



**CITY OF LAGUNA HILLS
CITY COUNCIL/PLANNING AGENCY
REGULAR MEETING AGENDA
MARCH 08, 2016
Closed Session at 6:00 PM (*when scheduled*)
General Business Session at 7:00 PM**

Barbara D. Kogerman, Mayor

**Don Sedgwick, Mayor Pro Tempore
Andrew Blount, Council Member**

**Melody Carruth, Council Member
Dore J. Gilbert, M.D., Council Member**

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, California 92653

Any person wishing to address the City Council/Planning Agency on any matter, whether or not it appears on this Agenda, is asked to complete a pink "Request to Speak" form available on the table at the back of the Chamber. The completed form is to be submitted to the City Clerk prior to an individual being heard by the City Council/Planning Agency. Completion of the form is voluntary. All persons may attend the meeting regardless of whether this form is completed.

Members of the public wishing to address the City Council can do so during the Public Comments portion of the Agenda with a time limitation of three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes for Public Comments. If you are commenting on an Agenda item, your comments will be heard at the time that item is scheduled on the Agenda. If you are addressing the City Council on an item not listed on the Agenda, the City Council is prohibited by law from discussing or taking any action on that item.

GENERAL BUSINESS - CONVENING AT 7:00 PM

CALL TO ORDER

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

PLEDGE OF ALLEGIANCE: COUNCIL MEMBER BLOUNT

ROLL CALL OF CITY COUNCIL MEMBERS

CLOSED SESSION REPORT

1. PRESENTATIONS AND PROCLAMATIONS**1.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON**

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AN ORAL REPORT FROM LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON CALISTA SHANG.

1.2 ORANGE COUNTY FIRE AUTHORITY PRESENTATION REGARDING THE PULSEPOINT MOBILE APP

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AN ORAL PRESENTATION FROM JEFF ADAMS, DIVISION CHIEF OF THE ORANGE COUNTY FIRE AUTHORITY, REGARDING THE PULSEPOINT MOBILE APP.

2. PUBLIC COMMENTS

This is the time to address the City Council on any matter not listed on this Agenda that is within the subject matter jurisdiction of the City Council. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

3. CONSENT CALENDAR

All matters listed under "CONSENT CALENDAR" are considered to be routine and will be enacted by one motion approving the recommendation listed on the Agenda. There will be no separate discussion unless Members of the City Council or Staff request specific items be removed from the Consent Calendar.

3.1 WAIVE READING IN FULL OF ALL ORDINANCES AND RESOLUTIONS ON THE AGENDA

RECOMMENDATION: THAT THE CITY COUNCIL WAIVE READING IN FULL OF ALL ORDINANCES AND RESOLUTIONS ON THE AGENDA AND DECLARE THAT SAID TITLES WHICH APPEAR ON THE PUBLIC AGENDA SHALL BE DETERMINED TO HAVE BEEN READ BY TITLE AND FURTHER READING WAIVED.

3.2 APPROVAL OF MINUTES FOR FEBRUARY 23, 2016

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE MINUTES OF THE FEBRUARY 23, 2016, REGULAR MEETING.

3.3 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED MARCH 8, 2016

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER IN THE AMOUNT OF \$273,610.29.

3.4 PROPOSED SECOND AMENDMENT TO LEASE WITH THE COUNTY OF ORANGE FOR 24031 EL TORO ROAD, SUITES 150 AND 310, LAGUNA HILLS, CALIFORNIA

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE SECOND AMENDMENT TO THE LEASE WITH THE COUNTY OF ORANGE FOR 24031 EL TORO ROAD, SUITES 150 AND 310, LAGUNA HILLS, CALIFORNIA, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE LEASE AMENDMENT.

3.5 2016 VOLUNTEER CONNECTION DAY, DOCUMENT SHREDDING PRE-EVENT REPORT, AND ARBOR DAY RECOGNITION

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AND FILE THE REPORT AND AUTHORIZE THE MAYOR TO SIGN THE ATTACHED ARBOR DAY PROCLAMATION AS REQUIRED BY THE ARBOR DAY FOUNDATION FOR TREE CITY USA CERTIFICATION.

3.6 PARTICIPATION IN EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA) FOR EMPLOYMENT PRACTICES LIABILITY COVERAGE

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AUTHORIZING PARTICIPATION IN THE EMPLOYMENT RISK MANAGEMENT AUTHORITY."

3.7 2016 4TH OF JULY CELEBRATION AND FIREWORKS AGREEMENT

RECOMMENDATION: THAT THE CITY COUNCIL: (1) RECEIVE AND FILE THE 2016 4TH OF JULY CELEBRATION PRE-EVENT REPORT; (2) APPROVE THE FIREWORKS DISPLAY AGREEMENT BETWEEN FIREWORKS AND STAGE FX AMERICA, INC., AND THE CITY OF LAGUNA HILLS FOR 2016; AND (3) AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.

3.8 NOTICE OF INTENT TO VACATE A PORTION OF A STREET EASEMENT ON THE WESTERLY SIDE OF AVENIDA DE LA CARLOTA NORTHERLY OF LOS ALISOS BOULEVARD, A FORMER DRIVEWAY ACCESS TO OAKBROOK VILLAGE

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DECLARING ITS INTENTION TO VACATE AND ABANDON A PORTION OF A PUBLIC STREET EASEMENT ON THE WESTERLY SIDE OF AVENIDA DE LA CARLOTA NORTHERLY OF LOS ALISOS BOULEVARD, A FORMER DRIVEWAY ACCESS TO OAKBROOK VILLAGE, AND SETTING A PUBLIC HEARING THEREON."

- 3.9 SUMMARY VACATION OF A PORTION OF A SUPERSEDED PUBLIC SERVICE EASEMENT FOR DRAINAGE PURPOSES LOCATED NORTHERLY OF LA PAZ ROAD AND EASTERLY OF MOULTON PARKWAY WITHIN LOT A OF TRACT NO. 11237

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING AND ORDERING THE SUMMARY VACATION OF A PORTION OF A 20' WIDE PUBLIC SERVICE EASEMENT FOR STORM DRAIN PURPOSES (APPROX. 4,000 SQ. FT.) WITHIN LOT A, TRACT NO. 11237, LOCATED NORTHERLY OF LA PAZ ROAD AND EASTERLY OF MOULTON PARKWAY."

- 3.10 COOPERATIVE AGREEMENT NO. C-5-3586 BETWEEN ORANGE COUNTY TRANSPORTATION AUTHORITY AND CITIES OF LAGUNA HILLS, ALISO VIEJO, LAGUNA NIGUEL, AND MISSION VIEJO FOR ALICIA PARKWAY REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROJECT (CITY DESIGNATED PROJECT, CIP NO. 168G)

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE COOPERATIVE AGREEMENT NO. C-5-3586 BETWEEN ORANGE COUNTY TRANSPORTATION AUTHORITY AND CITIES OF LAGUNA HILLS, ALISO VIEJO, LAGUNA NIGUEL, AND MISSION VIEJO FOR ALICIA PARKWAY REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROJECT (CITY DESIGNATED PROJECT, CIP NO. 168G) AND AUTHORIZE THE MAYOR TO SIGN AND THE CITY CLERK TO ATTEST THERETO.

- 3.11 SUBMISSION OF AN APPLICATION FOR COVERAGE UNDER THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR POLLUTANT DISCHARGES RELATING TO THE CITY'S 4TH OF JULY FIREWORKS DISPLAY AND ADOPTION OF A CATEGORICAL EXEMPTION DETERMINING THAT THE EVENT IS EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO TITLE 14, CHAPTER 3, SECTION 15304(E) OF THE CALIFORNIA CODE OF REGULATIONS

RECOMMENDATION: THAT THE CITY COUNCIL: (1) DIRECT STAFF TO SUBMIT AN APPLICATION FOR COVERAGE UNDER THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR POLLUTANT DISCHARGES RELATING TO THE CITY'S 4TH OF JULY FIREWORKS DISPLAY; AND (2) ADOPT A CATEGORICAL EXEMPTION.

ITEMS REMOVED FROM THE CONSENT CALENDAR

4. PLANNING AGENCY**4.1 ROLL CALL OF PLANNING AGENCY MEMBERS****4.2 PUBLIC COMMENTS**

This is the time to address the Planning Agency on any matter not listed on this Agenda that is within the subject matter jurisdiction of the Planning Agency. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

4.3 APPROVAL OF MINUTES FOR FEBRUARY 23, 2016

RECOMMENDATION: THAT THE PLANNING AGENCY APPROVE THE MINUTES OF THE FEBRUARY 23, 2016, REGULAR MEETING.

