, RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, RECORDED JANUARY 6, 1960 IN BOOK 5050 PAGE 577, THAT CERTAIN RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, RECORDED JANUARY 7, 1985 AS INSTRUMENT NO. 85-005008, THAT CERTAIN CERTIFICATE OF COMPLETION RECORDED JANUARY 14, 2004 AS INSTRUMENT NO. 2004000030076, AND THAT CERTAIN FINAL JUDGMENT AND DECREE IN CONDEMNATION, RECORDED JUNE 19, 2007 AS INSTRUMENT NO. 2007-000389564, ALL OF OFFICIAL RECORDS.
- RIGHTS OF WAY FOR GUNITE CANAL, CANAL ACCESS AND WATER TRANSPORTATION AS DISCLOSED BY THE FINAL JUDGMENT AND DECREE OF CONDEMNATION RENDERED IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION IN AN ACTION ENTITLED UNITED STATES OF AMERICA, PLAINTIFF VS. 2318,833 ACRES OF LAND, AND OTHERS, DEFENDANTS CASE NO. 2504-Y CIVIL, UPON THE TERMS AND CONDITIONS CONTAINED THEREIN, A CERTIFIED COPY OF WHICH DECREE WAS RECORDED JULY 12, 1944 IN BOOK 1264 PAGE 154 AND RECORDED NOVEMBER 3, 1949 IN BOOK 1923 PAGE 151, BOTH OF OFFICIAL RECORDS.
- ROAD, UTILITY AND DRAINAGE EASEMENTS AS SET OUT AND DELINEATED UPON EXHIBIT "B", ATTACHED TO AND MADE A PART OF THE DEED FROM THE IRVINE COMPANY TO THE UNITED STATES OF AMERICA, RECORDED JULY 29, 1976 IN BOOK 11831, PAGE 1062 OF OFFICIAL RECORDS, ORANGE COUNTY.

BY DEED DATED MAY 9, 1978, RECORDED MAY 17, 1978 IN BOOK 12678 PAGE 1089 AND BY DEED DATED FEBRUARY 11, 1983, RECORDED FEBRUARY 23, 1983 AS DOCUMENT NO. 83-081517, BOTH IN OFFICIAL RECORDS, ORANGE COUNTY, THE UNITED STATES OF AMERICA GRANTED TO THE IRVINE COMPANY SUCH EASEMENTS DEFINED IN SAID DEEDS AS "AN EASEMENT AND RIGHT OF WAY FOR THE CONSTRUCTION RECONSTRUCTION OPERATION, MAINTENANCE REPAIR AND USE OF ROADS, UTILITIES AND DRAINS, TOGETHER WITH THE RIGHT TO ASSIGN, GRANT OR TRANSFER THE SAME" ETC.

THE GRANTOR THEREIN RESERVES THE RIGHT TO USE SAID LAND FOR ANY PURPOSE WHATSOEVER RESPECTING GRANTEES RIGHTS.

BY DEEDS RECORDED JUNE 30, 1978 IN BOOK 12739 PAGE 1708; AUGUST 25, 1978 IN BOOK 12816 PAGE 1176; SEPTEMBER 18, 1978 IN BOOK 12844, PAGE 927; AND MARCH 23, 1983 AS INSTRUMENT NO. 83-0123328, ALL OF OFFICIAL RECORDS, THE IRVINE COMPANY GRANTED

TO THE IRVINE RANCH WATER DISTRICT EASEMENTS FOR WATER AND SEWER FACILITIES AND WATER TRANSMISSION PURPOSES, WITHIN THOSE EASEMENTS AS DESCRIBED IN THE ABOVE-MENTIONED DEED FROM THE UNITED STATES OF AMERICA.

A QUITCLAIM DEED DATED FEBRUARY 10, 1983, RECORDED FEBRUARY 23, 1983 AS DOCUMENT NO. 83-081516 IN OFFICIAL RECORDS, FROM THE IRVINE COMPANY TO THE UNITED STATES OF AMERICA (DEPARTMENT OF THE NAVY), RECITES THAT IT IS FOR THE PURPOSE OF ELIMINATING EASEMENT RIGHTS ONLY SHOWN IN DEED RECORDED MAY 17, 1978 IN BOOK 12678, PAGE 1089 AND FOLLOWING OF OFFICIAL RECORDS, ORANGE COUNTY.

THE REMAINING INTEREST OF THE IRVINE COMPANY HAS SINCE PASSED TO THE CITY OF IRVINE, PURSUANT TO QUITCLAIM DEED RECORDED JUNE 28, 1994 AS INSTRUMENT NO. 94-0425499 OF OFFICIAL RECORDS.

