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Grand Terrace, CA 92313

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DEVELOPMENT AGREEMENT

between

THE CITY OF GRAND TERRACE

("City")

and

LEWIS LAND DEVELOPERS, LLC,

a Delaware limited liability company

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into on _____, 2024, between the CITY OF GRAND TERRACE (the "City"), a municipal corporation, and LEWIS LAND DEVELOPERS, LLC, a Delaware limited liability company (the "Developer"), pursuant to Article 2.5 of Chapter 4 of Division 1 of Title 7, §§ 65864 through 65869.5 of the Government Code and Article XI, Section 2 of the California Constitution. The City and the Developer (defined below) shall be referred to within this Agreement jointly as the "Parties" and individually as a "Party."

R E C I T A L S

A. Capitalized Terms. The capitalized terms used in these Recitals and throughout this Agreement shall have the meaning assigned to them in Section 1. Any capitalized terms not defined in Section 1 shall have the meaning otherwise assigned to them in this Agreement or apparent from the context in which they are used.

B. Development of the Property. Concurrent with the approval of this Agreement, the City has approved a [General Plan Amendment (Resolution No. _____ and Case No. GPA-17-01), the Gateway at Grand Terrace Specific Plan (Ordinance No. _____ and Case No. 00-17), a Zone Change (Ordinance No. _____ and Case No. 17-02), Tentative Subdivision Map Nos. _____] and has certified a Final Environmental Impact Report (Resolution No. _____ and State Clearinghouse No. 2021020110) for the area within the City owned by the Developer described in Exhibit "A" (the "Property"), which permit the development of the Property with residential development, commercial/retail development, parks and supporting infrastructure.

C. Legislation Authorizing Development Agreements. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted the Development Agreement Statute, authorizing the City to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of such property and establishing certain development rights therein. The legislative findings and declarations underlying the Development Agreement Statute and the provisions governing contents of development agreements state, in Government Code §§ 65864(c) and 65865.2, that the lack of public facilities, including, but not limited to, streets, sewerage, transportation, drinking water, school, and utility facilities is a serious impediment to the development of new housing, and that applicants and local governments may include provisions in development agreements relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

D. Intent of the Parties. The Developer and the City have determined that the Project is a development for which a development agreement is appropriate. The Parties desire to define the parameters within which the obligations of the Developer, or its successors and assigns, for infrastructure and public improvements and facilities will be met and to provide for the orderly

development of the Property, assist in attaining the most effective utilization of resources within the City and otherwise achieve the goals of the Development Agreement Statute.

E. Public Benefits of the Project. This Agreement provides assurances that the public benefits identified below in this Recital E will be achieved in accordance with the terms of this Agreement. The Project will provide local and regional public benefits to the City, including, without limitation, the following:

1. Increased Tax Revenues. The Project will result in increased real property and sales taxes and other revenues to the City.

2. Pedestrian Mobility. The Project encourages pedestrian mobility through the provision of walking paths, through signage guiding pedestrians to nearby destinations and through preservation of significant open space to create pleasant environments that will encourage walking.

3. Pedestrian Connection. The Project will include a series of public pedestrian trails throughout the Property.

4. Implement Circulation Element. The Project will include improvements and contribute fees to improvements that will implement the Circulation Element of the General Plan.

5. Regional Storm Drain Improvements. The Project will include substantial regional storm drain improvements and detention basins that will improve flood control protection for both the Project site and numerous other properties in the City.

6. Roadway and Utility Improvements. The project will include roadway improvements to Taylor/Commerce Way and Van Buren Avenue, as well as extending sewer, water, and dry utility infrastructure to the Project site.

F. Public Hearings: Findings. In accordance with the requirements of the California Environmental Quality Act (Public Resources Code § 21000, *et seq*. ("CEQA")), appropriate studies, analyses, reports and documents were prepared and considered by the Planning Commission and the City Council. The City Council, after making appropriate findings, certified, by Resolution No. _____ adopted on _____, a Final Environmental Impact Report for the Project, more specifically identified as the [Final Environmental Impact Report for the Gateway at Grand Terrace Specific Plan, State Clearinghouse No. _____, as having been prepared in compliance with CEQA]. On _____, the Planning Commission, after giving notice pursuant to Government Code §§ 65090, 65091, 65092 and 65094, held a public hearing on the Developer's application for this Agreement and, upon the conclusion of the hearing, found on the basis of substantial evidence that this Agreement is consistent with the General Plan, Specific Plan and all other applicable policy plans of the City and recommended the City Council introduce an ordinance to approve this Agreement (DA-_____). On _____, the City Council, after providing the public notice required by law, held a public hearing to consider the Developer's application for this Agreement and, upon the conclusion of

the public hearing found on the basis of substantial evidence that this Agreement is consistent with the General Plan, Specific Plan and all other applicable policy plans of the City.

G. Mutual Agreement. Based on the foregoing and subject to the terms and conditions set forth herein, Developer and City desire to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and having determined that the foregoing recitals are true and correct and should be, and hereby are, incorporated into this Agreement, the Parties agree as follows:

1. DEFINITIONS. The following words and phrases are used as defined terms throughout this Agreement. Each defined term shall have the meaning set forth below.

1.1 Actual Cost. "Actual Cost" shall have the meaning set forth in the Financing Plan.

1.2 Annual Review. "Annual Review" means the annual review of the Developer's performance of this Agreement in accordance with Section 12.1 of this Agreement and Government Code § 65865.1.

1.3 Application(s). "Application(s)" means a complete application for the applicable land use approvals meeting all of the current ordinances of the City provided that any additional or alternate requirements in those ordinances enacted after the Effective Date which affect the application shall apply only to the extent permitted by this Agreement.

1.4 Appraisal of Land Value. "Appraisal of Land Value" when referred to herein shall mean the determination by an experienced and independent MAI appraiser retained by City (Developer may veto any appraiser selected by City for good cause), in a written appraisal at fair market value based upon comparable sales of unimproved land, and serviced by the existing infrastructure, and with the development restrictions of the Specific Plan.

1.5 Authorizing Ordinance. "Authorizing Ordinance" means Ordinance No. _____ approving this Agreement.

1.6 Building Permit. "Building Permit," with respect to any building or structure to be constructed on the Property, means a building permit for not less than the shell and core of such building or structure issued by the City's Building and Safety Department.

1.7 Certificate of Occupancy. "Certificate of Occupancy," with respect to a particular building or other work of improvement, means the final certificate of occupancy issued by the City with respect to such building or other work of improvement.

1.8 CFD. "CFD" means a community facilities district formed by the City pursuant to the CFD Act.

1.9 CFD Act. "CFD Act" means the Mello-Roos Community Facilities Act of 1982 (Government Code § 53311 *et seq*.), as it may be amended from time to time, authorizing the imposition of special taxes to fund capital facilities and services.

1.10 CFD Agreement. "CFD Agreement" shall have the meaning set forth in Section 5.2 below.

1.11 City. "City" means the City of Grand Terrace, California.

1.12 City Council. "City Council" means the governing body of the City.

1.13 City Manager. "City Manager" means the City Manager of City.

1.14 City's Old Ball Field Property. "City's Old Ball Field Property" means that certain property consisting of approximately 2.5 acres located northwest of Veterans Freedom Park (APN 1167-151-75) which is subject to the Exchange Agreement.

1.15 Claim or Litigation. "Claim or Litigation" means any challenge by any third party (i) to the legality, validity or adequacy of the General Plan, Land Use Regulations, this Agreement, Development Approvals or other actions of the City pertaining to the Project, (ii) seeking damages against the City as a consequence of the foregoing actions, for the taking or diminution in value of their property or for any other reason, or (iii) seeking injunctive or declarative relief against the City as a consequence of the foregoing actions, or due to the action or inaction of the Developer.

1.16 Commencement of Construction. "Commencement of Construction" means that a building or grading permit for any construction on the Property has been issued by the City and the permitted activity has commenced pursuant to the permit.

1.17 DDA. Disposition and Development Agreement dated December 19, 2016 amended by (i) that certain Amendment No. 1 to Disposition and Development Agreement dated February 27, 2017, (ii) that certain Amendment No. 2 to Disposition and Development Agreement dated April 28, 2017; (iii) Amendment No. 3 to Disposition and Development Agreement dated November 27, 2023.; (iv) Amendment No. 4 to Disposition and Development Agreement dated April 23, 2024 and (v) Amendment No. 4 to the Disposition and Development Agreement dated _____, 2024.

1.18 Dedicate or Dedication. "Dedicate" or "Dedication" means to offer fee title, an easement or other equitable interest to the subject land to the City, other governmental agency or a public utility.

1.19 Default. "Default" refers to any material default, breach, or violation of a provision of this Development Agreement as defined in Section 13 below. "City Default" refers to a Default by the City, while "Developer Default" refers to a Default by the Developer and, in each case for both parties, includes any material default, breach or violation of any provision of the DDA, Exchange Agreement, Subdivision Improvement Agreement or Reimbursement Agreement.

1.20 Developer. "Developer" shall mean Lewis Land Developers, LLC or its successors and assigns.

1.21 Developer's New Ball Park Property. "Developer's New Ball Park Property" means that certain property owned by Developer consisting of approximately 4.97 acres which is northwest of the terminus of Taylor Street (APN 1167-151-71) which is subject to the Exchange Agreement.

1.22 Development or Develop. "Development" or "Develop" means the improvement of the Property for purposes of effecting the structures, improvements and facilities required or permitted by the Development Plan, including, without limitation: grading, the construction of infrastructure and public facilities related to the Project, whether located within or outside the Property; the construction of structures and buildings; the installation of landscaping; and the operation, use and occupancy of, and the right to maintain, repair, or reconstruct, any private building, structure, improvement or facility after the construction and completion thereof, provided that such repair, or reconstruction takes place during the Term of this Agreement on parcels subject to this Agreement.

1.23 Development Agreement Statute. "Development Agreement Statute" means §§ 65864 through 65869.5 of the Government Code as it exists on the Effective Date.

1.24 Development Approvals. "Development Approvals" means all site-specific (meaning specifically applicable to the Property only and not generally applicable to some or all other properties within the City) plans, maps, permits, and entitlements to use of every kind and nature. Development Approvals include, but are not limited to, specific plans, site plans, tentative and final Subdivision Maps, vesting Tentative Subdivision Maps, variances, zoning designations, conditional use permits, grading, building and other similar permits, the site-specific provisions of general plans, environmental assessments, including environmental impact reports, and any amendments or modifications to those plans, maps, permits, assessments and entitlements. The term Development Approvals does not include rules, regulations, policies, and other enactments of general application within the City.

1.25 Development Impact Fees. "Development Impact Fees" or "DIF" means all manner of monetary consideration, other than a tax or assessment, charged by the City in connection with mitigating the Project's specific impacts and the development of the public facilities related to the Project, including those fees, calculated on the basis of the number of residential units, equivalent dwelling units or square footage of non-residential development to be constructed. Development Impact Fees do not include Processing Fees.

1.26 Development Plan. "Development Plan" means the Existing Development Approvals, Future Development Approvals and Existing Land Use Regulations.

1.27 DIF Improvement. "DIF Improvement" means a capital improvement that is authorized to be funded with a DIF.

1.28 Director. "Director" means the City's Director of Community Development or equivalent official.

1.29 Effective Date. "Effective Date" means the date this Agreement becomes effective as set forth in Section 3.1.

1.30 Eligible Facilities. "Eligible Facilities" means the Proposed Project Facilities and other public facilities, fees and contributions for public facilities, as described in the Financing Plan.

1.31 Estoppel Certificate. "Estoppel Certificate" means an executed certificate in the form attached hereto as Exhibit "H."

1.32 Exaction. "Exaction" means a Dedication, payment of Development Impact Fees or other monetary contribution and/or construction of public infrastructure required by the City to serve the Property. Processing Fees are not an Exaction.

1.33 Excess Costs. "Excess Costs" means Actual Costs incurred by the Developer for Proposed Project Facilities, including DIF Improvements, in excess of the corresponding total DIF obligations for the Project or otherwise exceeding the Developer's obligation for a Proposed Project Facility as further described in Exhibit "D" hereto.