4.4 ADMINISTRATIVE REPORTS**4.5 PLANNING AGENCY PUBLIC HEARINGS****PLANNING AGENCY ADJOURNMENT****JOINT PLANNING AGENCY / CITY COUNCIL MEETING****ROLL CALL OF JOINT PLANNING AGENCY / CITY COUNCIL MEETING****PUBLIC COMMENTS**

CONSIDERATION OF A REQUEST BY LAGUNA HILLS INVESTMENT COMPANY AND OAKBROOK URBAN VILLAGE I, LLC, TO AMEND AN EXISTING DEVELOPMENT AGREEMENT AND MODIFY CONDITIONS OF APPROVAL NO. 47 AND NO. 54 OF SITE DEVELOPMENT PERMIT/MASTER SIGN PROGRAM/ CONDITIONAL USE PERMIT/PARKING USE PERMIT/VESTING TENTATIVE TRACT MAP/PRECISE PLAN/DEVELOPMENT AGREEMENT NO. 12-11-2137 TO EXTEND THE TIME PERIODS FOR COMPLETION OF CERTAIN ON-SITE IMPROVEMENTS IN PHASE 1 OF THE OAKBROOK VILLAGE SHOPPING CENTER REDEVELOPMENT PROJECT LOCATED AT 24231-24391 AVENIDA DE LA CARLOTA

RECOMMENDATION: (1) THAT THE PLANNING AGENCY AND CITY COUNCIL CONDUCT A JOINT PUBLIC HEARING TO CONSIDER THE PROPOSED DEVELOPMENT AGREEMENT AMENDMENT AND MODIFICATION OF CONDITIONS OF APPROVAL NO. 47 AND NO. 54 OF THE EXISTING LAND USE ENTITLEMENTS FOR THE OAKBROOK VILLAGE SHOPPING CENTER REDEVELOPMENT PROJECT LOCATED AT 24231-24391 AVENIDA DE LA CARLOTA;

(2) THAT THE CITY COUNCIL INTRODUCE FOR FIRST READING, READ BY TITLE ONLY, AND WAIVE FURTHER READING OF AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING AND ADOPTING AMENDMENT NO. 2 TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAGUNA HILLS AND LAGUNA HILLS INVESTMENT COMPANY AND OAKBROOK URBAN VILLAGE I, LLC, FOR THE OAKBROOK VILLAGE SHOPPING CENTER REDEVELOPMENT PROJECT; AND

(3) THAT THE PLANNING AGENCY ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING RESOLUTION NOS. PA2015-02-10-1, PA2014-02-11-2, AND PA2012-11-13-1 TO MODIFY CONDITIONS OF APPROVAL NO. 47 AND NO. 54 OF SITE DEVELOPMENT PERMIT/MASTER SIGN PROGRAM/CONDITIONAL USE PERMIT/PARKING USE PERMIT/VESTING TENTATIVE TRACT MAP/PRECISE PLAN/DEVELOPMENT AGREEMENT NO. 12-11-2137 TO EXTEND THE TIME PERIODS FOR COMPLETION OF CERTAIN PHASE 1 ON-SITE IMPROVEMENTS, A REQUEST BY LAGUNA HILLS INVESTMENT COMPANY AND OAKBROOK URBAN VILLAGE I, LLC, FOR THE OAKBROOK VILLAGE SHOPPING CENTER LOCATED AT 24231-24391 AVENIDA DE LA CARLOTA."

JOINT PLANNING AGENCY / CITY COUNCIL MEETING ADJOURNMENT

5. CITY COUNCIL PUBLIC HEARINGS

6. ADMINISTRATIVE REPORTS

6.1 City Manager

6.1.1 SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS GENERAL ASSEMBLY DELEGATE

RECOMMENDATION: THAT THE CITY COUNCIL APPOINT A DELEGATE TO ATTEND THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS GENERAL ASSEMBLY MEETING.

6.2 Assistant City Manager

6.2.1 AMENDED AND RESTATED PURCHASING ORDINANCE

RECOMMENDATION: THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 3-08 OF THE LAGUNA HILLS MUNICIPAL CODE REGARDING THE PURCHASING OF GOODS AND SUPPLIES, EQUIPMENT, MATERIALS, AND SERVICES."

7. **MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS AND MAYOR**
8. **CITY COUNCIL MEMBER COMMENTS**

ADJOURNMENT

The next Regular Meeting of the City Council will be March 22, 2016, in the City Council Chamber, located at 24035 El Toro Road, Laguna Hills, California.

CERTIFICATION

I, MELISSA AU-YEUNG, City Clerk of the City of Laguna Hills, do hereby certify that a copy of the foregoing Agenda was posted at Laguna Hills City Hall, Laguna Hills Community Center, and the Courtyard at La Paz Center by March 4, 2016, at 5:00 PM.



MELISSA AU-YEUNG, CITY CLERK

March 4, 2016**DATE**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the office of the City Clerk at (949) 707-2635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 24035 El Toro Road, Laguna Hills, California, during normal business hours.

City Council Members receive no additional compensation or stipend as a result of simultaneously convening meetings of the Laguna Hills Planning Agency.



City of Laguna Hills

City Council Meeting Agenda

Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

**FROM: MELISSA AU-YEUNG
ASSISTANT TO THE CITY MANAGER**

**ISSUE: ORANGE COUNTY FIRE AUTHORITY PRESENTATION REGARDING THE
PULSEPOINT MOBILE APP**

**RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AN ORAL
PRESENTATION FROM JEFF ADAMS, DIVISION CHIEF OF THE ORANGE COUNTY
FIRE AUTHORITY, REGARDING THE PULSEPOINT MOBILE APP.**

SUMMARY:

Jeff Adams, Division Chief of the Orange County Fire Authority, will be present at the meeting to make a brief presentation regarding the newly-launched PulsePoint mobile app. The PulsePoint mobile app is designed for use by citizens and off-duty professionals trained in cardio-pulmonary resuscitation (CPR). Using the mobile app, users are informed at the same time as emergency responders of a cardiac event and the need for CPR as well as given detailed instructions including the nearby location of automatic external defibrillators (AEDs).

**CITY OF LAGUNA HILLS, CALIFORNIA
CITY COUNCIL/PLANNING AGENCY
REGULAR MEETING
MINUTES
FEBRUARY 23, 2016**

GENERAL BUSINESS - CONVENING AT 7:00 PM

CALL TO ORDER

Mayor Kogerman called the Regular Meeting of the City Council of the City of Laguna Hills, California, to order at 7:00 p.m. in the Laguna Hills City Council Chamber, 24035 El Toro Road, Laguna Hills, California.

PLEDGE OF ALLEGIANCE: MAYOR PRO TEMPORE SEDGWICK

ROLL CALL OF CITY COUNCIL MEMBERS

Present: Mayor Kogerman, Mayor Pro Tempore Sedgwick, Council Member Carruth, Council Member Gilbert

Absent: Council Member Blount

CLOSED SESSION REPORT

There was no Closed Session Report.

1. PRESENTATIONS AND PROCLAMATIONS

1.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON

THE CITY COUNCIL RECEIVED AN ORAL REPORT FROM LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON CALISTA SHANG.

1.2 ORANGE COUNTY HUMAN RELATIONS COUNCIL ANNUAL REPORT

THE CITY COUNCIL RECEIVED AN ORAL PRESENTATION FROM KEN INOUE, CHAIR OF THE ORANGE COUNTY HUMAN RELATIONS COUNCIL.

1.3 GOVERNMENT FINANCE OFFICERS ASSOCIATION (GFOA) DISTINGUISHED BUDGET PRESENTATION AWARD AND CERTIFICATES OF RECOGNITION FOR BUDGET PRESENTATION

MAYOR KOGERMAN ACCEPTED THE GOVERNMENT FINANCE OFFICERS ASSOCIATION (GFOA) DISTINGUISHED BUDGET PRESENTATION AWARD AND PRESENTED CERTIFICATES OF RECOGNITION TO ASSISTANT CITY MANAGER DONALD J. WHITE, ASSISTANT TO THE CITY MANAGER MELISSA AU-YEUNG, AND FINANCE MANAGER JANICE REYES.