10. EASEMENTS FOR ROADS AND UTILITIES AND INCIDENTS THERETO, AS RESERVED BY THE, IRVINE COMPANY, A CORPORATION AND AS SET OUT ON A MAP ATTACHED TO A DEED, RECORDED JULY 29, 1976 IN BOOK 11831, PAGE 1053 OF OFFICIAL RECORDS AND AS DESCRIBED IN THE DEED FROM THE UNITED STATES OF AMERICA TO THE IRVINE COMPANY, RECORDED MAY 17, 1978 IN BOOK 12678 PAGE 1099 OF OFFICIAL RECORDS.

NOTE: THE INTEREST OF THE IRVINE COMPANY HAS SINCE PASSED TO THE CITY OF IRVINE, PURSUANT TO A QUITCLAIM DEED RECORDED JUNE 28, 1994 AS INSTRUMENT NO. 94-0425499 OF OFFICIAL RECORDS.

11. A temporary easement for ingress, egress and incidental purposes, recorded February 03, 1977 as Book 12057, Page 1898 of Official Records.

In Favor of:	Irvine Ranch Water District
Affects:	A portion of the land lying within Parcel Map No. 84-629

12. An easement for slopes and incidental purposes, recorded May 21, 1980 as Book 13613, Page 331 of Official Records. In Favor of: The Irvine Company

A portion of the land

Said easement was assigned to Ordisco, Inc., a California corporation by document recorded September 7, 1982 as Instrument No. 1982-314175 of Official Records.

 An easement for irrigation lines and incidental purposes, recorded May 21, 1980 as Book 13613, Page 335 of Official Records.
 In Favor of: The Irvine Company

The Irvine Company
A portion of the land

14.

Affects:

Affects:

An easement for storm drain and incidental purposes, recorded May 21, 1980 as Book 13613, Page 340 of Official Records.
 In Favor of: The Irvine Company
 Affects: A portion of the land

Said easement was assigned to Ordisco, Inc., a California corporation by document recorded September 7, 1982 as Instrument No. 1982-314174 of Official Records.

- An easement shown or dedicated on Parcel Map 84-629 filed or recorded October 18, 1985 as Book 205, Pages 1 through 10, inclusive, of Parcel Maps.
 For: water lines and incidental purposes.
 - Affects: A portion of the land
- 16. An easement shown or dedicated on Parcel Map 84-629 filed or recorded October 18, 1985 as Book 205, Pages 1 through 10, inclusive, of Parcel Maps. For: public utilities and incidental purposes.

Affects: A portion of the land

- 17. Intentionally Deleted
- 18. AN UNRECORDED EASEMENT DATED AUGUST 24, 1979 FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN A DOCUMENT.

IN FAVOR OF: THE ORANGE COUNTY FLOOD CONTROL DISTRICT PURPOSE: STORM DRAIN AFFECTS: THAT PORTION OF SAID LAND LYING WITHIN THE OLD BORREGO CANYON CHANNEL

NOTE: NAVY DOCUMENT CONTROL NO. N6247479RP00P94

- 19. THE TERMS, PROVISIONS, COVENANTS, CONDITIONS AND RESTRICTIONS IN THE QUITCLAIM DEED FROM THE UNITED STATES OF AMERICA ACTING THROUGH THE DEPARTMENT OF THE NAVY RECORDED JULY 12, 2005 AS INSTRUMENT NO. 2005-0536290, APRIL 17, 2009 AS INSTRUMENT NO. 2009000191012 AND MAY 10, 2010 AS INSTRUMENT NO. 2010000218746, ALL OF OFFICIAL RECORDS.
- 20. EASEMENTS AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSE STATED HEREIN, AND INCIDENTAL PURPOSES.

IN FAVOR OF: THE UNITED STATES OF AMERICA, ORANGE COUNTY WATER DISTRICT AND IRVINE RANCH WATER DISTRICT

FOR: INGRESS, EGRESS AND UTILITIES

RECORDED JULY 12, 2005 AS INSTRUMENT NO. 2005-0536290, APRIL 17, 2009 AS INSTRUMENT NO. 2009000191012 AND MAY 10, 2010 AS INSTRUMENT NO. 2010000218746, ALL OF OFFICIAL RECORDS.