1.34 Exchange Agreement. "Exchange Agreement" means the Agreement for Exchange of Real Property and Joint Escrow Instructions dated ____, 2024 between Developer and City providing for a land swap of the City's Old Ball Field Property and Developer's New Ball Field Property.

1.35 Existing Development Approvals. "Existing Development Approvals" means only the Development Approvals listed on Exhibit "B."

1.36 Existing Land Use Regulations. "Existing Land Use Regulations" means those Land Use Regulations applicable to the Property in effect on the Effective Date.

1.37 Financing and Conveyancing Map. Financing and Conveyancing Map" means a map within the meaning of the Subdivision Map Act, as further defined in Section 9.5 hereof.

1.38 Financing Plan. "Financing Plan" means Exhibit "G" attached hereto.

1.39 Force Majeure. "Force Majeure" shall have the meaning set forth in Section 19.2 below.

1.40 Future Development Approvals. "Future Development Approvals" means those Development Approvals applicable to the Property that are consistent with this Agreement and approved by the City after the Effective Date such as Subdivision Maps, subdivision improvement agreements and other more detailed planning, engineering or construction approvals.

1.41 General Plan. "General Plan" means the City's General Plan as it exists on the Effective Date, and as expressly amended by future amendments applicable to the Property, if permitted, by Section 11 below.

1.42 Goals and Policies for Financing. "Goals and Policies for Financing" or "Goals and Policies" means the City's [Community Facilities District Goals and Policies] in effect as of the Effective Date.

1.43 Grading Permit. "Grading Permit" means a permit issued by the City's Building and Safety Department, and/or Engineering Department, as applicable, which allows the excavation or filling, or any combination thereof, of earth on the Property.

1.44 Infrastructure Plan. "Infrastructure Plan" means Exhibit "C" attached hereto, which describes the Proposed Project Facilities, the timing of their construction and the respective responsibilities of the Developer, City and other Specific Plan area landowners with respect thereto.

1.45 Innocent Owner. "Innocent Owner" shall have the meaning set forth in Section 13.8 below.

1.46 Land Use Regulations. "Land Use Regulations" means those ordinances, laws, statutes, rules, regulations, initiatives, policies, requirements, guidelines, constraints, codes or other actions of the City and each department of the City which affect, govern, or apply to the Property or the implementation of the Development Plan or this Agreement. Land Use Regulations include the ordinances and regulations adopted by the City which govern permitted uses of land, density and intensity of use and the design of buildings, applicable to the Property, including, but not limited to, the General Plan, the Specific Plan, zoning ordinances, development moratoria, implementing growth management and phased development programs, ordinances establishing development exactions, subdivision and park codes, any other similar or related codes and building and improvements standards, mitigation measures required in order to lessen or compensate for the adverse impacts of a project on the environment and other public interests and concerns or similar matters.

1.47 Local Agency. "Local Agency" means any public agency authorized to levy, create or issue any form of land secured financing over all or any part of the Property, including, but not limited to, the City.

1.48 Lot. "Lot" means any of the parcels legally created within the Project as a result of any approved final subdivision, parcel or tract map, pursuant to the Subdivision Map Act or recordation of a condominium plan pursuant to Civil Code § 1352 .

1.49 Master Tract Map. "Master Tract Map" (or "A Map") means Tract Map No. _____ and any other large scale tract map covering all Planning Areas which may include all infrastructure necessary to Develop the tract and a phasing plan as to the development of the infrastructure and the subsidiary subdivisions within the tract. The Master Tract Map is a subdivision map within the meaning of the Subdivision Map Act and shall meet the requirements of the Act and of this Agreement.

1.50 Mortgage. "Mortgage" means a mortgage, deed of trust, sale and leaseback arrangement or other transaction in which all, or any portion of, or any interest in, the Property is pledged as security.

1.51 Mortgagee. "Mortgagee" refers to the holder of a beneficial interest under a Mortgage.

1.52 Municipal Code. "Municipal Code" means the City's Municipal Code as it existed on the Effective Date and as it may be amended from time to time consistent with the terms of this Agreement.

1.53 New Ball Field Improvements. "New Ball Field Improvements" means the improvements required to be made by Developer pursuant to Section 3.3.3 of the Exchange Agreement which improvements are detailed on Schedule 2 of the Exchange Agreement.

1.54 Non-Defaulting Party. "Non-Defaulting Party" shall have the meaning set forth in Section 13.1 below.

1.55 Owner. "Owner" means the Developer and/or any successors during the period of time that each such person or entity owns fee title to any portion of the Property and subject to the terms of this Agreement.

1.56 Planning Area. "Planning Area" or "PA" means each of the twenty-two (22) planning areas described in the Specific Plan.

1.57 Planning Commission. "Planning Commission" means the City's Planning Commission.

1.58 Property. "Property" means the _____ acres of land, more or less, described in Exhibit "A" hereto.

1.59 Processing Fees. "Processing Fees" means the City's normal fees for processing, environmental assessment/review, tentative tracts/parcel map review, plan checking, site review, site approval, administrative review, building permit (plumbing, mechanical, electrical, building), inspection and similar fees imposed to recover the City's costs associated with processing, review and inspection of applications, plans, specifications, and construction, etc.

1.60 Project. "Project" means the Development of the Property pursuant to this Agreement and Development Plan.

1.61 Proposed Project Facilities. "Proposed Project Facilities" means those public improvements required for the Development of the Property pursuant to the Existing Development Approvals or as otherwise identified by the City and Developer for construction in conjunction with each Development, as described in the Infrastructure Plan.

1.62 Reimburse or Reimbursement. "Reimburse" or "Reimbursement" means the provision by the City of cash or credit in return for land, improvements, goods or services provided by Developer.

1.63 Reimbursement Agreement. The agreement to reimburse the City for the costs and fees it has incurred related to this Project, approved on November 14, 2023.

1.64 Reservations of Authority. "Reservation of Authority" shall have the meaning set forth in Section 11 below.

1.65 Schedule of Development Performance. "Schedule of Development Performance" means the schedule for the construction of the public facilities attached as Exhibit "J".

1.66 Specific Plan. "Specific Plan" means the Gateway at Grand Terrace Specific Plan approved by the City Council by Ordinance No. _____, adopted on _____.

1.67 Soccer Field. "Soccer Field" shall mean that certain real property owned by the City commonly known as the Richard Rollins Community Park at 22795 De Berry Street in Grand Terrace (APN 1178-091-01-000) used as a soccer field.

1.68 Soccer Field Improvements. "Soccer Field Improvements" shall mean improvements to be constructed by Developer as set forth on Exhibit "K" within the time specified on Exhibit "K."

1.69 Specific Mandatory Public Improvements. "Specific Mandatory Public Improvements" means the public improvements to be constructed by Developer as set forth in Exhibit "J."

1.70 Subdivision Map. "Subdivision Map" (or "B Map") means the subsidiary subdivision maps for the Development of any Planning Area or portion thereof which shall be consistent with the conditions of the Master Tract Map and shall contain its own phasing plan for the installation of the infrastructure and other improvements within the subdivision. All Subdivision Maps shall meet the applicable requirements of the Subdivision Map Act.

1.71 Subdivision Improvement Agreement. Subdivision Improvement Agreement" means a subdivision improvement agreement as mandated by the Subdivision Map Act for recordation of any final Subdivision Maps.

1.72 Subdivision Map Act. "Subdivision Map Act" means Government Code § 66412 et seq. as implemented by Title 17 of the Municipal Code.

1.73 Taxes. "Taxes" means general or special taxes, including, but not limited to, CFD special taxes, special assessments, ad valorem property taxes, sales taxes, transient occupancy taxes, utility taxes or business taxes of general applicability citywide which do not burden the Property disproportionately to similar types of development in the City and

which are not imposed as a condition of approval of a development project. Taxes do not include Development Impact Fees or Processing Fees.

1.74 Term. "Term" means that period of time during which this Agreement shall be in effect and bind the Parties pursuant to Section 3 below.

1.75 Zoning Code. "Zoning Code" means Title 18 of the Municipal Code as it existed on the Effective Date except (i) as amended by any zone change relating to the Property approved concurrently with the approval of this Agreement, and (ii) as the same may be further amended from time to time consistent with this Agreement.

2. EXHIBITS.

The following are the Exhibits to this Agreement:

Exhibit "A": Map and Legal Description of the Property

Exhibit "B": Existing Development Approvals

Exhibit "C": Infrastructure Plan

Exhibit "D": Timing and Source of Funding of Proposed Project Facilities

Exhibit "E": Development Impact Fee/Credits/Reimbursements

Exhibit "F": Additional Agreements Concerning Development

Exhibit "G": Financing Plan

Exhibit "H": Estoppel Certificate

Exhibit "I": Form of Assignment and Assumption Agreement

Exhibit "J": Schedule of Development Performance for Specific Mandatory Public Improvements

Exhibit "K": Soccer Field Improvements

Exhiibt "L": New Ball Field Improvements

3. EFFECTIVE DATE AND TERM.

3.1 Effective Date. The Agreement shall become the effective upon last to occur of: (i) date the Authorizing Ordinance takes effect, and the date this Agreement is fully executed by both Parties.

3.2 Term. The term of this Development Agreement (the "Term") shall commence on the Effective Date and shall continue for a period of not less than ten (10) years

from the Effective Date. The Developer shall be entitled to one five-year option to extend the Term if the Developer demonstrates to the reasonable satisfaction of the City that it has complied with the terms of this Develoment Agreement and has constructed the Specific Mandatory Improvements by the deadlines set forth in Exhibit J (Performance Schedule)..

3.3 Termination for Default. This Agreement may be terminated due to the occurrence of any Default in accordance with the procedures in Article 13.

3.4 Extension of the Term: In addition to the five-year extension pursuant to Section 3.2 above, the Term shall be subject to one or more extensions of reasonable duration with the approval of the City Council. If a Claim or Litigation has been filed with respect to this Agreement or the Project the Developer is obligated to diligently contest or defend against the claim or Litigation. If the Claim or Litigation actually causes a delay of more than sixty (60) days in the commencement or completion of the Project and the Developer provides written notice to the City of the delay caused by the claim or Litigation and demonstrates that it is dilegently contesting or defending against the claim or Litigation, as determined by the City, then the Term of this Agreement shall be extended by the period of time from such filing until the date that the Claim or Litigation has been settled, dismissed or concluded, and the time for any further judicial review has run. For the avoidance of doubt, Developer shall have the right to delay proceeding with the Project during the claim process or litigation, and such delay shall constitute an "actual delay" under this Agreement.

4. DEVELOPMENT OF THE PROPERTY.

4.1 Right to Develop. During the Term, the Developer shall have vested rights to Develop the Property (subject to Section 11 below) to the full extent permitted by the Development Plan and this Agreement. Except as provided within this Agreement, the Development Plan shall exclusively control the Development of the Property (including the uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes and the design, improvement and construction standards and specifications applicable to the Project). The number of residential units authorized to be constructed hereunder and the approximate acreage of commercial development, without regard to any density bonus or incentive or concession for child care pursuant to Government Code §§ 65915 through 65918 or other similar legislation or regulation, is _____ units and approximately _____ acres of commercial development. In furtherance of the foregoing, the Developer retains the right to apportion the uses, intensities and densities, between itself and any subsequent Owners, upon the sale, transfer, or assignment of any portion of the Property, so long as such apportionment is consistent with the Existing Land Use Regulations and this Agreement. Nothing in this Agreement is intended to diminish any Owner's vested rights as may be established under other applicable laws.

4.2 Right To Future Approvals. Subject to the City's exercise of its police power authority as specified in Section 11 below, the Developer shall have vested rights: (i) to receive from the City all Future Development Approvals for the Property that are consistent with, and implement, the Existing Land Use Regulations and this Agreement, subject to the limitations set forth in Subsection 11.1 ; (ii) not to have such approvals be conditioned or

delayed for reasons which are inconsistent with the Existing Land Use Regulations or this Agreement; and (iii) to Develop the Property in a manner consistent with such approvals in accordance with the Existing Land Use Regulations and this Agreement. All Future Development Approvals for the Property including, without limitation, Financing and Conveyancing Maps, Master Tract Maps and Subdivision Maps, shall upon approval by the City, be vested in the same manner as provided in this Agreement for the Existing Development Approvals, for the Term of this Agreement.