2. PUBLIC COMMENTS

CORRESPONDENCE FROM STEPHEN M. WONTROBSKI

Mayor Kogerman referred to a letter received from Mr. Stephen M. Wontrobski regarding OCFA Reform Measures which he requested be submitted as a written public comment.

3. CONSENT CALENDAR

MOTION TO APPROVE THE CONSENT CALENDAR, WITH COUNCIL MEMBER GILBERT REMOVING ITEM NO. 3.5, BY M/COUNCIL MEMBER CARRUTH, S/MAYOR PRO TEMPORE SEDGWICK.

APPROVED BY A VOTE OF 4-0 (COUNCIL MEMBER BLOUNT ABSENT).

3.1 WAIVE READING IN FULL OF ALL ORDINANCES AND RESOLUTIONS ON THE AGENDA

THE CITY COUNCIL WAIVED READING IN FULL OF ALL ORDINANCES AND RESOLUTIONS ON THE AGENDA AND DECLARED THAT SAID TITLES WHICH APPEAR ON THE PUBLIC AGENDA SHALL BE DETERMINED TO HAVE BEEN READ BY TITLE AND FURTHER READING WAIVED.

3.2 APPROVAL OF MINUTES FOR FEBRUARY 9, 2016, REGULAR MEETING

THE CITY COUNCIL APPROVED THE MINUTES OF THE FEBRUARY 9, 2016, REGULAR MEETING.

3.3 APPROVAL OF MINUTES FOR FEBRUARY 6, 2016, SPECIAL MEETING

THE CITY COUNCIL APPROVED THE MINUTES OF THE FEBRUARY 6, 2016, SPECIAL MEETING.

3.4 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED FEBRUARY 23, 2016

THE CITY COUNCIL APPROVED THE WARRANT REGISTER IN THE AMOUNT OF \$861,964.98.

3.6 SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING AND RESTATING CHAPTER 9-47 OF TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE REGARDING LANDSCAPE WATER EFFICIENCY

THE CITY COUNCIL ADOPTED ORDINANCE NO. 2016-1, AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 9-47 OF TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE REGARDING LANDSCAPE WATER EFFICIENCY.

ITEMS REMOVED FROM THE CONSENT CALENDAR

3.5 ENVIRONMENTAL DETERMINATION AND PROFESSIONAL SERVICES AGREEMENT WITH CNC ENGINEERING, INC., FOR THE LA PAZ ROAD SIDEWALK WIDENING PROJECT, CIP NO. 171

Council Member Gilbert removed Item No. 3.5 from the Consent Calendar to discuss his concerns regarding the project.

THE CITY COUNCIL ADOPTED AN ENVIRONMENTAL DETERMINATION OF CATEGORICAL EXEMPTION AND APPROVED A PROFESSIONAL SERVICES AGREEMENT WITH CNC ENGINEERING, INC., FOR THE LA PAZ ROAD SIDEWALK WIDENING PROJECT, CIP NO. 171, BY M/COUNCIL MEMBER CARRUTH, S/MAYOR KOGERMAN. APPROVED BY A VOTE OF 4-0 (COUNCIL MEMBER BLOUNT ABSENT).

4. PLANNING AGENCY

Mayor Kogerman recessed the City Council meeting and acting in the capacity of Chair, called the regular meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:22 p.m.

4.1 ROLL CALL OF PLANNING AGENCY MEMBERS

Present: Chair Kogerman, Vice Chair Sedgwick, Agency Member Carruth, Agency Member Gilbert

Absent: Agency Member Blount

4.2 PUBLIC COMMENTS

There were no Public Comments.

4.3 APPROVAL OF MINUTES FOR FEBRUARY 9, 2016

THE PLANNING AGENCY APPROVED THE MINUTES OF THE FEBRUARY 9, 2016, REGULAR MEETING. BY AGENCY MEMBER GILBERT, S/VICE CHAIR SEDGWICK. APPROVED BY A VOTE OF 4-0 (AGENCY MEMBER BLOUNT ABSENT).

4.4 ADMINISTRATIVE REPORTS

There were no Administrative Reports.

4.5 PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency Public Hearings.

PLANNING AGENCY ADJOURNMENT

Mayor Kogerman reconvened the City Council meeting at 7:23 p.m. All Council Members were present with the exception of Council Member Blount.

5. CITY COUNCIL PUBLIC HEARINGS

There were no City Council Public Hearings.

6. ADMINISTRATIVE REPORTS**6.1 City Manager**

There was no City Manager report.

7. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS AND MAYOR

There were no matters agendized and presented by City Council Members and Mayor.

8. CITY COUNCIL MEMBER COMMENTS**COUNCIL MEMBER CARRUTH**

Council Member Carruth commented on the success of the full closure of State Route 91 over the weekend. Ms. Carruth also reported that TCA revenues were up nearly 10% in the month of January, and they are currently in discussions as to what to do with the toll booths now that they are no longer in use.

MAYOR KOGERMAN

Mayor Kogerman reported that she attended the 2016 Law Enforcement and Firefighters Annual Appreciation Awards Dinner hosted by the Mission Viejo/ Saddleback Valley Elks Lodge on Saturday, February 20, 2016, where Deputy Peter Ada was presented with an award for meritorious service. Mayor Kogerman requested City Council consider organizing an event to recognize the City's hardworking deputies.

Mayor Kogerman reported that she also attended the Dairy Fork Wetland and Habitat Restoration Project Groundbreaking Ceremony on Monday, February 22, 2016.

Mayor Kogerman asked if there was interest in a presentation from the Orange County Mosquito and Vector Control District to discuss the Zika virus outbreak, West Nile Virus activity, etc. Mayor Kogerman will arrange a presentation at a future meeting.

ADJOURNMENT

There being no further business at this City Council session, Mayor Kogerman adjourned the City Council meeting at 7:29 p.m.

MELISSA AU-YEUNG, CITY CLERK

ATTEST:

BARBARA D. KOGERMAN, MAYOR

APPROVED AT MEETING OF MARCH 8, 2016.



City of Laguna Hills City Council Meeting Agenda Staff Report

DATE: MARCH 08, 2016
TO: MAYOR AND COUNCIL MEMBERS
FROM: DONALD J. WHITE, ASSISTANT CITY MANAGER
ISSUE: APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED
MARCH 08, 2016.

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER IN THE AMOUNT OF \$273,610.29.

SUMMARY:

In accordance with Government Code Section 37202, the attached Warrant Register reflects the disbursements of the City of Laguna Hills for the period reported thereon. The Assistant City Manager certifies and attests to its accuracy and the availability of funds for the payment thereof. These warrants are hereby submitted to the City Council for approval of payment.

Prepared by:

JANICE MATEO REYES
Finance Manager

Certified:


DONALD J. WHITE
Assistant City Manager

3-1-16
DATE

FISCAL IMPACT:

The warrant register total is \$273,610.29.

ATTACHMENTS:

1. Warrant Register

Check Register Report

Warrant Register 03/08/16

Date: 02/26/2016

Time: 11:22 am

Page: 1

CITY OF LAGUNA HILLS

BANK: UNION BANK- GENERAL

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
UNION BANK- GENERAL Checks							
8810539	02/18/2016	Printed		C-0023	COX COMMUNICATION	T1 Line- CH, Signal System, Feb	438.87
8810540	02/18/2016	Printed		D-0406	DFM ASSOCIATES	Publications, CtyClrk, Feb	68.58
8810541	02/18/2016	Printed		D-0552	DUNBAR ARMORED, INC.	Courier Fee, Armored Trans, Feb	127.97
8810542	02/18/2016	Printed		H-0956	HASTON, JAMES	Travel Reimb, CtyMgrDptMeeting	135.00
8810543	02/18/2016	Printed		R-1942	REFUND, VEHICLE CITATION	A. Vargas, Cit. # LH102864	35.00
8810544	02/18/2016	Printed		R-1889	REFUND, FACILITY RENTAL DEPOSIT	M. Daffron, V# 2003697.002	225.00
8810545	02/18/2016	Printed		R-1889	REFUND, FACILITY RENTAL DEPOSIT	CountrywideMort, V#2003698.002	500.00
8810546	02/18/2016	Printed		S-1902	SAN DIEGO GAS & ELECTRIC	ST Lites, TC, Jan '16	11,212.60
8810547	02/18/2016	Printed		S-2239	SOCAL OFFICE TECHNOLOGIES	Copier Usage, CC, 10/22-1/21	1,197.07
8810548	02/18/2016	Printed		S-1904	SOUTHERN CALIFORNIA EDISON	ST Lites, TC, Jan '16	8,702.71
8810549	02/18/2016	Printed		S-2250	SPARKLETT'S	Operating Supplies, CS, Jan 16	56.02
8810550	02/18/2016	Printed		S-1907	SPRINT	Communication Expense, CS, Jan	87.41
8810551	02/18/2016	Printed		V-2224	VERIZON WIRELESS	Communication Expense, Jan '16	914.86
8810552	02/25/2016	Printed		A-0320	AMTEC	Rebate Report, Bond Issue	500.00
8810553	02/25/2016	Printed		A-0309	AT&T- CALNET 2	Traffic Signal, PS, Feb '16	18.07
8810554	02/25/2016	Printed		C-0412	C&D ELECTRIC, INC.	Park Repairs, Pub Svcs, Feb 16	2,163.30
8810555	02/25/2016	Printed		C-0318	CALIFORNIA DEPARTMENT OF TRANS	Professional Fees, CIP # 168	5,000.00
8810556	02/25/2016	Printed		C-1133	CALIFORNIA YELLOW CAB	Senior Mobility Program, Jan	3,065.50
8810557	02/25/2016	Printed		C-1177	CANON FINANCIAL SERVICES, INC.	Lease - Copier, Gen Gov, Feb	221.41
8810558	02/25/2016	Printed		C-1179	CANON SOLUTIONS AMERICA	Gen Gov Copier Usage, Nov-Jan	448.66
8810559	02/25/2016	Printed		C-1144	CHARLES ABBOTT ASSOCIATES, INC	Road Maintenance, Jan '16	43,446.10
8810560	02/25/2016	Printed		C-1139	COMPLETE OFFICE OF CALIFORNIA	Comp Office&Operating Supplies	550.00
8810561	02/25/2016	Printed		E-0595	ECLIPSE MESSENGER SERVICE, INC	Delivery Service, Feb '16	25.72
8810562	02/25/2016	Printed		E-0593	EISENBERG, DALE	Contract Inst Svcs., Aikido	1,379.00
8810563	02/25/2016	Printed		E-0504	EL TORO WATER DISTRICT	Water Usage, Public Svcs, Jan	4,219.79
8810564	02/25/2016	Printed		E-0553	ELKINS, CHRISTINA	Contract Inst Svcs., Dance	377.30
8810565	02/25/2016	Printed		G-0844	GREEN MART, INC.	Operating Supplies, Pub Svcs	1,026.00
8810566	02/25/2016	Printed		H-0829	HARTZOG & CRABILL, INC.	Traf Signal Mgmt Svcs, Jan '16	4,085.34
8810567	02/25/2016	Printed		H-0934	HOME DEPOT	Program Supplies, CS, Feb '16	52.66
8810568	02/25/2016	Printed		H-0955	HR GREEN CALIFORNIA, INC.	Prof. Svcs, CIP # 240 & 514	9,006.36
8810569	02/25/2016	Printed		J-1057	JAMEY CLARK, INC.	Park Repair & Graffiti Removal	968.33
8810570	02/25/2016	Printed		J-1071	JCTEES.COM CORPORATION	Program Supplies, CS, Feb '16	318.69
8810571	02/25/2016	Printed		G-0709	JOE A. GONSALVES & SON	Legislative Services, Mar	2,900.00
8810572	02/25/2016	Printed		L-1374	LEHMAN CONSTRUCTION, INC.	Retention Release, CIP # 240	39,945.65
8810573	02/25/2016	Printed		C-0448	LUCY, STEVEN	Program Expense, CS, 3/11/16	750.00
8810574	02/25/2016	Printed		M-1552	MARTIN-RUSK, DINA	Contract Instr Svcs, Zumba	533.40
8810575	02/25/2016	Printed		M-1302	MOULTON NIGUEL WATER DISTRICT	Water Usage, CC, Pub Svcs	3,059.77
8810576	02/25/2016	Printed		N-1474	NIEVES LANDSCAPE, INC.	Other Assorted Landscape	575.00
8810577	02/25/2016	Printed		O-1546	OFFICE SOLUTIONS	Office/Operating Supplies	405.64
8810578	02/25/2016	Printed		O-1590	ON TARGET VOICE AND DATA, INC.	Phone System Upgrade	3,664.00
8810579	02/25/2016	Printed		P-1804	PATROL ONE	Security for Hernand CC Reserv	857.50
8810580	02/25/2016	Printed		Q-1704	QUICK CRETE PRODUCTS CORP.	Misc Park Maintenance, Jan '16	486.00
8810581	02/25/2016	Printed		R-1943	RAMIREZ, CHRISTINA	Mileage Reimb., Admin, Jan-Feb	15.82
8810582	02/25/2016	Printed		R-1964	REFUND, COMMUNITY DEV FEES	Gardner Outdoor, Pool Bond	500.00
8810602	02/25/2016	Printed		R-1964	REFUND, COMMUNITY DEV FEES	Final Const., Pool Bond Refund	500.00
8810603	02/25/2016	Printed		R-1964	REFUND, COMMUNITY DEV FEES	A. Lopez, Site Dev Plan,	50.00
8810604	02/25/2016	Printed		R-1939	REYES, JANICE MATEO	Petty Cash Replenishment, Feb	927.15
8810605	02/25/2016	Printed		R-1855	RICHARD FISHER ASSOCIATES	Prof. Svcs, CIP# 240, 241, 410	9,834.00
8810606	02/25/2016	Printed		R-1813	RPW SERVICES, INC.	Insect Control, Com Ctr, Dec	200.00
8810607	02/25/2016	Printed		R-1967	RUSSELL, RICHARD WYATT	Contract Inst Svcs., Tennis	259.20

Check Register Report

Warrant Register 03/08/16

Date: 02/26/2016

Time: 11:22 am

Page: 2

CITY OF LAGUNA HILLS

BANK: UNION BANK- GENERAL

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
UNION BANK- GENERAL Checks							
8810608	02/25/2016	Printed		S-1902	SAN DIEGO GAS & ELECTRIC	ST Lites, Comm Ctr, Jan	13,707.73
8810609	02/25/2016	Printed		S-2267	SINTA DESIGN	Program Expense, 1/2 Marathon	840.00
8810610	02/25/2016	Printed		S-1904	SOUTHERN CALIFORNIA EDISON	ST Lites, TC, Jan '16	977.68
8810611	02/25/2016	Printed		S-2250	SPARKLETTS	Operating Supplies, CH, Jan 16	98.55
8810612	02/25/2016	Printed		T-2681	TOTALFUNDS BY HASLER	Postage Replenishment, Feb '16	1,000.00
8810613	02/25/2016	Printed		U-2163	USA DANCE, INC.	Contract Inst Svcs, Dancing	224.00
8810614	02/25/2016	Printed		W-2337	WEST COAST ARBORISTS, INC.	Tree Trimming, Jan '16	1,998.00
8810615	02/25/2016	Printed		W-2441	WEST COAST MOVEMENT PROJECT,	Contract Inst Svcs., Dance	129.50
8810616	02/25/2016	Printed		W-2302	WEST PUBLISHING CORPORATION	Subscription, City Clk, Jan	193.67
8810617	02/25/2016	Printed		W-2439	WESTAMERICA COMMUNICATIONS, INC	City Views, Spring Issue	7,875.00
8810618	02/25/2016	Printed		W-2440	WESTERN STRUCTURES	Retention Release, CIP # 189	2,277.03
8810619	02/25/2016	Printed		R-1801	WOODRUFF, SPRADLIN & SMART	Professional Svcs, Legal, Jan	52,318.54
8810620	02/25/2016	Printed		Z-2606	ZUMAR INDUSTRIES, INC.	Professional Services, CIP#329	25,934.14
Total Checks: 63						Checks Total (excluding void checks):	273,610.29
Total Payments: 63						Bank Total (excluding void checks):	273,610.29
Total Payments: 63						Grand Total (excluding void checks):	273,610.29



City of Laguna Hills

City Council Meeting Agenda

Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

FROM: DONALD J. WHITE
ASSISTANT CITY MANAGER

ISSUE: PROPOSED SECOND AMENDMENT TO LEASE WITH THE COUNTY OF ORANGE FOR 24031 EL TORO ROAD, SUITES 150 AND 310, LAGUNA HILLS, CALIFORNIA

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE SECOND AMENDMENT TO THE LEASE WITH THE COUNTY OF ORANGE FOR 24031 EL TORO ROAD, SUITES 150 AND 310, LAGUNA HILLS, CALIFORNIA, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE LEASE AMENDMENT.