AFFECTS: AN UNDETERMINED PORTION OF SAID LAND

- 21. Intentionally Deleted
- 22. TERMS, PROVISIONS, AND CONDITIONS CONTAINED IN AN INSTRUMENT ENTITLED "AMENDED AND RESTATED DEVELOPMENT AGREEMENT", EXECUTED BY AND BETWEEN THE CITY OF IRVINE AND THE REDEVELOPMENT AGENCY AND HERITAGE FIELDS EL TORO, LLC, RECORDED DECEMBER 27, 2010 AS INSTRUMENT NO. 2010000700065 OF OFFICIAL RECORDS.

- 23. Intentionally Deleted
- 24. Intentionally Deleted
- 25. THE FACT THAT SAID LAND IS INCLUDED WITHIN A PROJECT AREA OF THE REDEVELOPMENT AGENCY SHOWN BELOW, AND THAT PROCEEDINGS FOR THE REDEVELOPMENT OF SAID PROJECT HAVE BEEN INSTITUTED UNDER THE REDEVELOPMENT LAW (SUCH REDEVELOPMENT TO PROCEED ONLY AFTER THE ADOPTION OF THE REDEVELOPMENT PLAN) AS DISCLOSED BY A DOCUMENT.

REDEVELOPMENT AGENCY: GREAT PARK REDEVELOPMENT PROJECT AREA RECORDED: MARCH 31, 2005 AS INSTRUMENT NO. 2005000242692, OF OFFICIAL RECORDS, AND REVISED BY A DOCUMENT RECORDED JUNE 27, 2007 AS INSTRUMENT NO. 2007000407641 OF OFFICIAL RECORDS.

- 26. UNRECORDED LEASES, AFFECTING THE PREMISES HEREIN STATED, EXECUTED BY AND BETWEEN THE PARTIES NAMED HEREIN, FOR THE TERM AND UPON THE TERMS, COVENANTS AND CONDITIONS THEREIN PROVIDED. THE REQUIREMENT THAT A CERTIFIED RENT ROLL BE PROVIDED TO THIS COMPANY.
- 27. Intentionally Deleted
- 28. Intentionally Deleted
- 29. Water rights, claims or title to water, whether or not shown by the public records.
- 30. Rights of parties in possession.
- 31. The terms and provisions contained in the document entitled Grant Deed executed by and between Heritage Fields El Toro, LLC, a Delaware limited liability company and The City of Irvine, a California Charter City recorded Proforma in Book, Page of Deeds.

NOTICE: This is a pro-forma policy furnished to or on behalf of the party to be insured. It neither reflects the present status of title, nor is it intended to be a commitment to insure. The inclusion of endorsements as part of the pro-forma policy in no way evidences the willingness of the Company to provide any affirmative coverage shown therein.

There are requirements which must be met before a final policy can be issued in the same form as this pro-forma policy. A commitment to insure setting forth these requirements should be obtained from the Company.

Prior to the issuance of any policy of title insurance, the Company will require:

32. With respect to Heritage Fields El Toro, LLC, a Delaware limited liability company:

a. A copy of its operating agreement and any amendments thereto;

b. If it is a California limited liability company, that a certified copy of its articles of organization (LLC-1) and any certificate of correction (LLC-11), certificate of amendment (LLC-2), or restatement of articles of organization (LLC-10) be recorded in the public records:

c. If it is a foreign limited liability company, that a certified copy of its application for registration

SCHEDULE 6(F)

PART 2: Permitted Encumbrances on Property Going to Heritage Fields

CLTA Preliminary Report Form (Rev. 11/06)

Order Number: NHSC-4488539 (mw) Page Number: 1



First American Title

First American Title Company

1250 Corona Pointe Court, Ste 201 Corona, CA 92879

Jennifer Bohen Heritage Fields El Toro 25 Enterprise Allso Viejo, CA 92656

Customer Reference: Order Number:

Title Officer: Phone: Fax No.: E-Mail: Buyer: Property: Wildlife Corridor to Heritage/8144 NHSC-44885390-A (mw)

Mark Wardle (951)256-5830

MWardle@firstam.com

Irvine, CA

PRELIMINARY REPORT

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Exhibit A attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitration clause, all arbitration shall be arbitrated at the option of either the Company or the Insured as the exclusive remady of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of September 05, 2013 at 7:30 A.M.

The form of Policy of title insurance contemplated by this report is:

To Be Determined

A specific request should be made if another form or additional coverage is desired.

Title to said estate or interest at the date hereof is vested in:

The City of Irvine, a California Charter City

The estate or interest in the land hereinafter described or referred to covered by this Report Is:

A fee.