4.3 Existing Development Approvals. Only those items specifically set forth on Exhibit "B" hereto are deemed Existing Development Approvals for purposes of this Agreement. Any approvals not included within Exhibit "B" shall not apply to the Project with the exception of those reservations set forth in Section 11 below.

4.4 Specific Plan. Except as required by Exhibit J, the Developer shall have the right, but not the obligation, to Develop the Property for the uses, in the manner and at the locations specified in the Specific Plan.

4.5 Priority Of Specific Plan. The City has determined that the Specific Plan is consistent with the General Plan, as amended through [GPA-_____], and the Zoning Code, as amended through [ZC-_____]. As such, the Specific Plan shall be the primary document governing the Development of the Property and, in the event of a conflict, shall prevail over any other of the Existing Land Use Regulations except for this Agreement, which prevails over the Specific Plan.

4.6 Later Enacted Measures. This Agreement is a legally binding contract which will supersede any initiative, measure, moratorium, statute, ordinance, or other limitation enacted after the Effective Date, except as provided in Section 11. Any such enactment which materially affects, restricts, impairs, delays, conditions, or otherwise impacts the implementation of the Development Plan (including the issuance of all necessary Future Development Approvals or permits for the Project) in any way contrary to the terms and intent of this Agreement shall not apply to the Project.

5. FINANCING AND THE CITY'S OBLIGATIONS.

5.1 Formation of CFD. Subject to the provisions of this Article 5, some or all of the Eligible Facilities may be funded through the City's formation of a CFD and the levy of a special tax of the CFD (the "Special Tax") and issuance of bonds secured by the Special Tax (the "Bonds") in accordance with the Financing Plan.

5.2 Procedures for Formation. The Developer shall promptly commence the CFD process in order to timely comply with the requirements of this Agreement set forth in Exhibit C and Exhibit J. The City and the Developer shall cooperate in good faith to form the CFD consistent with the Financing Plan. Final terms and conditions regarding the formation of the CFD, the rate and method of apportionment of the Special Taxes to be levied in the CFD, any acquisition or construction agreements related thereto, and the terms of one or more series of Bonds to be issued in conjunction therewith shall be determined jointly by City and the

Developer in accordance with the Financing Plan and the City's Goals and Policies for Financing. In conjunction with the formation of the CFD, the Developer and the City shall cooperate in good faith to negotiate and finalize any acquisition and funding agreement prior to the formation of the CFD addressing the terms of construction, acquisition and financing of any of the Eligible Facilities to be funded by the CFD (such agreement to be referred to herein as the "CFD Agreement").

5.3 Timing of Formation. After Developer has initiated formation of the CFD, City shall take all necessary steps to form the CFD, in good faith, consistent with the City's Goals and Policies and applicable law. City shall complete formation proceedings within 180 days after Developer makes the necessary complete submission.

5.4 Term of Special Tax and Bonds. The term of the Special Tax on the Property implemented as part of the CFD shall not exceed 40 years. The term of the Bonds to be paid for with the Special Tax shall not exceed 30 years. The City shall record a notice of cessation of the special tax lien following payment in full of the Bonds and any remaining administrative expenses.

5.5 Failure to Form CFD. If the CFD is not formed after Developer's written application, or is formed but not in accordance with the terms of this Agreement, for a period of 60 days after either receiving written notice from the City of its decision not to form a CFD or after the City forms the CFD, Developer shall have the right, but not the obligation, to terminate this Agreement upon providing 30 days written notice to the City prior to the actual termination date.

6. TIME FOR CONSTRUCTION AND COMPLETION OF PROJECT AND DEVLOPER OBLIGATIONS.

6.1 Timing of Development. The Parties acknowledge that the substantial public benefits to be provided by the Developer to the City pursuant to this Agreement are in consideration for, and in reliance upon, assurances that the City will permit Development of the Property in accordance with the terms of this Agreement. Accordingly, the City shall not attempt to restrict, limit or otherwise dictate the Development of the Property in any manner that would conflict with the provisions of this Agreement. One of the primary reasons the City is willing to enter into this Development Agreement is Developer's commitment to develop the Project Site with a mix of uses as set forth in the Specific Plan within a reasonable period of time. However, the City also acknowledges that the Developer cannot predict the exact timing or rate at which the Property will be Developed, and is therefore willing to provide the Developer with a reasonable level of flexibility in the timing of development. The timing and rate of Development depend on numerous factors such as market demand, interest rates, absorption, completion schedules and other factors, which are not within the control of the Developer or the City. In *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465, the California Supreme Court held that a construction company was not exempt from a city's growth control ordinance notwithstanding that the construction company and the city had entered into a consent judgment (tantamount to a contract under California law) establishing the company's vested rights to develop its property in accordance with the zoning. The California

Supreme Court reached this result on the basis that the consent judgment failed to address the timing of development. It is the intent of the Parties to avoid the result of the Pardee case by acknowledging and providing in this Agreement that the Developer shall have the vested right to Develop the Property in such order and at such rate and at such time as the Developer deems appropriate, subject to the thresholds for completion of certain public facilities as specified in this Development Agreement and the Performance Schedule attached as Exhibit J. In addition to, and not in limitation of, the foregoing, but except as set forth in the following sentence, it is the intent of the Parties that no City moratorium or other similar limitation relating to the rate or timing of the Development of the Property or any portion thereof, except a moratorium or limitation necessitated by a public safety emergency or to avoid a public safety emergency, whether adopted by initiative, referendum or otherwise, shall apply to the Property to the extent that such moratorium, referendum or other similar limitation is in conflict with this Agreement. Notwithstanding the foregoing, the Developer acknowledges that nothing herein is intended or shall be construed as (i) overriding any provision of the Existing Land Use Regulations relating to the phasing of Development of the Property; or (ii) restricting the City from exercising the powers described in Section 11 of this Agreement to regulate Development of the Property. Nothing in this Section 6.1 is intended to excuse or release the Developer from any obligation set forth in this Agreement which is required to be performed on or before a specified calendar date or event without regard to whether or not one or more Owners proceeds with any portion of the Project.

6.2 Public Improvements. The scope, phasing and timing requirements for the construction of all Proposed Project Facilities required for the Project shall be in accordance with the Infrastructure Plan.

6.3 Soccer Field Refurbishment. Developer shall promptly commence the Soccer Field Improvements in accordance with the specifications set forth in Exhibit "K" attached hereto ("Soccer Field Improvements") at the City Soccer Field, subject to City approval of the commencement date to ensure a proper grow-in period for the new turf and minimal interference with the AYSO season. The Soccer Field Improvements shall be completed within in six (6) months of commencement as Developer understands that the field is critical for the following AYSO season. Notwithstanding any other provision of this Agreement addressing or authorizing delays in performance or tolling of deadlines in the agreement, Developer's obligation to complete the Soccer Field Improvements by the deadlines set forth in this section and Exhibit "K" shall not be changed, delayed or extended for any reasons, including a Force Majeur event, the initiation of litigation challenging the Project or the environmental impact report certified for the project or any other reason whatsoever. Prior to the City issuing any permits for the Soccer Field Improvements, Developer shall obtain the City Engineer's approval of an Engineer's estimate for the cost of constructing the the Soccer Field Improvements and provide the City with payment and performance security of the type and in the amounts set forth in Government Code, sections 66499 through 66499.3and Grand Terrace Municipal Code, Section 17.56.060 for the Soccer Field Improvements.

6.4 New Ball Field and Land Swap. One of the Special Mandatory Public Improvements is a new ball park facility comprised of playground equipment, parking lot, and a lighted baseball field to be constructed on the Developer's New Ball Park Property to replace the

existing, unlighted ball field located at the City's Old Ball Park Property. Developer shall commence and construct the New Ball Field Improvements in the time specified in the Exchange Agreement. Prior to the City issuing any permits for the New Ball Field Improvements, Developer shall obtain the City Engineer's approval of an Engineer's estimate for the cost of constructing the the New Ball Field Improvements and provide the City with payment and performance security of the type and in the amounts set forth in Government Code, sections 66499 through 66499.3 and Grand Terrace Municipal Code, Section 17.56.060 for the New Ball Field Improvements.

6.5 Additional Development Conditions. The Parties further agree to and accept the conditions of Development of the Property set forth in Exhibit "F."

6.6 Annual Contribution to the City. During the Term of this Agreement the Developer shall make on or before each anniversary of the Effective Date an annual contribution to the City in the amount of Five Thousand Dollars ($5,000.00) to be placed in a City account earmarked to fund events that benefit the City and its residents, as determined by the City.

7. FEES, TAXES AND ASSESSMENTS.

7.1 Processing Fees. During the Term of this Agreement, the City may require the Developer to pay all Processing Fees applicable to the Project at the rates in effect on the applicable Application date or as described in this Agreement unless a specific amount is stated herein. Within 90 days of the Developer providing the City with a detailed accounting of the costs it incurred in connection with the processing of the Specific Plan and the Environmental Impact Report (the "Reimbursable Specific Plan Costs") the City will adopt a "Specific Plan Fee" applicable to the entire Specific Plan area on a per developable acre basis to recover the "Reimbursable Specific Plan Costs". The Specific Plan Fee will increase by 5% each year and be collected prior to the issuance of a Building Permit. The Developer shall receive a credit against the Specific Plan Fee applicable to the Property in the amount equal to its Reimbursable Specific Plan Costs and the amount by which such Reimbursable Specific Plan Costs exceed such credit shall be Reimbursed to the Developer from Specific Plan Fees collected from others within the Specific Plan area every six (6) months until the Developer has been Reimbursed in full. The City shall take all necessary actions to terminate the Specific Plan Fee when the City has determined the Developer has recovered its Reimbursable Specific Plan Costs or twenty (20) years from the effective date of the Specific Plan Fee, whichever is earlier.

7.2 Development Impact Fees.

7.2.1 Limit on Exactions, Mitigation Measures, Conditions and Development Fees. The City shall charge and impose only those Exactions, mitigation measures and conditions, including, without limitation, dedications as are set forth in the Existing Land Use Regulations, those DIFs as are expressly set forth in Exhibit "E" attached hereto, and no others. The amounts of the DIFs applicable to the Project shall not increase during the first five (5) years after the Effective Date of the Agreement. After this five year period, the Project shall be subject to the DIFs at the rates in effect at the time of payment.

7.2.2 Payment of Development Impact Fees. Subject to available credits, the Development Impact Fees set forth on Exhibit "E" attached hereto, shall be paid at the issuance of the Certificate of Occupancy for each building in the amount specified in Exhibit "E". The Developer may also elect to pay Development Impact Fees earlier under any of the following circumstances:

(i) the payment is made with respect to a building or lot for which rough grading has been certified as complete, building plans have been approved and all conditions of approval for the issuance of a Building Permit have been satisfied;

(ii) the DIFs are financed through a CFD; or

(iii) the early payment is approved by the City Manager.

Unless otherwise specified herein, the development of the Property shall not be subject to any other Development Impact Fees.

7.2.3 Development Impact Fee Credits, City Contributions and Reimbursements.

The Developer will be dedicating land and constructing, installing and improving various Proposed Project Facilities that are DIF Improvements, as specified in Exhibit "D." As a result, all development within the Property shall be entitled to a credit against the applicable DIFs in an amount equal to the lesser of (i) the Actual Costs of each DIF Improvement incurred by the Developer and (ii) the total corresponding DIF obligation of the Project. The financing of any DIF Improvement through a CFD shall not preclude the Developer's receipt of corresponding DIF credit for that Improvement.

The terms of the Reimbursement Agreement with the Developer shall otherwise be consistent with the City's forms generally used with all other development projects. Such Reimbursement shall be paid to the Developer as future DIFs are collected by the City from other benefited developments. Repayment shall extend beyond the Term of this Agreement if necessary to Reimburse Developer as provided herein. To the extent that CFD proceeds are used to fund the Excess Costs incurred by Developer, the DIFs collected from benefited developments will be paid to the CFD.