SUMMARY:

Staff has negotiated a ten-year lease renewal with the County of Orange for the South Orange County offices of the Orange County Clerk-Recorder. County Counsel has prepared a Second Amendment to the original lease to effectuate this renewal. The following is a summary of the key lease terms:

Effective Date: April 1, 2016

Term: 10 years

Rentable Square Feet: 2,623 (Suites 150 and 310)

Upfront Capital: \$0

Rate:

- Year 1 - \$2.25/sq.ft.
- Year 2 - \$2.34/sq.ft.
- Year 3 - \$2.43/sq.ft.
- Year 4 - \$2.53/sq.ft.
- Year 5 - \$2.63/sq.ft.
- Year 6 - \$2.74/sq.ft.
- Year 7 - \$2.85/sq.ft.

Year 8 - \$2.96/sq.ft.
Year 9 - \$3.08/sq.ft.
Year 10 - \$3.20/sq.ft.

Total Rent Payments: \$850,285

The City Attorney has reviewed and approved the lease amendment. Staff is recommending approval.

FISCAL IMPACT:

The lease has a positive net present value and requires no upfront capital investment. The lease amendment does require the City repaint and re-carpet the spaces in year four of the term.

ATTACHMENTS:

- Second Amendment to Lease

SECOND AMENDMENT TO LEASE

This Second Amendment to Lease ("**Second Amendment**") is made _____, 2016 ("**Effective Date**"), by and between the City of Laguna Hills, (hereinafter referred to as "**CITY**") and the County of Orange, a political subdivision of the State of California, (hereinafter referred to as "**COUNTY**") without regard to number and gender. COUNTY and CITY may individually be referred to herein as a "**Party**" and collectively as "**Parties.**"

RECITALS

- I. Pursuant to a Lease ("**Lease**") dated August 23, 2005, wherein CITY leases to COUNTY, Suite 150 and Suite 310, consisting of a combined approximately 2,623 rentable square feet of space ("**RSF**") in the building located at 24031 El Toro Road, in the City of Laguna Hills, California ("**Premises**") for use of the Clerk-Recorder which space is more particularly described on Exhibit A and Exhibit B of the Lease.
- II. The Lease commenced on February 1, 2006, and was amended on December 14, 2010, by a First Amendment to Lease ("**First Amendment**"), to extend the term through January 31, 2016. The lease is currently in month-to-month holdover pursuant to the holdover provisions of the Lease.
- III. CITY and COUNTY mutually agree to amend the Lease to extend the term for an additional ten years, through January 31, 2026, under the terms and conditions set forth below.

NOW, THEREFORE, CITY and COUNTY hereby agree, effective April 1, 2016, to amend the Lease as follows:

- A. Clause 2 PREMISES (1.2 N) is deleted from the Lease in its entirety and the following clause hereby is substituted:

"Clause 2 PREMISES (1.2 N)

CITY leases to COUNTY the Premises, described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and by reference made a part hereof, together with non-exclusive, in common use, of CITY's elevators, stairways, washrooms, hallways, driveways for vehicle ingress and egress, pedestrian walkways, other facilities and common areas appurtenant to COUNTY's Premises created by this Lease.

The Premises consist of Suite 150 (1,750 RSF) and Suite 310 (873 RSF) representing a combined total of 2,623 RSF (2,216 useable square feet).

Should CITY or its successors in interest, recalculate the building RSF, COUNTY's monthly rent shall be recalculated to reflect the new RSF. However, in no event shall COUNTY's revised "**Monthly Base Rent**" as identified in Clause 6 and 7 of this Lease, increase as a result of such square foot recalculation."

- B. Clause 4 TERM (2.2 S) is deleted from the Lease in its entirety and the following clause is hereby substituted:

“Clause 4 TERM (2.2 N)

The twenty (20) year Lease term commenced on February 1, 2006, and will terminate on January 31, 2026.”

- C. Clause 5 OPTION TO TERMINATE LEASE (2.4A N) is deleted from the Lease in its entirety and the following clause is hereby substituted:

“Clause 5 OPTION TO TERMINATE LEASE (2.4A N)

COUNTY shall have the option to terminate this Lease (“**Termination Option**”) at any time after January 31, 2021, upon giving CITY at least one hundred twenty (120) days prior written notice.

Should COUNTY exercise said Termination Option, CITY may, within sixty (60) days after the Lease termination date, make a claim for reimbursement of the unamortized cost of repainting and re-carpeting pursuant to Clause 12 (PAINTING BY CITY) and Clause 13 (CARPETING BY CITY) below, required by this Second Amendment. The amount of said reimbursement shall be determined as follows:

Reimbursement Amount = CITY’s cost to repaint and re-carpet divided by seventy two (72) months X number of remaining months in the Lease term.

If no claim is received by COUNTY within said sixty (60) day period, CITY's right to reimbursement shall be deemed waived. COUNTY shall have sixty (60) days after receipt of the claim by LESSOR to pay said claim.”

- D. Clause 7 RENT ADJUSTMENT (3.3 S) is deleted from the Lease in its entirety and the following clause is hereby substituted:

“Clause 7 RENT ADJUSTMENT (3.3 S)

The Monthly Rent payable by COUNTY for the Premises shall be automatically adjusted as follows:

<u>Commencing</u>	<u>Base Monthly Rent</u>	<u>Additional Rent/Building Operating Expense/Month</u>	<u>Total Monthly Payment</u>	<u>Per Square Foot</u>
February 1, 2006	\$5,639.45	Base Year - 0	\$5,639.45	\$2.15
February 1, 2007	\$5,770.60	\$249.76	\$6,020.36	\$2.30
February 1, 2008	\$5,901.75	\$378.47	\$6,280.22	\$2.39
February 1, 2009	\$6,032.90	\$249.43	\$6,282.33	\$2.40
February 1, 2010	\$6,164.05	\$289.00	\$6,453.05	\$2.46
February 1, 2011	\$4,590.00	Base Year - 0	\$4,590.00	\$1.75
February 1, 2012	\$4,721.00	\$389	\$5,110.00	\$1.95
February 1, 2013	\$4,984.00	\$401	\$5,385.00	\$2.05
February 1, 2014	\$5,115.00	\$413	\$5,528.00	\$2.11
February 1, 2015	\$5,220.00	\$425	\$5,645.00	\$2.15
April 1, 2016	\$5,902.00	0	\$5,902.00	\$2.25
February 1, 2017	\$6,138.00	0	\$6,138.00	\$2.34
February 1, 2018	\$6,384.00	0	\$6,384.00	\$2.43
February 1, 2019	\$6,639.00	0	\$6,639.00	\$2.53
February 1, 2020	\$6,905.00	0	\$6,905.00	\$2.63
February 1, 2021	\$7,181.00	0	\$7,181.00	\$2.74
February 1, 2022	\$7,468.00	0	\$7,468.00	\$2.85
February 1, 2023	\$7,767.00	0	\$7,767.00	\$2.96
February 1, 2024	\$8,078.00	0	\$8,078.00	\$3.08
February 1, 2025	\$8,401.00	0	\$8,401.00	\$3.20

The “**Monthly Rent**,” above, is the amount to be paid by COUNTY. The “**Per Square Foot**” rate, above, is an estimate for statistical purposes only and for no other purpose.

- E. Clause 8 OPTION TO EXTEND LEASE (2.3N) is deleted from the Lease in its entirety.
- F. Clause 9 DETERMINATION OF MONTHLY RENT DURING EXTENSION TERM is deleted from the Lease in its entirety.
- G. Clause 10 ADJUSTMENT FOR COST OF CITY SERVICES (3.4 N) is deleted from the Lease in its entirety.
- H. Clause 12 PAINTING BY CITY(4.2N) is deleted from the Lease in its entirety and the following clause is hereby substituted:

“Clause 12 PAINTING BY CITY (4.2N)

Within sixty (60) days after February 1, 2020, CITY shall repaint, at CITY’s sole cost and expense, all painted surfaces within the Premises. Said painting shall be accomplished during hours other than COUNTY’s normal working hours. CITY shall be responsible for the movement and subsequent replacement of all furniture, window coverings, and fixtures necessary to repaint the Premises. Said paint shall be of a kind and quality equivalent to that used in the original tenant improvements, and as agreed by the Clerk-Recorder.