The Land referred to herein is described as follows:

(See attached Legal Description)

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

 General and special taxes and assessments for the fiscal year 2013-2014, a lien not yet due or payable.

2.

General and special taxes and assessments for the fiscal year 2012-2013.

First Installment: Penalty: Second Installment: Penalty: Tax Rate Area: A. P. No.:

\$0.00 \$0.00, NO TAX DUE \$0.00 26-251 580-081-83

\$0.00, NO TAX DUE

APN'S: 580-081-83, 591-071-03, 591-071-08, 591-073-16, 591-131-20, 591-131-21, 591-131-29, 591-131-30, 591-131-33, 591-131-36 and 591-131-41

Installment amounts shown above affect each of the above referenced Assessor Parcel Numbers.

Affects: The Land and other property

3.

Real property taxes are currently assessed under the State Board of Equalization Public Utility Tax Roll; Code Area No. 804-30-15J-24. Which includes this and other property; for full

particulars, please contact the State Board of Equalization Property Tax Validation Division, Telephone Number (916) 322-2323. Additional information to follow upon request.

Affects: APN: 591-071-05

The lien of supplemental taxes, If any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.

- The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for Community Facilities District 2013-3 (Great Park), as disclosed by Notice of Special Tax Lien recorded April 04, 2013 as Instrument No. 2013000203337 of Official Records.
- The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for Community Facilities District 2013-3 (Great Park), as disclosed by Notice of Special Tax Lien recorded April 04, 2013 as Instrument No. 2013000203338 of Official Records.
- 7. Intentionally Deleted

4

8. Intentionally Deleted

- 9. RIGHTS OF WAY FOR GUNITE CANAL, CANAL ACCESS AND WATER TRANSPORTATION AS DISCLOSED BY THE FINAL JUDGMENT AND DECREE OF CONDEMNATION RENDERED IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION IN AN ACTION ENTITLED UNITED STATES OF AMERICA, PLAINTIFF VS. 2318,833 ACRES OF LAND, AND OTHERS, DEFENDANTS CASE NO. 2504-Y CIVIL, UPON THE TERMS AND CONDITIONS CONTAINED THEREIN, A CERTIFIED COPY OF WHICH DECREE WAS RECORDED JULY 12, 1944 IN BOOK 1264 PAGE 154 AND RECORDED NOVEMBER 3, 1949 IN BOOK 1923 PAGE 151, BOTH OF OFFICIAL RECORDS.
- 10. RIGHTS OF WAY FOR ROAD AND INCIDENTAL PURPOSES WITHIN A 55 FOOT STRIP AS DISCLOSED BY THE FINAL JUDGMENT AND DECREE OF CONDEMNATION RENDERED IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION IN AN ACTION ENTITLED UNITED STATES OF AMERICA, PLAINTIFF VS. 2318,833 ACRES OF LAND, AND OTHERS, DEFENDANTS CASE NO. 2504-Y CIVIL, UPON THE TERMS AND CONDITIONS CONTAINED THEREIN, A CERTIFIED COPY OF WHICH DECREE WAS RECORDED JULY 12, 1944 IN BOOK 1264 PAGE 154 AND RECORDED NOVEMBER 3, 1949 IN BOOK 1923 PAGE 151, THAT CERTAIN GRANT OF ROAD EASEMENTS (RELOCATED TRABUCO ROAD AND NEW ROAD) RECORDED JULY 1, 1944 IN BOOK 1263 PAGE 136, AND THAT CERTAIN FINAL JUDGMENT AND DECREE IN CONDEMNATION, RECORDED JUNE 19, 2007 AS INSTRUMENT NO. 2007-000389564, ALL OF OFFICIAL RECORDS.
- 11. ROAD, UTILITY AND DRAINAGE EASEMENTS AS SET OUT AND DELINEATED UPON EXHIBIT "B", ATTACHED TO AND MADE A PART OF THE DEED FROM THE IRVINE COMPANY TO THE UNITED STATES OF AMERICA, RECORDED JULY 29, 1976 IN BOOK 11831, PAGE 1062 OF OFFICIAL RECORDS, ORANGE COUNTY.