8. PROCESSING OF REQUESTS AND APPLICATIONS: OTHER GOVERNMENT PERMITS.

8.1 Processing. In reviewing any discretionary Future Development Approvals, the City may impose only those conditions, exactions, and restrictions that are allowed by the Development Plan and this Agreement, except otherwise specified in Section 11. Upon satisfactory completion by the Developer of all required preliminary actions, meetings, submittal of required information and payment of appropriate Processing Fees, if any, the City shall promptly commence and diligently proceed to complete all required steps necessary for the

implementation of this Agreement and the Project in accordance with this Agreement and the Existing Land Use Regulations, subject to Developer's payment of applicable processing fees and potential additional costs set forth in Section 9.2 to ensure the availability of City resources. In this regard, the Developer, in a timely manner, will provide the City with all documents, applications, plans and other information necessary for the City to carry out its obligations hereunder and will cause the Developer's planners, engineers and all other consultants to submit in a timely manner all required materials and documents therefor. It is the express intent of this Agreement that the parties cooperate and diligently work to implement any zoning or other land use, site plan, subdivision, grading, building or other approvals for the Project in accordance with the Development Plan and those items set forth in Exhibit "F" subject to Section 11.

8.2 Additional Inspectors and Plan Checkers. In the event that the Developer requests it, the City shall permit overtime, including both additional days and hours, for inspections and plan checking at the Developer's expense. The Developer shall pay overtime based on the City's fully-burdened hourly rate established for the appropriate staff position. In the event that the City is unable to provide inspectors or plan checkers capable of meeting the demand for inspections or plan checks required for the Project in a timely fashion, the City shall, if requested to do so by the Developer and at the Developer's expense, employ additional private entities or persons to perform such services.

8.3 Development Approvals. The City shall extend through at least the Term hereof (pursuant to Government Code §§ 66452.6 and 65863.9) all Master Tract Maps, all tentative and vesting tentative Subdivision Maps and all other Development Approvals applied for by the Developer during the Term of this Agreement and approved by the City in the future in accordance with the Subdivision Map Act.

8.4 Multiple Final Maps. The Developer may file as many final Subdivision Maps and final Master Tract Maps as it deems appropriate in its sole and absolute discretion.

8.5 Financing and Conveyance Maps: The Developer may have a Financing and Conveyancing Map approved for the purpose of conveying portions of the Property to others and/or for the purpose of creating legal lots that may be used as security for loans to develop the Property. Other than this Development Agreement, any such Financing and Conveyancing Map shall not authorize any Development and shall not be subject to any additional conditions, Exactions or restrictions, other than monumentation and conditions that do not require the payment of money, other than Processing Fees, or the installation or construction of improvements, other than those contained in the Development Approvals.

8.6 Water Availability. When applicable, any Subdivision Maps prepared for the Property, or any portion of the Property, shall comply with the provisions of Government Code § 66473.7.

8.7 Other Governmental Permits. The City shall cooperate with the Developer in Developer's efforts to obtain other permits and approvals as may be required from

other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the Development of, or provision of services to, the Project.

8.8 Public Agency Coordination. The City and Developer shall cooperate and use reasonable efforts in coordinating the implementation of the Project with other public agencies, if any, having jurisdiction over the Property or the Project.

9. AMENDMENT AND MODIFICATION OF DEVELOPMENT AGREEMENT.

9.1 Initiation of Amendment. Either Party may propose an amendment to this Agreement.

9.2 Procedure. Except as set forth in Section 10.4 below, the procedure for proposing and adopting an amendment to this Agreement shall be the same as the procedure required for entering into this Agreement in the first instance, and meet the requirements of the Development Agreement Statute § 65868 and shall be recorded in the Official Records of San Bernardino County.

9.3 Consent. Except as expressly provided in this Agreement, no amendment to all or any provision of this Agreement shall be effective unless set forth in writing and signed by duly authorized representatives of each of the Parties hereto and recorded in the Official Records of San Bernardino County. In the event that such amendment affects only a portion of the Property, such amendment shall only require the agreement of the City, the Developer of that portion of the Property and the Owner of that portion of the Property.

9.4 Minor Modifications.

9.4.1 Flexibility Necessary. The provisions of this Agreement require a close degree of cooperation between the City and the Developer. Implementation of the Project may require minor modifications of the details of the Development Plan and affect the performance of the Parties under this Agreement. The anticipated refinements to the Project may demonstrate that clarifications to this Agreement and the Development Plan are appropriate with respect to the details of performance of the City and the Developer. The Parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement. Therefore, non-substantive and procedural modifications of the Development Plan pursuant to this Section 10.4 shall not require modification of this Agreement and may be approved by the City Manager. However, the City Manager shall have the discretion to submit any minor modifications to the City Council for approval.

9.4.2 Non-Substantive Changes. A modification will be deemed non-substantive and/or procedural if it does not:

9.4.2.1 Alter the permitted uses of the Property as a whole;

9.4.2.2 Increase the density or intensity of use of the Property as a whole.

9.4.2.3 Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole and in a manner that will result in significant public health and safety impacts.

9.4.2.4 Waive or substantially alter any Developer obligations to comply with any conditions of approval of any Development Approvals unless the City determines the obligation has been replaced with a comparable obligation or is no longer necessary or feasible.

9.4.2.5 Waive or substantially alter any Developer obligations to comply with any mitigation measures in the Mitigation Monitoring and Reporting Program adopted with the Certification of the Environmental Impact Report dated _____ prepard for the Project unless the City determines the obligation has been replaced with a comparable obligation or is no longer necessary or feasible.

9.4.2.6 . Waive or substantially reduce any fees, payments or exactions required of the Developer under this Agreement.

9.4.2.7 Materially increase costs to the City or increase the City's exposure to potential legal liability.

9.4.3 Hearing Rights Protected. Notwithstanding the foregoing, City will process any change to this Agreement consistent with state law and will hold public hearings thereon if so required by state law and the Parties expressly agree nothing herein is intended to deprive any party or person of due process of law.

9.5 Effect of Amendment to Development Agreement. Except as expressly set forth in any such amendment, an amendment to this Agreement will not alter, affect, impair, modify, waive, or otherwise impact any other rights, duties, or obligations of either Party under this Agreement.

10. RESERVATIONS OF AUTHORITY.

10.1 Limitations, Reservations and Exceptions. Notwithstanding anything to the contrary set forth hereinabove, the City may exercise its regulatory discretion only to the extent permitted by the Existing Land Use Regulations and the following Land Use Regulations adopted by City hereafter which shall apply to and govern the Project ("Reservation of Authority"):

10.1.1 Future Regulations. Future Land Use Regulations which (i) are not in conflict with the Existing Land Use Regulations, (ii)allowed under the Development Agreement Statute (§ 65866); or (ii) are in conflict with the Existing Land Use Regulations but the application of which to the Project has been consented to in writing by Developer.

10.1.2 State and Federal Laws and Regulations. In compliance with Government Code §65869.5, where state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement,

the Parties shall meet and confer in order to mutually determine and implement modifications to, or the suspension of, those provisions of the Agreement as may be necessary to comply with such state or federal laws and regulations in the manner that has the least negative impact on the Development Plan and Developer's rights and benefits under this Agreement.

10.1.3 Public Health and Safety/Uniform Codes.

10.1.3.1 Adoption Automatic Regarding Uniform Codes. This Agreement shall not prevent the City from adopting future Land Use Regulations or amending Existing Land Use Regulations which are uniform codes and are based on recommendations of a multi-state professional organization and become applicable throughout the City, such as, but not limited to, the Uniform Building, Electrical, Plumbing, Mechanical, or Fire Codes.

10.1.3.2 Adoption Regarding Public Health and Safety. This Development Agreement shall not prevent the City from adopting future Land Use Regulations respecting public health and safety to be applicable throughout the City, including the Property, which directly result from findings by the City that failure to adopt such future Land Use Regulations would result in an imminent significant and unanticipated condition injurious or detrimental to the public health and safety and that the application of such future Land Use Regulations to the Property are the only reasonable means to correct or avoid such condition.

10.2 This Agreement shall not be construed to limit the obligations of the City to comply with CEQA or any other federal or state law.

10.3 Fees, Taxes and Assessments. Notwithstanding any other provision herein to the contrary, the City retains the right (i) to impose or modify Processing Fees to the extent applicable on a Citywide basis, (ii) to impose or modify Citywide business licensing or other fees pertaining to the operation of businesses, (iii) to impose or modify Taxes that apply Citywide such as utility taxes, sales taxes and transient occupancy taxes and (iv) to impose or modify Citywide user fees and charges for City electrical utility charges and storm water quality fees that are required in order for the City to fund facilities, activities or services necessary to comply with state, federal or regional laws and regulations, and that do not duplicate facilities, activities or services funded with HOA assessments.

11. PERIODIC REVIEW.

11.1 Good Faith Compliance. Developer shall annually provide documentation of good faith compliance with this agreement per Govt. Code Section 65865.1 to the City. The City may, at least every twelve (12) months, during the Term of this Agreement, conduct a public meeting to review the extent of good faith substantial compliance by Developer with the terms of this Agreement at Developer's expense. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to Government Code Section 65865.1. Notice of such annual review will be provided by the Development Services Director to Developer thirty (30) days prior to the date of the public meeting by the Planning Commission and shall include the statement that any review may result in amendment or termination of this

Agreement as provided herein. A finding by the City of good faith compliance by the Developer with the terms of this Development Agreement shall conclusively determine the issue up to and including the date of such review. Nothing in this Section shall be deemed to create a duty of responsibility of City or Developer or define an event of default that but for such concurrent review would not have been so created or defined.

11.3 Failure to Comply in Good Faith. If the City Council makes a finding that the Developer has not complied in good faith with the terms and conditions of this Agreement, the City shall provide written notice to the Developer describing: (i) such failure to comply with the terms and conditions of this Agreement (referenced to herein as a "Default"); (ii) the actions, if any, required by the Developer to cure such Default; and (iii) the time period within which such Default must be cured. The Developer shall have, at a minimum, thirty (30) business days after the date of such notice to cure such Default, or in the event that such Default cannot be cured within such thirty (30) day period but can be cured within one (1) year, the Developer shall have commenced the actions necessary to cure such Default and shall be diligently proceeding to complete such actions necessary to cure such Default within thirty (30) days from the date of notice. If the Default cannot be cured within thirty (30) days, as determined by the City during periodic or special review, the Developer shall have such time as may be reasonably required to cure the Default with diligent effort.

11.5 Failure to Cure Default. If the Developer fails to cure a Default within the time periods set forth above, the City Council may modify or terminate this Agrement as provided below.

11.7 Estoppel Certificate. If at the conclusion of the periodic review, the City finds that the Developer is in substantial compliance with this Agreement, the City shall upon the Developer's request, issue an Estoppel Certificate to the Developer in a form satisfactory to the City Attorney.

11.8 Failure to Conduct Periodic Review. The failure of either party to conduct its periodic review shall not be a Developer Default unless Developer fails to cooperate in providing necessary information.

12. DEFAULT, REMEDIES AND TERMINATION.

12.1 Rights of Non-Defaulting Party after Default. The Parties acknowledge that both Parties shall have hereunder the remedies as provided by law or equity following the occurrence of a Default or to enforce any covenant or agreement herein, except that in no event shall either party, or its officers, agents, attorneys, or employees, be liable in damages for any breach or violation of this Agreement, it being expressly understood and agreed that the remedies for a breach or violation of this Agreement by either partyshall be limited to terminating this Development Agreement (and also all related agreements being the Reimbursement Agreement and the Exchange Agreement (collectively the "Related Agreements") or pursuing an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of all the Related Agreements. Before this Agreement may be terminated or action may be taken to obtain judicial relief the Party seeking relief ("Non-

Defaulting Party") shall comply with the notice and cure provisions of this Section 13.Cross Default. Any default under any other agreements between the City and Developer including, but not limited to, the Reimbursement Agreement, Exchange Agreement, DDA, etc. shall be a default under this Agreement.