At COUNTY’S sole option, COUNTY may elect to defer said repainting. Said deferral shall not release CITY from the obligation to repaint. Should COUNTY elect to defer said repainting, the Clerk-Recorder, at least thirty (30) days prior to the scheduled repainting date, shall notify CITY in writing of COUNTY’S decision to defer said repainting. This notice shall include the date COUNTY wishes the repainting to take place.

Should CITY fail to comply with the provisions of this clause, COUNTY shall have the option to complete said repainting and deduct the cost thereof, including overhead, from any rent payable.”

- I. Clause 13 CARPETING BY CITY (4.3N) is deleted from the Lease in its entirety and the following clause is hereby substituted:

“Clause 13 CARPETING BY CITY (4.3N)

Within sixty (60) days after February 1, 2020, CITY shall re-carpet, at CITY’s sole cost and expense, all carpeted surfaces within the Premises. Said re-carpeting shall be accomplished during hours other than COUNTY’s normal working hours. CITY shall be responsible for the movement and subsequent replacement of all furniture and fixtures necessary to re-carpet the Premises. COUNTY shall, at its own cost and expense, be responsible for the movement and subsequent replacement of all computer equipment, electronic equipment, and other communication equipment, and otherwise sensitive equipment identified by the Clerk-Recorder. Said carpet shall be of a kind and quality

equivalent to that used in the original tenant improvements, and as agreed upon by the Clerk-Recorder.

At COUNTY's sole option, COUNTY may elect to defer said re-carpeting. Said deferral shall not release CITY from the obligation to re-carpet. Should COUNTY elect to defer said re-carpeting, the Clerk-Recorder at least thirty (30) days prior to the scheduled re-carpeting date, shall notify CITY in writing of COUNTY's decision to defer said re-carpeting. This notice shall include the date COUNTY wishes the re-carpeting to take place.

Should CITY fail to comply with the provisions of this clause, COUNTY shall have the option to complete said re-carpeting and deduct the cost thereof including overhead, from any rent payable."

J. Clause 18 OTHER IMPROVEMENTS (N), Section D MONUMENT ENTRANCE SIGN is hereby deleted from the Lease in its entirety.

K. Clause 30 COUNTY REQUESTED ALTERATIONS (4.5 N) is hereby added to the Lease:

"Clause 30 COUNTY REQUESTED ALTERATIONS (4.5 N)

COUNTY may, during the term of the Lease, request approval from CITY for the CITY to make improvements and changes to the Premises, which shall not be unreasonably withheld. All design plans, and working drawings for the improvements and changes, as well as the final work, shall have written approval from the Clerk-Recorder. COUNTY will, at CITY's request, remove any improvements installed pursuant to this clause, with written notice to COUNTY, at least thirty (30) days prior to Lease termination.

CITY agrees that any improvement being constructed by, or under the direction of, CITY shall be constructed in substantial compliance with CITY approved plans and, to the extent applicable, in compliance with Federal, California and local laws, including but not limited to, the requirements of California Public Contract Code Section 22000 et seq. and shall require its contractor or contractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided in Clause 26 LABOR CODE COMPLIANCE of this Lease.

Following the written approval to let a contract for improvements, CITY shall publicly advertise for bids for such improvements, as provided in Orange County Codified Ordinances 1-8-1 et seq., and shall provide COUNTY a list of all bids received for the contract. Thereafter, with the prior written approval of COUNTY as to the winning bid, CITY shall award the contract or contracts for such improvements. COUNTY's approval of the bid shall be limited to the dollar value only, to ensure it is within COUNTY's budget.

All such improvements and changes shall be made by CITY, at CITY's sole cost, and reimbursed in a lump sum as additional rent by COUNTY within thirty (30) days of receipt by COUNTY from CITY of a written claim for such reimbursement. COUNTY agrees

that said reimbursement may include a five percent (5%) management/construction fee which shall be considered as part of the costs and expenses of the alterations.

COUNTY shall have the right to audit CITY's reimbursement request and require additional support documentation from CITY prior to making reimbursement payment. COUNTY shall evidence acceptance of such claim by written letter to CITY."

- L. Wherever a conflict in the terms or conditions of this Second Amendment and the Lease as modified by the First Amendment exists, the terms or conditions of this Second Amendment shall prevail. In all other respects, the terms and conditions of the Lease, as amended, not specifically changed by this Second Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Second Amendment on the Effective Date written above.

APPROVED AS TO FORM:
OFFICE OF COUNTY COUNSEL

BY: _____
Deputy

DATE: _____

RECOMMENDED FOR APPROVAL:

CEO/Real Estate Services

BY: _____
Patrick Breslin

Clerk-Recorder

BY: _____
Hugh Nguyen

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIR OF THE
BOARD OF SUPERVISORS PER GC §
25103, RESO. 79-1535

ATTEST:

ROBIN STIELER
Clerk of the Board of Supervisors
of Orange County, California

CITY

CITY OF LAGUNA HILLS

BY: _____
Bruce E. Channing
City Manager

COUNTY

COUNTY OF ORANGE

BY: _____
Chairwoman, Board of Supervisors
Orange County, California



City of Laguna Hills City Council Meeting Agenda Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

**FROM: DAVID REYNOLDS
DEPUTY CITY MANAGER**

**ISSUE: 2016 VOLUNTEER CONNECTION DAY, DOCUMENT SHREDDING PRE-
EVENT REPORT, AND ARBOR DAY RECOGNITION**

**RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AND FILE THE
REPORT AND AUTHORIZE THE MAYOR TO SIGN THE ATTACHED ARBOR DAY
PROCLAMATION AS REQUIRED BY THE ARBOR DAY FOUNDATION FOR TREE
CITY USA CERTIFICATION.**

SUMMARY:

The 2016 Volunteer Connection Day event is scheduled for Saturday, April 16, 2016. Past projects have included multiple trail clean-ups, painting projects, a Green Expo, and a free document shredding event. Projects for 2016 will include trail clean-ups, a tree planting ceremony in recognition of Arbor Day, and free document shredding.

BACKGROUND:

The 2016 Volunteer Connection Day event is scheduled for Saturday, April 16, 2016, between the hours of 9:00 a.m. and 12:00 p.m. As the City Council may recall, at the 2015 Volunteer Connection Day event, sixty (60) volunteers were welcomed by Council Members, Commissioners, and staff before venturing off to assist in the clean-up of nearby trails and the planting of ten (10) trees in recognition of Arbor Day. The 2015 event also included free document shredding where a total of 130 participants dropped off 3,150 pounds of documents for shredding.

Projects scheduled for the 2016 Volunteer Connection Day event will include trail clean-ups and a tree planting ceremony in recognition of Arbor Day. Staff will send volunteers to the Aliso Creek Trail, Juan Avila Trail, and to Veeh Ranch Park for clean-up efforts. A total of nine trees will be planted at Veeh Ranch Park, six of the trees will be Flowering Pear and the remaining three will be Jacaranda. Staff is requesting that the Mayor sign the attached Proclamation which declares April 16, 2016, as "Arbor Day" in the City of

Laguna Hills. The signed Proclamation will be returned to the Arbor Day Foundation as part of the City's application for Tree City USA certification. The City of Laguna Hills has participated in the Tree City USA program since 2006.

Staff plans to once again offer free document shredding during the Volunteer Connection Day event. Patrons will have the opportunity to have confidential documents shredded between the hours of 8:00 a.m. and 12:00 p.m. Two trucks will be stationed in the Community Center parking lot for the drop-off of documents.

FISCAL IMPACT:

The Fiscal Year 2015/16 budget for Volunteer Connection Day is \$1,000. Event expenditures totaled \$261.13 for the 2015 Volunteer Connection Day.

ATTACHMENTS:

- Arbor Day Proclamation

PROCLAMATION

ARBOR DAY

APRIL 16, 2016

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products; and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, I, Barbara D. Kogerman, Mayor, on behalf of the City Council of the City of Laguna Hills, California, do hereby proclaim April 16, 2016, as Arbor Day in the City of Laguna Hills.

Dated this 8th day of March 2016.