BY DEED DATED MAY 9, 1978, RECORDED MAY 17, 1978 IN BOOK 12678 PAGE 1089 AND BY DEED DATED FEBRUARY 11, 1983, RECORDED FEBRUARY 23, 1983 AS DOCUMENT NO. 83-081517, BOTH IN OFFICIAL RECORDS, ORANGE COUNTY, THE UNITED STATES OF AMERICA

GRANTED TO THE IRVINE COMPANY SUCH EASEMENTS DEFINED IN SAID DEEDS AS "AN EASEMENT AND RIGHT OF WAY FOR THE CONSTRUCTION RECONSTRUCTION OPERATION, MAINTENANCE REPAIR AND USE OF ROADS, UTILITIES AND DRAINS, TOGETHER WITH THE RIGHT TO ASSIGN, GRANT OR TRANSFER THE SAME" ETC.

THE GRANTOR THEREIN RESERVES THE RIGHT TO USE SAID LAND FOR ANY PURPOSE WHATSOEVER RESPECTING GRANTEES RIGHTS.

BY DEEDS RECORDED JUNE 30, 1978 IN BOOK 12739 PAGE 1708; AUGUST 25, 1978 IN BOOK 12816 PAGE 1176; SEPTEMBER 18, 1978 IN BOOK 12844, PAGE 927; AND MARCH 23, 1983 AS INSTRUMENT NO. 83-0123328, ALL OF OFFICIAL RECORDS, THE IRVINE COMPANY GRANTED TO THE IRVINE RANCH WATER DISTRICT EASEMENTS FOR WATER AND SEWER FACILITIES AND WATER TRANSMISSION PURPOSES, WITHIN THOSE EASEMENTS AS DESCRIBED IN THE ABOVE-MENTIONED DEED FROM THE UNITED STATES OF AMERICA.

A QUITCLAIM DEED DATED FEBRUARY 10, 1983, RECORDED FEBRUARY 23, 1983 AS DOCUMENT NO. 83-081516 IN OFFICIAL RECORDS, FROM THE IRVINE COMPANY TO THE UNITED STATES OF AMERICA (DEPARTMENT OF THE NAVY), RECITES THAT IT IS FOR THE PURPOSE OF ELIMINATING EASEMENT RIGHTS ONLY SHOWN IN DEED RECORDED MAY 17, 1978 IN BOOK 12678, PAGE 1089 AND FOLLOWING OF OFFICIAL RECORDS, ORANGE COUNTY.

THE REMAINING INTEREST OF THE IRVINE COMPANY HAS SINCE PASSED TO THE CITY OF IRVINE, PURSUANT TO QUITCLAIM DEED RECORDED JUNE 28, 1994 AS INSTRUMENT NO. 94-0425499 OF OFFICIAL RECORDS.

12. EASEMENTS FOR ROADS AND UTILITIES AND INCIDENTS THERETO, AS RESERVED BY THE, IRVINE COMPANY, A CORPORATION AND AS SET OUT ON A MAP ATTACHED TO A DEED, RECORDED JULY 29, 1976 IN BOOK 11831, PAGE 1053 OF OFFICIAL RECORDS AND AS DESCRIBED IN THE DEED FROM THE UNITED STATES OF AMERICA TO THE IRVINE COMPANY, RECORDED MAY 17, 1978 IN BOOK 12678 PAGE 1099 OF OFFICIAL RECORDS.

NOTE: THE INTEREST OF THE IRVINE COMPANY HAS SINCE PASSED TO THE CITY OF IRVINE, PURSUANT TO A QUITCLAIM DEED RECORDED JUNE 28, 1994 AS INSTRUMENT NO. 94-0425499 OF OFFICIAL RECORDS.

- 13. THE TERMS, PROVISIONS, COVENANTS, CONDITIONS AND RESTRICTIONS IN THE QUITCLAIM DEED FROM THE UNITED STATES OF AMERICA ACTING THROUGH THE DEPARTMENT OF THE NAVY RECORDED JULY 12, 2005 AS INSTRUMENT NO. 2005-0536290, APRIL 17, 2009 AS INSTRUMENT NO. 2009000191012, MAY 10, 2010 AS INSTRUMENT NOS. 2010000218745 AND 2010000218746 AND JUNE 03, 2011 AS INSTRUMENT NO. 2011000276334 AND RE-RECORDED JUNE 16, 2011 AS INSTRUMENT NO. 2011000293986, ALL OF OFFICIAL RECORDS.
- 14. EASEMENTS AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSE STATED HEREIN, AND INCIDENTAL PURPOSES.