12.2 Notice and Opportunity to Cure. A Non-Defaulting Party in its discretion may elect to declare a Default under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of the other Party ("Defaulting Party") to perform any material duty or obligation of the Defaulting Party under the terms of this Agreement. However, the Non-Defaulting Party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by the Defaulting Party to cure such breach or failure. The Defaulting Party shall be deemed in Default under this Agreement, if the breach or failure can be cured, but the Defaulting Party has failed to take such actions and cure such default within thirty (30) days after the date of such notice or five (5) days for monetary defaults (or such lesser time as may be specifically provided in this Agreement). However, if such non-monetary Default cannot be cured within such thirty (30) day period, and if and, as long as the Defaulting Party does each of the following:

(i) Notifies the Non-Defaulting Party of the Defaulting Party's proposed course of action to cure the default;

(ii) Promptly commences to cure the default within the thirty (30) day period;

(iii) Makes periodic reports to the Non-Defaulting Party as to the progress of the program of cure;

(iv) Diligently prosecutes such cure to timely completion then

The Defaulting Party shall not be deemed in breach of this Agreement once the breach has been cured.

Notwithstanding the foregoing, the Defaulting Party shall be deemed in default under this Agreement if the breach or failure involves the payment of money but the Defaulting Party has failed to completely cure the monetary default within ten (10) days (or such lesser time as may be specifically provided in this Agreement) after the date of such notice.

12.3 Dispute Resolution.

12.3.1 Meet and Confer. Prior to any Party issuing a Default Notice hereunder, the Non-Defaulting Party shall inform the Defaulting Party either orally or in writing of the Default and request a meeting to meet and confer over the alleged default and how it might be corrected. The Parties through their designated representatives shall meet within ten (10) days of the request therefore. The Partiesmay voluntarily (without waiving rights) meet as often as may be necessary to correct the conditions of default, but after the initial meeting either Party may also terminate the meet and confer process and proceed with the formal Default Notice.

12.3.2 Termination Notice. Upon receiving a Default Notice, should the Defaulting Party fail to timely cure any default, or fail to diligently pursue such cure as prescribed above, the Non-Defaulting Party may, in its discretion, provide the Defaulting Party with a written notice of intent to terminate this Agreement and other agreements ("Termination Notice"). The Termination Notice shall state that the Non-Defaulting Party will elect to terminate the Agreement and such other agreements as the Non-Defaulting Party elects to terminate within thirty (30) days and state the reasons therefor (including a copy of any specific charges of default) and a description of the evidence upon which the decision to terminate is based. Once the Termination Notice has been issued, the Non-Defaulting Party's election to terminate any agreements will only be waived or resolved (i) if the Defaulting Party fully and completely cures all defaults prior to the date of termination, (ii) pursuant to Section 13.6.3 below or (iii) if the Non-Defaulting Party elects to revoke the Termination Notice.

12.3.3 Hearing Opportunity Prior to Termination. Prior to any termination by the City, a termination hearing shall be conducted as provided herein ("Termination Hearing"). The Termination Hearing shall be scheduled as an open public hearing item at a regularly-scheduled City Council meeting within forty-five (45) days of the Termination Notice, subject to any legal requirements including but not limited to the Ralph M. Brown Act, Government Code Sections 54950-54963. At said Termination Hearing, the Defaulting Party shall have the right to present evidence to demonstrate that it is not in default and to rebut any evidence presented in favor of termination. Based upon substantial evidence presented at the Termination Hearing, the Council may, by adopted resolution, act as follows:

A. Decide to terminate this Agreement.

B Determine that the alleged Defaulting Party is innocent of a default and, accordingly, dismiss the Termination Notice and any charges of default; or

C. Impose conditions on a finding of default and a time for cure, such that Defaulting Party's fulfillment of said conditions will waive or cure any default.

Findings of a default or a condition of default must be based upon substantial evidence supporting the following three findings: (i) that a default in fact occurred and has continued to exist without timely cure, and (ii) that the Non-Defaulting Party's performance has not excused the default. Notwithstanding the foregoing, nothing herein shall vest authority in the City Council to unilaterally change any material provision of the Agreement.

Following the decision of the City Council, any Party dissatisfied with the decision may seek judicial relief consistent with this Section 12.

12.4 Waiver of Breach. By not filing a challenge to the City's action to enact any Development Approval within the period established by applicable law, Developer shall be deemed to have waived any claim that any condition of approval is improper or that the action, as approved, constitutes a breach of the provisions of this Agreement.

12.5 Limitations on Defaults. Notwithstanding any provision in this Agreement to the contrary, a Default by one Owner shall not constitute a Default by an Owner of

a portion of the Property, which is not the owner of the portion of the Property that is the subject of the Default (an "Innocent Owner"). Likewise, a Default by an Owner with respect to a Lot (or group of Lots) it owns or leases shall not constitute a Default by an Innocent Owner, nor shall the Default by another Owner of a portion of the Property not owned by an Innocent Owner constitute a Default of the Innocent Owner. Therefore, (i) no Innocent Owner shall have any liability to the City for, or with respect to, any Default by another Owner or any Default of any other Owner, (ii) an Innocent Owner shall have no liability to the City for, or with respect to, any Default by any other Owner, and (iii) the City's election to terminate this Agreement as a result of a Default by an Owner shall not result in a termination of this Agreement with respect to either (x) any portion of the Property not owned by such Owner or (y) those Lots owned or leased by an Innocent Owner until such time that this Agreement would otherwise terminate in accordance with its terms.

12.6 Venue. In the event of any judicial action, venue shall be in the Superior Court of San Bernardino County.

12.7 Effect of Termination on Monetary Obligations. Termination of this Agreement shall not waive or limit Developer's monetary obligations to City incurred prior to the date of termination,

13. ASSIGNMENT.

13.1 General. The Developer shall not transfer this Agreement or any of the Developer's rights and obligations hereunder, directly or indirectly, voluntarily or by operation of law, unless and until a successor party with the necessary financial capacity and experience and Developer sign and deliver to the City an assignment and assumption agreement, in the form attached hereto as Exhibit "H," pursuant to which the successor party shall assume such obligations. Subject to the City's written approval, which shall not be unreasonably conditioned, withheld, or delayed, the transferee's and Developer's execution of the assignment and assumption agreement shall be deemed to release the Developer of liability for performance under this Agreement of the obligations transferred and specified in such assignment and assumption agreement and the City shall thereafter look solely to that transferee for compliance with this Agreement with respect to such obligations and the portion of the Property so transferred. The City may deny approval of an assignment and assumption agreement if the Developer fails to provide adequate evidence, as reasonably determined by the City, that the transferee has adequate financial capacity, development experience, and a record of compliance with other agreements with cities related to development projects to ensure that the transferee will comply with the terms of this Development Agreement. Developer shall provide all information about the proposed assignee to City as requested by City.

13.2 Subsequent Owners. Notwithstanding any provision of this Agreement to the contrary, City approval shall not be required for the transfer of any portion of the Property under this Agreement to a subsequent Owner or Developer, provided no such transfer shall relieve Developer of its obligations hereunder (unless the transferee executes an assignment and assumption agreement). Following any such transfer or assignment of any of the rights and interests of the Developer under this Agreement, in accordance with Section 14.1

above, the exercise, use and enjoyment of such rights and interests shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were the Developer.

13.3 Termination of Agreement With Respect to Individual Lots. Notwithstanding any provisions of this Agreement to the contrary, as to any single-family residential Lot which (i) has been finally subdivided, (ii) has had its Certificate of Occupancy issued, and (iii) is individually (and not in "bulk") sold or otherwise conveyed to an owner-user, this Agreement shall terminate as of the date of occurrence of the last of such three items and thereupon, and without the execution or recordation of any further document or instrument, such Lot shall be released from and no longer be subject to the provisions of this Agreement. In addition, as to any Lot or other portion of the Property that is sold or otherwise conveyed to a public agency, public utility or the HOA, this Agreement shall terminate on the date of conveyance and thereupon, and without the execution or recordation of any further document or instrument, such Lot shall be released from and no longer be subject to the provisions of this Agreement. As to any other Lot not covered by the prior two sentences of this subsection, including, without limitation, commercial and multi-family residential projects, which (i) has been finally subdivided; and (ii) has had its Certificate(s) of Occupancy issued, this Agreement shall terminate on the date the last of the above items happens and thereupon, and without the execution or recordation of any further document or instrument, such Lot shall be released from and no longer be subject to the provisions of this Agreement.

14. RELEASES AND INDEMNITIES.

14.1 Third-Party Litigation.

14.1.1 Non-liability of City. As set forth above, the City has determined that this Agreement is consistent with the General Plan and that the General Plan and Development Approvals meets all of the legal requirements of State law. The Parties acknowledge that:

A. In the future there may be challenges to legality, validity and adequacy of the General Plan, the Development Approvals and/or this Agreement; and

B. If successful, such challenges could delay or prevent the performance of this Agreement and the Development of the Property.

In addition to the other provisions of this Agreement, including, without limitation, the provisions of this Section 15, so long as the Developer has diligently defended against the claim or litigation, as reasonably determined by the City, neither Party shall have liability under this Agreement for any failure of the City to perform under this Agreement or the inability of the Developer to Develop the Property as contemplated by the Development Plan or this Agreement as the result of a judicial determination resulting from a Claim or Litigation that on the Effective Date, or at any time thereafter, the General Plan, the Land Use Regulations, the Development Approvals, this Agreement, or portions thereof, are invalid or inadequate or not in compliance with law.

14.1.2 Revision of Land Use Restrictions. If, for any reason, the General Plan, Land Use Regulations, Development Approvals, this Agreement or any part thereof is hereafter judicially determined, as provided above, to not be in compliance with the State or Federal Constitution, laws or regulations and, if such noncompliance can be cured by an appropriate amendment thereof otherwise conforming to the provisions of this Agreement, then this Agreement shall remain in full force and effect to the extent permitted by law. The Development Plan, Development Approvals and this Agreement shall be amended, as necessary and as agreed by the Parties, in order to comply with such judicial decision.

14.1.3 Participation in Litigation: Indemnity. To the full extent permitted by law, the Developer shall indemnify the City and its City Council, commissions, officers, agents and employees (each, an "Agent") and will hold and save them and each of them harmless from any and all Claims or Litigation (including but not limited to attorneys' fees and costs) against the City and/or Agent for any such Claims or Litigation and shall be responsible for any judgment arising therefrom. The City shall provide the Developer with notice of the pendency of such action and shall request that the Developer defend such action. The Developer shall reimburse the City for any necessary legal cost incurred by City including, without limitation, reasonable costs incurred by the City Attorney to defend the City in the litigation. Alternatively, the City may select legal counsel to defend it in the litigation and Developer shall pay all reasonable fees and costs associated with the City's defense. The Developer shall be liable for any costs incurred by the City up to the date of any settlement and any necessary costs of implementing or enforcing the settlement, but shall have no further obligation to the City beyond the payment of those costs. In the event of an appeal, or a settlement offer, the Parties shall confer in good faith as to how to proceed.

14.2 Hold Harmless: Developer's Construction and Other Activities. The Developer shall indemnify, defend, save and hold the City and its Agents harmless from any and all Claims and Litigation which may arise, directly or indirectly, from the Developer's or the Developer's agents, contractors, subcontractors, agents, or employees' operations under this Agreement, whether such operations be by the Developer or by any of the Developer's agents, contractors or subcontractors or by any one or more persons directly or indirectly employed by or acting as agent for the Developer or any of the Developer's agents, contractors or subcontractors. Nothing herein is intended to make the Developer liable for the acts of the City's officers, employees, agents, contractors of subcontractors.

14.3 Survival of Indemnity Obligations. All indemnity provisions set forth in this Agreement shall survive termination of this Agreement for any reason other than the City's Default.

15. EFFECT OF AGREEMENT ON TITLE.

15.1 Covenant Run with the Land. Subject to the provisions of Sections 14 and 18 and pursuant to the Development Agreement Statute (§ 65868.5):

A. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their

respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Property, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns;

B. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law; and

C. Each covenant to do or refrain from doing some act on the Property hereunder (i) is for the benefit of and is a burden upon every portion of the Property, (ii) runs with such lands, and (iii) is binding upon each Party and each successive Owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any Owner of such lands, or any portion thereof, and each other person succeeding to an interest in such lands.

16. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION.

16.1 Non-liability of City Officers and Employees. No official, agent, contractor, or employee of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City.