BARBARA D. KOGERMAN, MAYOR

3/8/2016 ITEM NO. 3.5



City of Laguna Hills

City Council Meeting Agenda

Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

FROM: DONALD J. WHITE
ASSISTANT CITY MANAGER

ISSUE: PARTICIPATION IN EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA) FOR EMPLOYMENT PRACTICES LIABILITY COVERAGE

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AUTHORIZING PARTICIPATION IN THE EMPLOYMENT RISK MANAGEMENT AUTHORITY."

SUMMARY:

The City is a member of Exclusive Risk Management Authority of California (ERMAC), a pool with three other cities in California for general liability insurance. Presently, each ERMAC member agency carries a \$1 million self-insured retention for Employment Practices Liability (EPL) coverage. Given the rise in frequency and severity of EPL claims in the industry over the past decade, risk transfer is worth exploring. ERMAC is pursuing quotes for its member agencies for EPL claims up to \$1 million. One viable option is Employment Risk Management Authority (ERMA), a self-insured joint powers authority comprised of various public entities who risk share up to \$1 million for EPL. As part of the application process with ERMA, a Resolution authorizing the City's participation in ERMA is required. Membership requires a three-year commitment. The Resolution does not mandate participation; however, a quote will not be provided without an approved Resolution. Staff is recommending approval of the Resolution.

BACKGROUND:

EPL coverage generally covers financial loss due to wrongful acts in the workplace, including but not limited to wrongful termination, discrimination, harassment, retaliation, and failure to accommodate. Its purpose is to cover intentional injuries caused by employees without employer consent or knowledge.

In July 2003, the City joined ERMAC, a pool with three other cities in California, namely, Beaumont, Hayward, and Santa Maria, in order to jointly develop and fund General Liability Insurance. In July of 2005, ERMAC joined the CSAC Excess Insurance Authority (CSAC EIA) General Liability (GL) 2 program for excess coverage for claims exceeding \$1 million. This policy covers losses due to personal injury, bodily property damage, public officials' error and omissions, and EPL. Presently, each member of ERMAC carries a \$1 million self-insured retention for EPL coverage.

Given the rise in frequency and severity of EPL claims in the industry over the past decade, risk transfer is worth exploring. ERMAC is pursuing quotes for its member agencies for EPL claims up to \$1 million. One possible option is ERMA, a self-insured joint powers authority comprised of various public entities who risk share up to \$1 million for EPL. ERMA was created for the sole purpose of providing broad EPL coverage with tailored loss prevention services for public entities at reasonable rates. It began providing coverage and loss prevention services to California public entities on July 1, 1999. The program now covers more than 160 public entities throughout the State of California.

As part of the application process with ERMA, a Resolution authorizing the City's participation in ERMA is required. The Resolution does not mandate participation; however, a quote will not be provided without an approved Resolution. Membership in this EPL JPA requires a three-year commitment. Staff is recommending approval of the Resolution.

FISCAL IMPACT:

Each ERMAC member agency will determine its own level of self-insured retention (SIR). Staff has requested a quote with a \$100,000 SIR.

ATTACHMENTS:

- Resolution Authorizing Participation in Exclusive Risk Management Authority

RESOLUTION NO. 2016-03-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA HILLS, CALIFORNIA, AUTHORIZING
PARTICIPATION IN THE EMPLOYMENT RISK
MANAGEMENT AUTHORITY

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, the City of Laguna Hills wishes to obtain Employment Practices Liability coverage for the period beginning July 1, 2016 through to June 30, 2017; and,

WHEREAS, the Employment Risk Management Authority (ERMA) is a self-insured joint powers authority created for the sole purpose of Employment Practices Liability Coverage. ERMA is comprised of various public entities who risk share up to \$1 million against potentially unlawful employment practices and discrimination claims; and,

WHEREAS, ERMA formed primarily due to the fact that government entities have not historically been able to secure Employment Practices Liability (EPL) coverage at a competitive cost through the commercial insurance marketplace; and,

WHEREAS, ERMA has met all of the high professional standards established by the California Association of Joint Powers Authorities (CAJPA) in the areas of governance, finance, claims control, safety and loss control and ERMA is fully accredited by CAJPA. CAJPA's accreditation process requires reviews by independent consultants in the areas of accounting, claims adjusting, and actuarial analysis; and,

WHEREAS, ERMA provides services to both Joint Powers Insurance Authorities and individual public entities; and,

WHEREAS, the City of Laguna Hills has determined that it is in the best interest to become a member of ERMA for the purpose of obtaining Employment Practices Liability coverage; and,

WHEREAS, ERMA requires the City of Laguna Hills to pass a resolution expressing the desire and commitment of the City of Laguna Hills' participation in ERMA, which requires a three year minimum participation period. The City of Laguna Hills also understands our entity will be bound by the provisions in the ERMA Joint Powers Agreement just as though it were fully set forth and incorporated herein whether our entity had signed it individually or through an underlying Joint Powers Insurance Authority.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby approves participation in ERMA (March 8, 2016.)

SECTION 2. The City Manager on behalf of the City of Laguna Hills is hereby authorized to take any and all actions necessary to implement the foregoing Resolution.

PASSED, APPROVED, AND ADOPTED this 8th day of March 2016.

BARBARA KOGERMAN, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No.
_____ adopted by the City Council of the City of Laguna Hills, California,
at a Regular Meeting thereof held on the 8th day of March 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK



City of Laguna Hills

City Council Meeting Agenda

Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

**FROM: DAVID REYNOLDS
DEPUTY CITY MANAGER**

ISSUE: 2016 4TH OF JULY CELEBRATION AND FIREWORKS AGREEMENT

RECOMMENDATION: THAT THE CITY COUNCIL: (1) RECEIVE AND FILE THE 2016 4TH OF JULY CELEBRATION PRE-EVENT REPORT; (2) APPROVE THE FIREWORKS DISPLAY AGREEMENT BETWEEN FIREWORKS AND STAGE FX AMERICA, INC., AND THE CITY OF LAGUNA HILLS FOR 2016; AND (3) AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.

SUMMARY:

The City of Laguna Hills will host its annual 4TH of July celebration at the Laguna Hills Sports Complex on Monday, July 4, 2016. The special event will be held from 4:00 p.m. to 9:30 p.m. and includes a number of activities in addition to the fireworks show. Staff's recommendation is to authorize the City Manager to execute an agreement with Fireworks and Stage FX America, Inc. (FA), for the 2016 fireworks display. The proposed show for 2016 will have approximately one thousand one hundred and three (1,103) shells, and a cost of \$26,500. The show will be approximately 18 minutes in length.

BACKGROUND:

The City of Laguna Hills will host its annual 4TH of July celebration at the Laguna Hills Sports Complex on Monday, July 4, 2016. For the 4TH of July Celebration event this year the following activities are tentatively scheduled:

Main Stage Entertainment:

- Straight 78 (70's through Contemporary Funk, Soul, and Rock)

Games:

- Soccer Kick
- Double Hoop Shot
- Football Toss

Carnival Rides:

- Two carnival rides

Activities:

- 40-foot Obstacle Course
- Spacewalk-Airwalk

Children's Activities

- Face Painting
- Crafts

City Information Booth: (To Date)

- Community Services Class/Event Promotion
- Recycling Information
- City Commissions

Vendor Booths: (TBD, invitations sent to the following)

- Dippin Dots - LHHS PTSA
- Churros, candy, pretzels & nachos - LHHS Music Boosters
- Roasted corn, iced tea, lemonade & pizza - Boy Scout Troop 1602
- Shaved ice - LHHS Water Polo Boosters
- Hot dogs & brownies - Festival Singers
- Chili & Cornbread - AYSO 1422
- Water, soda & Gatorade - LHHS Football Boosters
- Cupcakes and iced coffee - LHHS Lacrosse Boosters
- Hamburgers and chips - LHHS Boys Basketball

The following is the tentative schedule of events:

4:00 p.m. Event Begins

Activities, games, music, food, and vendor booths

8:50 P.M. Mayor's Welcome/Comments

9:00 P.M. National Anthem

9:05 P.M. Fireworks Display

In addition to the activities listed above, it is anticipated that "Team Dark Horse" will be present to support the adopted Marines of the 3/5 Battalion at this year's event. Marine's from the 3/5 Battalion may also be present.

Vendor booth rental forms were sent to all past vendors. Vendors who have participated previously in the 4TH of July Celebration have until late May to submit their request for a booth for 2016. After this date, food items that have not been secured by a past vendor may be given away to other interested Laguna Hills non-profit organizations.