IN FAVOR OF: THE UNITED STATES OF AMERICA, ORANGE COUNTY WATER DISTRICT AND IRVINE RANCH WATER DISTRICT

FOR: INGRESS, EGRESS AND UTILITIES

RECORDED JULY 12, 2005 AS INSTRUMENT NO. 2005-0536290, APRIL 17, 2009 AS INSTRUMENT NO. 2009000191012, MAY 10, 2010 AS INSTRUMENT NOS. 2010000218745 AND

2010000218746 AND JUNE 03, 2011 AS INSTRUMENT NO. 2011000276334 AND RE-RECORDED JUNE 16, 2011 AS INSTRUMENT NO. 2011000293986 AND RE-RECORDED JUNE 16, 2011 AS INSTRUMENT NO. 2011000293986, ALL OF OFFICIAL RECORDS.

AFFECTS: AN UNDETERMINED PORTION OF SAID LAND

- 15. Intentionally Deleted
- 16. TERMS, PROVISIONS, AND CONDITIONS CONTAINED IN AN INSTRUMENT ENTITLED "AMENDED AND RESTATED DEVELOPMENT AGREEMENT", EXECUTED BY AND BETWEEN THE CITY OF IRVINE AND THE REDEVELOPMENT AGENCY AND HERITAGE FIELDS EL TORO, LLC, RECORDED DECEMBER 27, 2010 AS INSTRUMENT NO. 2010000700065 OF OFFICIAL RECORDS.
- 17. Intentionally Deleted
- 18. THE FACT THAT SAID LAND IS INCLUDED WITHIN A PROJECT AREA OF THE REDEVELOPMENT AGENCY SHOWN BELOW, AND THAT PROCEEDINGS FOR THE REDEVELOPMENT OF SAID PROJECT HAVE BEEN INSTITUTED UNDER THE REDEVELOPMENT LAW (SUCH REDEVELOPMENT TO PROCEED ONLY AFTER THE ADOPTION OF THE REDEVELOPMENT PLAN) AS DISCLOSED BY A DOCUMENT.

REDEVELOPMENT AGENCY: GREAT PARK REDEVELOPMENT PROJECT AREA RECORDED: MARCH 31, 2005 AS INSTRUMENT NO. 2005000242692, OF OFFICIAL RECORDS, AND REVISED BY A DOCUMENT RECORDED JUNE 27, 2007 AS INSTRUMENT NO. 2007000407641 OF OFFICIAL RECORDS.

- 19. UNRECORDED LEASES, AFFECTING THE PREMISES HEREIN STATED, EXECUTED BY AND BETWEEN THE PARTIES NAMED HEREIN, FOR THE TERM AND UPON THE TERMS, COVENANTS AND CONDITIONS THEREIN PROVIDED. THE REQUIREMENT THAT A CERTIFIED RENT ROLL BE PROVIDED TO THIS COMPANY.
- 20. Intentionally Deleted

21. Water rights, claims or title to water, whether or not shown by the public records.

22. Rights of parties in possession.

 The terms and provisions contained in the document entitled "Memorandum and Notice of School Mitigation Obligations" recorded July 13, 2012 as Instrument No. 2012000397103 of Official Records.

NOTICE: This is a pro-forma policy furnished to or on behalf of the party to be insured. It neither reflects the present status of title, nor is it intended to be a commitment to insure. The inclusion of endorsements as part of the pro-forma policy in no way evidences the willingness of the Company to provide any affirmative coverage shown therein.

There are requirements which must be met before a final policy can be issued in the same form as this pro-forma policy. A commitment to insure setting forth these requirements should be obtained from the Company.

EXECUTION COPY

SCHEDULE 8

Nature of Operation and Maintenance Agreement²

Subarea	Nature of Agreement	
Bosque	Maintenance Agreement	
Upper Bee	Maintenance Agreement	
Wildlife Corridor	Maintenance Agreement	
Agricultural Area	Lease	
Golf Course and Sports Park	Lease	

² In the event the City exercises the Maintenance Retention Option pursuant to Section $\underline{8(d)}$, the only item in this Schedule 8 that shall apply is the Wildlife Corridor Maintenance Agreement.

SCHEDULE 11

Section 11 Reserve Allocation in Additional Allowance Fund

Subarea	Total Allocation	Section 11 Reserve Allocation	Remaining Allocation
Sports Park	\$6,000,000	\$960,000	\$5,040,000
Bosque	\$4,000,000	\$640,000	\$3,360,000
Upper Bee	\$500,000	\$80,000	\$420,000
Golf/Agriculture/Trails	\$2,000,000	\$320,000	\$1,680,000
Sub-Total	\$12,500,000	\$2,000,000	\$10,500,000
Permit and Regulatory Fees	\$3,000,000		
Contribution			
Total	\$15,500,000]	