16.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to this Agreement which affects the financial interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any state statute or regulation.

17. MORTGAGEE PROTECTION.

17.1 Developer's Breach Not Defeat Mortgage Lien. The Developer's breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render void the lien of any Mortgage made in good faith and for value but, unless otherwise provided herein, the terms, conditions, covenants, restrictions, easements, and reservations of this Agreement shall be binding and effective against the holder of any such Mortgage whose interest is acquired by foreclosure, trustee's sale or otherwise.

17.2 Holder Not Obligated to Construct or Complete Improvements. The holder of any Mortgage shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Project or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

17.3 Notice of Default to Mortgagee. Whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer

hereunder, the City shall at the same time deliver a copy of such notice or demand to each holder of record of any Mortgage who has previously made a written request to the City therefor, or to the representative of such lender as may be identified in such a written request by the lender. No notice of default shall be effective as to the holder unless such notice is given.

17.4 Right to Cure. Each holder of a Mortgage (insofar as the rights of City are concerned) shall have the right, at its option, within ninety (90) days after the receipt of the notice, one hundred twenty (120) days after the Developer's cure rights have expired, or ninety (90) days after it has acquired possession of the Property, whichever is later, to:

A. Obtain possession, if necessary, and to commence and diligently pursue the cure until the same is completed, and

B. Add the cost of said cure to the security interest debt and the lien or obligation on its security interest;

provided that, in the case of a Default which cannot with diligence be remedied or cured within such cure periods referenced above in this Section 18.4, such holder shall have additional time as reasonably necessary to remedy or cure such Default.

In the event there is more than one such Mortgage holder, the right to cure or remedy a breach or Default of the Developer under this Section shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or Default of the Developer under this Section.

No Mortgage holder shall undertake or continue the construction or completion of the improvements (beyond the extent necessary to preserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the City by written agreement satisfactory to City with respect to the Project or any portion thereof in which the holder has an interest. The Mortgage holder must agree to complete, in the manner required by this Agreement, the improvements to which the lien or title of such holder relates, and submit evidence satisfactory to the City that it has the qualifications and financial responsibility necessary to perform such obligations.

18. MISCELLANEOUS.

18.1 Estoppel Certificates. Either Party (or a Mortgagee under Section 18) may at any time deliver written notice to the other Party requesting an Estoppel Certificate addressing:

A. whether the Agreement is in full force and effect and is a binding obligation of the Parties;

B. whether the Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments;

C. whether there are no existing defaults under the Agreement to the actual knowledge of the party signing the Estoppel Certificate; and

D. such other matters as may reasonably be requested.

A Party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting Party within thirty (30) days after receipt of the request. Both the City Manager and the City Attorney shall be required to sign Estoppel Certificates on behalf of the City. An Estoppel Certificate may be relied on by assignees and Mortgagees. The Estoppel Certificate shall be substantially in the same form as Exhibit "C."

18.2 Permitted Delays and Adverse Economic Events..

18.2.1 Performance by a party of its obligations hereunder shall be excused during any period of **"Permitted Delay."** Permitted Delay shall mean delay beyond the reasonable control of the Party claiming the delay (specifically excluding a party's financial inability to perform), including, but not limited to: (a) acts of God, including without limitation earthquakes, floods, fire, natural disasters, weather conditions that are abnormal for the period of time and could not have been reasonably anticipated, pandemics, epidemics, and other natural calamities, (b) civil commotion; (c) riots or terrorist acts; (d) strikes, picketing or other labor disputes; (e) severe shortages of materials or supplies critical to the construction of the Project; (f) the discovery of underground or other unknown conditions which delay any work; (g) damage to work in progress by reason of fire, floods or other casualties; (h) failure, delay or inability of the other party to act; (i) moratoria or other delays caused by restrictions imposed or mandated by, or other actions or inactions of governmental entities, and (j) legal or administrative actions or inactions related to development of the Property. A Permitted Delay for any cause will be deemed granted if written notice by the party claiming such delay is timely sent to the other party setting forth the relevant facts and circumstances and the estimated time of delay (a "**Delay Notice**"). Within ten (10) days from receipt of a Delay Notice, the parties shall meet and confer in good faith to determine the agreed period of delay and any actions to be taken in response thereto, which shall be documented by the parties in writing in an Operating Memorandum.

18.2.2: In the event of a significant adverse event concerning the financial markets or residential markets that renders performance under this Agreement financially infeasible (an "Adverse Economic Event"), Developer shall promptly notify the City of the specific facts and circumstances that render performance infeasible ("Financial Infesibility Notice"). Within ten (10) days from receipt of a Financial Infeasibility Notice, the parties shall meet and confer in good faith to determine whether performance, or any portion thereof, is truly infeasible, and if so, the agreed period of delay and any actions to be taken in response thereto, which shall be documented by the parties in writing in an Operating Memorandum. If the parties cannot agree on whether there is an Adverse Economic Event or the amount of time of permitted delay, the parties agree to participate in non-binding mediation before either party may pursue any remediese under Section 13 of this Agreement.

18.3 Interpretation.

18.3.1 Construction of Development Agreement. The language of this Agreement shall be construed as a whole and given its fair meaning. The captions of the sections and subsections are for convenience only and shall not influence construction. This Agreement shall be governed by the laws of the State of California. This Agreement shall not be deemed to constitute an illegal surrender or abrogation of the City's governmental powers over the Property.

18.3.2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and this Agreement supersedes all previous negotiations, discussions, memoranda of understanding, and agreements between the Parties. No parol evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement.

18.3.3 Recitals. The recitals in this Agreement constitute part of this Agreement and each Party shall be entitled to rely on the truth and accuracy of each recital as an inducement to enter into this Agreement.

18.3.4 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the Party benefitted thereby of the covenants to be performed hereunder by such benefitted Party.

18.4 Severability. If any provision of this Agreement is adjudged invalid, void or unenforceable, that provision shall not affect, impair, or invalidate any other provision, unless such judgment affects a material part of this Agreement in which case the parties shall comply with the procedures set forth in Section 15.1.2 above.

18.5 No Third Party Beneficiaries. The only Parties to this Agreement are the Developer and the City and their successor and assigns. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person whatsoever.

18.6 Notice.

18.6.1 To Developer. Any notice required or permitted to be given by the City to the Developer under this Agreement shall be in writing and delivered personally to the Developer as set forth below or mailed, with postage fully prepaid, registered or certified mail, return receipt requested, addressed as follows:

Lewis Land Developers, LLC
c/o Lewis Operating Corp.
1156 N. Mountain Avenue
Upland, CA 91786
Attention: Erren O'Leary

With a copy to:

James D. Vaughn,, Esq.
Stowell, Zeilenga, Ruth, Vaughn & Treiger, LLP
4580 E. Thousand Oaks Blvd., Suite 190
Westlake Village, CA 91362

or such other address as the Developer may designate in writing to the City.

18.6.2 To the City. Any notice required or permitted to be given by the Developer to the City under this Agreement shall be in writing and delivered personally to as set forth below or mailed with postage fully prepaid, registered or certified mail, return receipt requested, addressed as follows:

City of Grand Terrace
22795 Barton Road
Grand Terrace, CA 92346
Attention: City Manager

Aleshire & Wynder
1 Park Plaza Boulevard
Suite 1000
Irvine, CA 92614
Attn: Adrian Guerra

or such other address as the City may designate in writing to the Developer.

Notices provided pursuant to this Section shall be deemed received at the date of delivery as shown on the affidavit of personal service or the Postal Service receipt.

18.7 Relationship of Parties. It is specifically understood and acknowledged by the Parties that the Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. The only relationship between the City and the Developer is that of a government entity regulating the development of private property and the owner of such private property.

18.8 Attorney's Fees. If either Party to this Agreement is required to initiate or defend litigation against the other Party, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable,

shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and, in addition, a Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to a final judgment.

18.9 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent necessary to implement this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary to implement this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

18.10 Time of Essence. Time is of the essence in:

A. the performance of the provisions of this Agreement as to which time is an element; and

B. the resolution of any dispute which may arise concerning the obligations of the Developer and the City as set forth in this Agreement.

18.11 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the 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 Party with the terms of this Agreement thereafter.

18.12 Execution.

18.12.1 Counterparts. This Agreement may be executed by the Parties in counterparts which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

18.12.2 Recording. The City Clerk shall cause a copy of this Agreement to be executed by the City and recorded in the Official Records of San Bernardino County no later than ten (10) days after the Effective Date (Government Code § 65868.5). The recordation of this Agreement is deemed a ministerial act and the failure of the City to record the Agreement as required by this Section and the Development Agreement Statute does not make this Agreement void or ineffective.

18.12.3 Authority to Execute. The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to sign and deliver this Agreement on behalf of the Party he or she represents, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, (iv) the entering into of this Agreement does not violate any

provision of any other agreement to which the Party is bound, and (v) there is no litigation or legal proceeding which would prevent such Party from entering into this Agreement.

18.13 Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and Developer. The anticipated refinements to the Project may demonstrate that clarifications to this Agreement and the Development Approvals are appropriate with respect to the implementation of this Agreement and the Development Approvals. If, when, and as it becomes necessary or appropriate to take implementing actions or make such changes, adjustments or clarifications the Parties may effectuate such actions, changes, adjustments or clarifications through an operating memorandum ("Operating Memorandum") approved by the Parties in writing which references this Section 19.13. Such Operating Memorandum shall not require public notices and hearings or an amendment to this Agreement unless it is required by Section 10 above. The City Manager shall be authorized, after consultation with and approval of Developer, to determine whether a requested adjustment, clarification or implementing action (i) may be effectuated pursuant to this Section 19.13 and is consistent with the intent and purpose of this Agreement and the Development Approvals or (ii) is of the type that would constitute an amendment to this Agreement and thus would require compliance with the provisions of Section 10 above. The authority to enter into such Operating Memorandum is hereby delegated to the Director and the Director is hereby authorized to execute any Operating Memorandum hereunder without further City Council action.

[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, the City and the Developer have executed this Agreement on the date first above written.

CITY OF GRAND TERRACE

By: _____

Name: Bill Hussey

Title: Mayor

ATTEST

_____

City Clerk

APPROVED AS TO FORM

_____

Adrian Guerra, City Attorney

"DEVELOPER"

Lewis Land Developers, LLC, a Delaware limited liability company

By: Lewis Operating Corp., a California corporation,
Its Manager

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

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

STATE OF CALIFORNIA)
) Ss
COUNTY OF)

On _____, before me, _____, a 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.

_____
Notary Public

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

STATE OF CALIFORNIA)
) ss
COUNTY OF _____)

On _____, before me, _____, a 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.

_____
Notary Public

EXHIBIT "A"

MAP AND LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "B"

EXISTING DEVELOPMENT APPROVALS

General Plan Amendment No. _____	Res. No. _____
Zone Change No. _____	Ord. No. _____
Gateway at Grand Terrace Specific Plan No. _____	Ord. No. _____
Development Agreement No. _____	Ord. No. _____
[Tentative Tract Map No. _____]	Res. No. _____
	Res. No. _____
Final Environmental Impact Mitigation Monitoring Program	Res. No. _____

EXHIBIT "C"

INFRASTRUCTURE PLAN

I. DESIGN OF IMPROVEMENTS

1. **City Review Process:** City and Developer agree that there is substantial mutual benefit to both Parties as a result of the Project.

a. Developer will reimburse City for staff and consultant costs reasonably incurred with review of entitlement applications and plans. City will endeavor to invoice Developer monthly, with invoices identifying employee/consultant, hours and tasks billed.

b. As time is of the essence, City agrees to expedite all application and plan reviews. City agrees to employ or contract with qualified consultants to ensure expedited review schedules.

1. Developer will prepare the plans and specifications as follows:
    a. Storm Drain Improvement Plans
        i. Phase I: Van Buren to Michigan Intersection
        ii. Phase II: Stub to Pico cul-de-sac
    b. Basin Improvement Plans
    c. Sewer Improvement Plans
    d. Water Improvement Plans
    e. Street Improvement Plans
        i. Including Grading/Improvements/Traffic Signals/Striping
        ii. Limits: Main Street to existing termination point of Commerce Way
        iii. Assume Interim (Phase I) and Ultimate (Phase II)
    f. Dry Utility Plans – Undergrounding and Line Extensions
2. Specifications Contracting:
    a. Developer will prepare Contract Specifications and Bid Documents for all facilities eligible for public funding such as DIF Credits/Reimbursements, Measure I, CFD, and other Special Funding.
    b. City will review specifications and documents and assist Developer in posting and opening of the public bids in accordance with City standards.
    c. Developer will retain a qualified construction management consultant to review and award the bid, manage the contract, review certified payroll, process change orders, etc, in coordination with the City.
3. ROW Acquisition:
    a. Developer is responsible for dedicating any ROW or easements as required for the construction of the abovementioned improvements within Developer owned property.

EXHIBIT "D"

SOURCE OF FUNDING FOR CERTAIN PROPOSED PROJECT FACILITIES

Funding of Improvements – In Order of Priority:

1) Full width (4 lanes) Taylor/Commerce Street Improvements from Main Street to northerly boundary of the Property ("Taylor/Commerce Improvements") [Estimated Cost - $3.6 million]:

a. Project Condor Bess In-Lieu of Construction Agreement funds ("Condor Contribution") will be contributed by City.

b. Developer Contribution and City Reimbursement:

(i) Developer shall contribute 40% of the remaining cost of the Taylor/Commerce Improvements after accounting for the Condor Contribution and advance the remaining 60% (60% advance). The City shall reimburse Developer's 60% Advance subject to paragraphs (ii) and (iii) below.

(ii) City to reimburse Developer 60%, after accounting for the Condor Contribution, of the designated arterial costs, including plans, specifications, engineering, construction management, and physical construction costs.

(iii) City to reimburse Developer's 60% Advance pursuant to the following schedule: 25% at issuance of 1st certificate of occupancy, 25% at issuance of 50th certificate of occupancy, 25% at issuance of 150th certificate of occupancy and 25% at issuance of 250th certificate of occupancy.

c. Developer's 40% contribution is eligible for DIF credit and is also considered an eligible facility for Project CFD financing.

d. Estimated DIF credit: Up to $1,829,952.

e. Excess Developer Contribution: $0.

2) Storm Drain Improvements [Estimated Cost - $4.5 million]:

a. Developer to fund 100% of storm drain improvements.

b. Developer funding eligible for DIF credit and is also considered an eligible facility for Project CFD financing. City agrees to reimburse Developer with DIF collected

from other benefitted properties to the extent available.

c. Estimated DIF credit: $834,028.

d. Excess Developer Contribution: $3,665,972.

3) Public Park [Estimated Cost - $6 million]:

a. Developer to fund 100% of the public park improvements.

b. Developer funding eligible for DIF credit and is also considered an eligible facility for Project CFD financing. City agrees to reimburse Developer with DIF collected from other benefitted properties to the extent available.

c. Estimated DIF credit: $3,281,898.

d. Excess Developer Contribution: $2,718,102.

Total Developer Costs In Excess of Fair Share/DIF: $6,384,074

EXHIBIT "E"

DEVELOPMENT IMPACT FEES PER UNIT/CREDITS

Fee Designation	SFD	MFA	Credit?
Storm Drainage	$2,234	$429	Yes
General Public Facilities Fund	$1,102	$1,102	No
Public Use	$674	$422	No
Parkland	$7,241	$4,534	Yes
Traffic Signal Improvements	$239	$146	Yes
Arterial Improvements	$4,064	$2,480	Yes
Operational Improvement Fees	$174	$106	Yes

EXHIBIT "F"

ADDITIONAL AGREEMENTS CONCERNING DEVELOPMENT

In addition to the other terms and conditions concerning the Project, the City shall accommodate and expedite the Project as follows:

1.0 CONSTRUCTION CONDITIONS.

1.1 Provision of Utility Connections. Subject to the approval of the utility providers and City permit requirements, the City shall permit, at the Developer's expense, any necessary temporary and permanent utility connections requested by the Developer for power, water service and sewer service prior to recordation of each final Subdivision Map, subject to the approval of the Fire Department.

1.2 Allowance of Transformers. The City shall allow the setting of transformers without requiring adjacent streets to be fully paved, subject to the approval of the electrical utility provider, City permit requirements and the approval of the Fire Department. It is anticipated that 6' feet of curb and gutter will be placed adjacent to the transformer to ensure correct elevation of the transformer pad. In the event that the location or elevation change, or the curb and gutter damaged, the Developer shall incur the full costs of relocation of both the curb and gutter and the transformer, and the full costs to repairs or reconstruction of the curb and gutter, if needed as determined by the City Engineer.

1.3 Temporary Water Pipes. Temporary above ground pipes for construction water and temporary fire hydrants, as approved by the Building Official and Fire Marshall, will be acceptable for model and production homes prior to the first certificate of occupancy in the construction phase being developed. No certificate of occupancy will be issued until said temporary facilities are removed and permanent facilities in place as approved by the Building Official and Fire Marshall.

2.0 MAINTENANCE.

2.1 Maintenance of Construction Activities. The Developer shall contract directly for all work required for the maintenance of construction related activities, including but not limited to recycling of construction materials, erosion control, temporary fence installation, and temporary power installation. The selection and retention of the contractor, subcontractor or other person or entity to do such work shall be made by the Developer in its sole and absolute discretion. Trash removal will be coordinated directly with City franchisee. Contractor, subcontractor, person or entity conducting business within the City shall meet applicable state and City licensing requirements, and City permit requirements including bonding and insurance requirements.

3.0 STREETS.

3.1 Timing of Street Paving. The Developer shall be allowed to begin construction of model and production homes without first paving streets unless the paved streets are needed to serve other functions such as providing access to critical public infrastructures or areas already developed, and providing an essential Best Management Practice for erosion and sediment control for large graded areas located upstream, or the Fire Department indicates the

paving is necessary for purposes of public health and safety. Under general situation, paved streets shall be required as a condition for the issuance of the Certificate of Occupancy for the first production home in each construction phase. The Developer shall install all-weather access for construction and emergency personnel.

4.0 DEVELOPMENT CONDITIONS.

4.1 Rear Residential Slopes. The Developer shall stabilize according to the City Grading and Landscape Ordinance and requirements of the City Engineer and the City Planner the rear slope of all residential Lots prior to issuance of a Certificate of Occupancy.

4.2 Use of Joint Trenches. If permitted by the applicable utility provider, the City shall allow the Developer, subject to City permit requirements, to utilize joint trenches if it deems it necessary for Internet capabilities and/or telecommunication purposes.

5.0 PERMITTING AND ACCEPTANCE OF IMPROVEMENTS.

5.1 Fire Sprinkler Inspections. The City's Fire Marshall shall be responsible for enforcing the then applicable provisions of the California Fire Code, and the California Building Standards Codes.

5.2 Building Permit Refunds. If a Building Permit has expired without construction having started on the structure for which the Building Permit was issued, the Developer shall be entitled to a refund of the building permit fee less the actual cost to the City to issue the Building Permit, as determined by the City. No refund will be provided if the request for the refund has not been provided to the City within 180 days of the Building Permit's expiration.

EXHIBIT "G"

FINANCING PLAN

This Financing Plan sets forth the basic terms and conditions pursuant to which City and Developer will cooperate to establish a CFD pursuant to the CFD Act to finance the Eligible Facilities. Capitalized terms not otherwise defined in this Financing Plan shall be defined as provided in the Development Agreement.

1. Goals and Policies for Financing. The principal objectives of this Financing Plan are to:

a. Provide City and Developer reasonable certainty that the CFD will be established in accordance with the Goals and Policies and this Financing Plan.

b. Provide basic parameters for the levy of the Special Tax (defined below) within the CFD to pay directly for Eligible Facilities and to secure the issuance of bonds of the CFD secured by and payable from the Special Tax in order to finance the Eligible Facilities ("Bonds").

c. Provide basic parameters for the issuance of Bonds by the CFD.

2. Formation. City shall initiate proceedings to establish the CFD, upon Developer's petition pursuant to the CFD Act and submittal of City's standard application form and receipt of an advance from Developer in an amount determined by City to pay for City's estimated costs to be incurred in undertaking the proceedings to establish the CFD ("Formation Proceeding Costs"). City agrees that all such advances for Formation Proceedings Costs and the reasonable financial consultant, legal and engineering costs incurred by the Developer in connection with such proceeding shall be eligible for reimbursement out of the first available proceeds of Surplus Special Taxes (defined below) and Bonds of the CFD ("CFD Proceeds"). The exact terms and conditions for the advance of funds by Developer and the reimbursement of such advances shall be memorialized in a separate agreement between City and Developer. City agrees to use its best efforts to complete the proceedings to form the CFD and record the notice of special tax lien for the CFD within 180 days after City's receipt of Developer's complete application and deposit.

3. Boundaries. The CFD boundary shall encompass the [for-sale residential portion of the Project].

4. Eligible Public Facilities and Discrete Components. The CFD may be authorized to finance the Eligible Facilities specified by Developer in the Acquisition Agreement, which may include the following:

a. public streets and other related improvements within the public right of way

b. water facilities

c. storm drain facilities

d. sewer facilities

e. public parks, open space and landscaping

f. gas, electrical, television and telephone facilities to the extent reasonable

g. All or a portion of the applicable DIFs

The costs of any Eligible Facility to be constructed by Developer that are eligible to be financed with CFD Proceeds ("**Actual Costs**") shall include the following:

(i) The actual hard costs for the construction or the value of the Eligible Facility, including labor, materials and equipment costs;

(ii) The costs of grading required for the Eligible Facility;

(iii) The costs incurred in designing, engineering and preparing the plans and specifications for the Eligible Facility;

(iv) The costs of environmental evaluation and mitigation of or relating to the Eligible Facility;

(v) Fees paid to governmental agencies for, and costs incurred in connection with, obtaining permits, licenses or other governmental approvals for the Eligible Facility;

(vi) Costs of construction administration and supervision;

(vii) Professional costs associated with the Eligible Facility, such as engineering, legal, accounting, inspection, construction staking, materials and testing and similar professional services; and

(viii) Costs of payment, performance and/or maintenance bonds and insurance costs directly related to the construction of the Eligible Facility.

(ix) The actual cost or fair market value of interests in real property required for the Eligible Facility.

(x) Any other costs permitted by law directly related to the Eligible Facility

The Eligible Facilities constructed by Developer, and for which Developer elects to submit payment requests, shall be bid, contracted for and constructed in accordance with the Acquisition Agreement to be entered into between City and Developer at the time of formation of the CFD. The Acquisition Agreement shall provide additional detail, consistent with the provisions of the Goals and Polices and this Development Agreement, with respect to the

financing of DIFs through the CFD and the acquisition and construction of the Eligible Facilities, including a more detailed description of the specific Eligible Facilities that will be eligible to be financed through the CFD and discrete components of each Eligible Facility that may be reimbursed prior to the completion of the entire Eligible Facility. The CFD financing of the acquisition of an Eligible Facility constructed by Developer that is included in a City DIF program and required by the Project conditions of approval, shall not preclude the Developer's receipt of corresponding DIF credit.

5. Financing Parameters. The CFD shall be authorized to levy Special Taxes and issue Bonds in one or more series to finance the Eligible Facilities in accordance with the basic parameters set forth below:

(a) A precondition to the issuance of Bonds shall be that the value of the real property subject to Special Taxes required to repay the Bonds shall be at least three times the amount of the Bonds and any other governmentally-imposed land-secured debt (excluding any proceeds of the Bonds to be deposited in an escrow fund) ("Minimum Value-to-Debt Ratio"). In circumstances where the principal amount of a series of Bonds proposed to be issued causes such series of Bonds to fail to meet the Minimum Value-to-Debt Ratio, a portion of such Bonds shall be deposited in an escrow fund such that the remaining amount of the Bonds will satisfy the maximum value to-debt ratio. Funds shall be eligible to be released from such escrow fund only if and to the extent that the value of the taxable property subject to the levy of Special Taxes securing the Bonds compared to the principal amount of the Bonds not included in the escrow fund following such release shall meet the Minimum Value-to-Debt Ratio.

(b) Each series of Bonds shall have a term of at least thirty (30) years.

(c) Each series of Bonds may include up to twenty-four (24) months of capitalized interest or such other lesser amount as may be requested by Developer.

(d) Each series of Bonds to be issued shall be sized based upon the estimated annual Special Tax revenues from the CFD at build-out being equal to one hundred ten percent (110%) of (i) annual debt service, plus (ii) priority annual administrative expenses. Priority annual administrative expenses to be funded from Special Taxes, as a first priority for use of such Special Taxes, shall not exceed $25,000 (the "Priority Annual Administrative Expense Requirement").

(e) The City may fund from the proceeds of each series of Bonds an amount representing all administrative expenses reasonably expected to be incurred by the City during the first twelve (12) months following the date of issuance of such bonds.

(f) The total effective tax rate within the CFD applicable to any residential parcel on which a for-sale residential dwelling has or is to be constructed, taking into account all ad valorem property taxes, voter-approved ad valorem property taxes in excess of one percent (1%) of assessed value, the annual special taxes of existing community facilities districts and any other community facilities districts under consideration and reasonably expected to be established, the annual assessments of existing assessment districts and any other assessment districts under consideration and reasonably expected to be established (but excluding

assessments for maintenance), and the Special Taxes, shall not exceed two percent (2.00%) of the projected initial sales price of the residential dwelling unit and such parcel, as estimated at the time of formation of the CFD (in accordance with Section 5.2, Procedures for Formation).

(g) Special Taxes shall be levied on Developed Property within the CFD prior to the issuance of Bonds at the maximum assigned special tax rate to finance the Eligible Facilities. For purposes of the CFD, "Developed Property" means a parcel for which a building permit has been issued and "Undeveloped Property" shall mean all other taxable property. Special Taxes may be levied on Undeveloped Property within the CFD only after the issuance of Bonds and only to the extent the annual debt service on the Bonds, administrative expenses and the reserve fund replenishment amount is not able to be paid in full from Developed Property Special Taxes levied and collected within the CFD. For the purposes of this Financing Plan "Surplus Special Taxes" shall mean (i) Special Taxes levied on Developed Property within the CFD prior to the issuance of Bonds and collected by the CFD, less the amount required to pay annual CFD administrative expenses, and (ii) Special Taxes levied on Developed Property within such Improvement Area at the maximum special tax rate after the issuance of Bonds and collected each fiscal year in excess of the amount required (w) to pay principal and interest on the Bonds, (x) to pay all administrative expenses related to such Bonds, (y) pay for reasonably anticipated delinquent special taxes within the CFD and (z) to replenish the reserve fund for such Bonds to the applicable reserve requirement.

(h) Special Taxes on Developed Property shall be levied by the CFD in each fiscal year at the maximum assigned special tax rate until the earlier of (i) Developer's submittal of its final payment request for Eligible Facilities and payment in full for all amounts approved by the City for the Eligible Facilities or (ii) the payment in full of all Bonds. Surplus Special Taxes collected by the CFD shall be deemed CFD Proceeds and shall be disbursed to reimburse Developer any amounts approved pursuant to payment requests submitted for the Eligible Facilities.

(i) All commercial property, affordable housing units, age-qualified housing units and rental housing units may, at Developer's option, be exempted from the Special Taxes.

(j) Full or partial prepayment of the Special Taxes shall be permitted.

(k) At Developer's election at the time of submittal of its written request and City's standard application form pursuant to Section 2 above, the City shall allow the Special Taxes to escalate by two percent (2%) per year, in which case debt service on the Bonds shall escalate at the same average rate per year.

(l) The timing of the issuance and sale of each series of the Bonds, the terms and conditions upon which such Bonds shall be issued and sold, the method of sale of such Bonds and the pricing thereof shall be reasonably determined by the City and shall conform to the Goals and Policies, this Financing Plan and the Acquisition Agreement. The sale of each series of the Bonds shall be subject to receipt by the City of a competitively bid or negotiated bond purchase agreement which is acceptable to the City.

(m) The rate and method of apportionment of special taxes for the CFD shall include provisions to allow for administrative reductions in the maximum Special Taxes, prior to the issuance of the first series of Bonds, with the consent of the Developer. The reductions permitted pursuant to this paragraph shall be reflected in an amended Notice of Special Tax Lien which the City shall cause to be recorded.

6. Modifications. In order to address economic circumstances, Project revisions, bond underwriting criteria or other factors consistent with the Project's development plan and City and Developer's objectives with respect to the Project, the CFD and the Proposed Public Facilities; (i) the provisions of this Financing Plan may be modified at an administrative level with the consent of both the City Manager and Developer, and (ii) City shall cooperate with Developer to amend CFD boundaries, special tax rates, and other relevant aspects of the CFD. City agrees and acknowledges that in connection with any such amendment it shall not impose or otherwise require any additional infrastructure, development fee or other requirements or conditions with respect to the Project or CFD; provided, however, the City may require Developer to advance funds to pay all reasonable costs incurred or to be incurred by the City in considering any such amendment.

EXHIBIT "H"

ESTOPPEL CERTIFICATE

Date Requested: _____
Date of Certificate: _____

On _____, 202__, the City of Grand Terrace ("City") approved the Development Agreement between Lewis Land Developers, LLC, a Delaware limited liability company and the City of Grand Terrace (the "Development Agreement").

City certifies that, to the best of its knowledge, as of the Date of Certificate set forth above:

[CHECK WHERE APPLICABLE]

____ 1. The Development Agreement remains binding and effective.

____ 2. The Development has not been amended.

____ 3. The Development Agreement has been amended in the following aspects as recorded in the public records:

_____
_____
_____.

____ 4. To the best of our knowledge, neither Developer nor any of its approved successors is inefault under the Development Agreement.

____ 5. The conditions exist which with notice would constitute defaults under the Development Agreement:

_____
_____
_____.

____ 6. The Development Agreement: ????

_____
_____
_____.

This Estoppel Certificate may be relied upon by a transferee or mortgagee of any interest in the property which is the subject of the Development Agreement.

CITY OF GRAND TERRACE

By: _____

Name: _____
City Manager

EXHIBIT "I"

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

Pursuant to the Development Agreement between the CITY OF GRAND TERRACE ("City") and LEWIS LAND DEVELOPERS, LLC, a Delaware limited liability company ("Assignor"), dated _____, 2021 (the "Agreement"), which Agreement is hereby incorporated herein by this reference, and for good and valuable consideration, receipt of which is hereby acknowledged, the undersigned hereby agree as follows:

1. The assignment and assumption provided for under this Assignment and Assumption Agreement ("Assignment") is made together with the sale, transfer or assignment of all or a part of the property subject to the Agreement. The property sold, transferred or assigned together with this Assignment is described in Attachment "1" attached hereto and incorporated herein by this reference (the "Subject Property").

2. Assignor hereby grants, sells, transfers, conveys, assigns and delegates to _____ ("Assignee"), all of Assignor's rights, title, interest, benefits, privileges, duties and obligations arising under or from the Agreement with respect to the Subject Property except for the following:

(a) Assignor's right to amend the Agreement as they apply to any real property other than the Subject Property; and

(b) **[INSERT OTHER RETAINED RIGHTS, IF ANY]**

3. Assignee hereby accepts the foregoing assignment and, except as otherwise provided herein, unconditionally assumes and agrees to perform all of the duties and obligations of Assignor arising under or from the Agreement as owner of the Subject Property and Assignor is hereby released from all such duties and obligations.

4. The sale, transfer or assignment of the Subject Property and the assignment and assumption provided for under this Assignment are the subject of additional agreements between Assignor and Assignee. Notwithstanding any term, condition or provision of such additional agreements, the rights of the City arising under or from the Agreement and this Assignment shall not be affected, diminished or defeated in any way, except upon the express written agreement of the City.

5. Assignor and Assignee execute this Assignment pursuant to Section 14 of the Agreement. This Assignment may be executed by the parties hereto in counterparts, each of which shall be deemed an original.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption Assignment as of the dates set forth below.

Dated: _____

ASSIGNOR:

LEWIS LAND DEVELOPERS, LLC, a Delaware limited liability company

By: Lewis Operating Corp., a California corporation
Its Manager

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Dated: _____

CITY:

By:
Name:
Title:

ASSIGNEE:

_____

By: _____
Name: _____
Title: _____

ATTACHMENT 1
TO ASSIGNMENT AND ASSUMPTION AGREEMENT

DESCRIPTION OF SUBJECT PROPERTY

[ATTACH LEGAL DESCRIPTION]

EXHIBIT "J"

SCHEDULE OF PERFORMANCE

Subject to the Permitted Delays and Adverse Economic Event provisions set forth in the Development Agreement, Developer shall cause the construction and development of the public infrastructure improvements pursuant to the following schedule:

1. Developer will commence and diligently pursue to completion the Soccer Field Improvements as set forth on Exhibit "K" and Section 6.3

2. Developer shall commence the New Ball Field Improvements as set forth in the Exchange Agreement and diligently pursue to completion prior to issuance of the 300th Cerfificate of Occupnacy in the Project.

3. Within 12 months of the Effective Date of the Development Agreement, Developer and City will coordinate and cause the remediation and removal of arsenic-laden material within the City's property (former railroad right-of-way) and obtain issuance of a No Further Action letter.

4. Within 36 months after the Effective Date of the Development Agreement, Developer will construct the detention basins and utilize the overburden to grade the street right-of-way for Taylor/Commerce Way.

5. Prior to the issuance of the 1st Certificate of Occupancy in the Project, Developer shall construct the full width (4 lanes) street improvements of Taylor/Commerce Way from Main Street to the Developer's northern property line of Lot 1 of TTM# 20501. These improvements shall be inclusive of those improvements to Taylor Street set forth in the Conditions of Approval for Conditional Use Permit No. 20-03 dated December 2, 2021, including Condition Nos. 2(a) and 10 set forth in the memorandum from Public Works dated December 1, 2021 attached as an exhibit to the Conditions of Approval. Developer shall have no responsibility for constructing Taylor/Commerce to the north of said property line (previously known as Phase 2 of the street improvements).

6. Prior to the 1st Certificate of Occupancy in the Project, Developer will commence construction of the public park and will diligently pursue to completion to the reasonable satisfaction of the City, such that the City is able to accept the park improvements within 12 months thereafter.

7. Prior to the 1st Certificate of Occupancy in the Project, Developer will construct the Phase I storm drain improvements in Van Buren to Michigan Avenue.

8. Prior to issuance of the 1st residential unit building permit in the Project, Developer will construct Sewer improvements as required by the City of Colton.

9. Prior to issuance of the 1st residential unit building permit in the Project, Developer will construct water main extensions from Main to Developer's northerly

property line, and in Van Buren Avenue as required by Riverside Highland Water Company.

10. Developer will underground dry utilities up to 66 KVA or relocate as feasible. Developer is not responsible for costs or acquisition of 3rd Party Easements from other property owners.

11. Prior to the issuance of the 1st Certificate of Occupancy within Lot 4 of TTM# 20501, Developer will commence construction of the Phase II storm drain improvements. Completion of the Phase II storm drain improvements is required prior to the 50th Certificate of Occupancy within Parcel #4.

EXHIBIT "K"

SOCCER FIELD IMPROVEMENTS

Within thirty (30) days after the first to occur of: (i) the end of 2024-2025 AYSO season, and (ii) the Effective Date ("Commencement Date"), Developer shall promptly commence and diligently prosecute to completion the improvements to the Soccer Field as set forth below ("Soccer Field Improvements ") at the Soccer Field.

The Soccer Field Improvements shall be completed within in six (6) months of the Commencement Date as Developer understands that the field is critical for the following AYSO season.

Soccer Field Improvements: _____

a. Installation of temporary construction fencing and signage
b. Gopher/ground squirrel abatement
c. Application of broad leaf post emergent spray
d. Scalping of turf once weeds are eliminated
e. Lay down and leveling of field turf area with sand/topsoil mix
f. Installation of seeding with topper
g. Irrigation adjustment/tuning
h. Maintenance and grow-in period for 30 days

EXHIBIT "L"

NEW BALL FIELD IMPROVEMENTS