Staff's recommendation is for the City Council to approve the attached Fireworks Display Agreement and to authorize the City Manager to execute an agreement with FA for the 2016 fireworks display. The proposed show for 2016 will have approximately one thousand one hundred and three (1,103) shells, and a cost of \$26,500. The fireworks display will be approximately 18 minutes in length.

FISCAL IMPACT:

The budget for the 2016 4TH Fourth of July event is \$53,750 which includes a fireworks budget of \$26,500. Estimated overall expenditures total \$53,750. Estimated net costs total \$47,550, which accounts for an estimated \$5,000 in ticket sales revenue and \$1,200 in vendor booth rentals.

ATTACHMENTS:

- Fireworks Agreement

FIREWORKS DISPLAY AGREEMENT
Fireworks and Stage FX America, Inc.

THIS FIREWORKS DISPLAY AGREEMENT (the "Agreement") is made, entered into, and effective this ____ day of March 2016, by and between the CITY OF LAGUNA HILLS, a California general law city organized and existing under the laws of the State of California ("City"), and FIREWORKS AND STAGE FX AMERICA, INC., a California corporation, dba FIREWORKS AMERICA ("FA").

RECITALS

- A. FA designs, produces, and conducts public fireworks displays; and
- B. City desires to engage FA to design, produce and perform a public fireworks display on July 4, 2016, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, both parties hereto do mutually agree as follows.

AGREEMENT

1. **Engagement.** City hereby engages FA to provide to City one public fireworks display ("Display"), and FA accepts such engagement upon all of the promises, terms and conditions hereinafter set forth.

1.1 FA Duties. FA shall provide all pyrotechnic equipment, trained pyrotechnicians, shipping, pyrotechnic products, application for specific pyrotechnic permits (the cost of which, including standby fees, shall be paid by City) relating to the Display, and insurance covering the Display. Subject to Paragraph 18, FA shall provide the Display in substantial conformance with the duration, quantities and format outlined in the "Land Of The Free" Scope of Work, a copy of which is attached hereto as Exhibit "A" and is incorporated herein by this reference and made a part of this Agreement as though set forth fully herein. In the event of any inconsistency between the terms contained in Exhibit "A" and the terms set forth in the main body of this Agreement, the terms set forth in the main body of this Agreement shall govern.

1.2 City Duties. City shall provide the Site, as defined in Paragraph 2, for the discharge of the Display, access to the Site, security for the Site as set forth in Paragraph 11, and any authorization necessary for FA to utilize the Site for the Display.

1.3 FA Performance. As a material inducement to the City entering into this Agreement, FA acknowledges and understands that the Display contracted for under this Agreement requires specialized skills and abilities and that, consistent with this understanding, FA represents and warrants that it shall conduct the Display and perform all related services and work under this Agreement in a skillful and competent manner, and that it shall be held to a standard of quality and performance prevalent in the pyrotechnic industry for such Display service and work and with the standards recognized as being employed by contractors in the

pyrotechnic field in the State of California. FA further represents and warrants that it is skilled in the field of public fireworks displays and that it holds the necessary skills and abilities to satisfy the standard of quality and performance as set forth in this Agreement. FA further represents and warrants that it and all of its employees and subcontractors, if approved, providing services under this Agreement shall have sufficient skill and experience to perform the Display services and work assigned to them. All Display services and work shall be completed to the reasonable satisfaction of the City.

1.4 Term. This Agreement shall commence upon the effective date of this Agreement and continue in full force and effect until completion of all Display services and work.

2. Time and Place. The Display shall take place on July 4, 2016 ("Scheduled Date"), at approximately 9:00 p.m. ("Scheduled Time"), at the Laguna Hills High School located at 25401 Paseo de Valencia, Laguna Hills, CA, between the Tennis Court and Baseball Field, which is adjacent to the Laguna Hills Community Center located at 25555 Alicia Parkway, Laguna Hills, CA ("Site"). The Display will be under the direct supervision and control of a lead FA pyrotechnician as set forth in Paragraph 3. It is agreed that FA shall be the exclusive fireworks supplier and producer for the Display contracted for herein. City reserves the right to determine the actual start and stop time of the Display.

3. Lead Pyrotechnician.

3.1 Experience. The Display shall be conducted by and discharged under the direct supervision and control of a lead FA pyrotechnician that: (i) has a minimum of three years of experience providing public fireworks displays; and/or (ii) has successfully provided no less than ten public fireworks displays.

3.2 Verification of Credentials. FA shall furnish City with the name of the lead FA pyrotechnician responsible for the Display, a copy of his/her Basic Commercial or Special Effects 1st Class License, and a written summary of his/her prior experience and credentials. FA shall provide the documentation required by this Paragraph to the City by no later than May 29, 2016.

4. Fees, Interest, and Expenses.

4.1 Fee. City agrees to pay FA a fee of \$26,500.00 (Twenty Six Thousand Five Hundred Dollars) ("Display Fee") for the Display. City shall pay to FA \$13,250.00 (Thirteen Thousand Two Hundred Fifty Dollars) of the Display Fee as a deposit ("Deposit") upon execution of this Agreement by both parties. Except as otherwise provided below, the balance of the Display Fee shall be paid by City no later than July 18, 2016.

4.2 Interest. In the event that the Display Fee is not paid in a timely manner, City will be responsible for the payment of 1.5% interest per month or 18% annually on the unpaid balance.

4.3 Expenses. FA shall pay all normal expenses directly related to the Display including, but not limited to, freight, insurance as set forth herein, pyrotechnic products,

pyrotechnic equipment, experienced pyrotechnic personnel to set up and discharge the pyrotechnics, and those additional items outlined as FA's responsibility under this Agreement. City shall pay all costs related to the Display not supplied by FA including, but not limited to, all governmental fees and taxes, including sales, use, excise, license, permit, entertainment, or other fees, taxes or surcharges imposed or otherwise applied to the Display.

5. **Force Majeure.** City agrees to partially assume the risks of weather, strike, civil unrest, terrorism, military action, governmental action, and other causes beyond the control of FA, which may prevent the Display from being safely discharged on the Scheduled Date. If, for any such reason, FA is not reasonably able to safely discharge the Display on the Scheduled Date, City may: (i) reschedule the Display on a mutually agreed upon date occurring no later than six months from the Scheduled Date, and pay to FA the balance of the Display Fee within 15 business days of completion of the rescheduled Display; or (ii) cancel the Display, forfeit the Deposit, and be relieved of any obligation to pay to FA the balance of the Display Fee.

6. **Rescheduling.** City shall have the option to unilaterally reschedule the Display at any time prior to the Scheduled Date. Except as provided otherwise in Paragraph 5, if City elects to reschedule the Display, it shall pay to FA the balance of the Display Fee within 15 business days of completion of the rescheduled Display plus: (i) 5% of the Display Fee, or \$1,325.00 (One Thousand Three Hundred Twenty Five Dollars), if the City notifies FA of the request to reschedule before 12:00 a.m. on July 3, 2016; or (ii) 15% of the Display Fee, or \$3,975.00 (Three Thousand Nine Hundred Seventy Five Dollars), if the City notifies FA of the request to reschedule on or after 12:00 a.m. on July 3, 2016. The Display shall be rescheduled on a mutually agreed upon date occurring no later than six months from the Scheduled Date.

7. **Right to Cancel, Substantial Delay or Postponement.**

7.1 **Right to Cancel.** City shall have the option to unilaterally cancel the Display at any time prior to the Scheduled Date. If City elects to cancel the Display prior to the Scheduled Date for any reason other than force majeure pursuant to Paragraph 5, FA's inability to perform as a result of operator error, or malfunction or failure of pyrotechnic equipment or materials as provided in Paragraph 7.2(C), or FA's failure to fulfill its obligations under this Agreement, FA shall retain the Deposit, and the City shall pay to FA as liquidated damages: (i) 50% of the balance of the Display Fee, or \$6,625.00 (Six Thousand Six Hundred Twenty Five Dollars), if the City notifies FA of the cancellation at least 30 days prior to the Scheduled Date; (ii) 75% of the balance of the Display Fee, or \$9,937.50 (Nine Thousand Nine Hundred Thirty Seven Dollars and Fifty Cents), if the City notifies FA of the cancellation 15 to 29 days prior to the Scheduled Date; or (iii) 100% of the balance of the Display Fee, or \$13,250.00 (Thirteen Thousand Two Hundred Fifty Dollars), if the City notifies FA of the cancellation less than 15 days prior to the Scheduled Date.

7.2 **Substantial Delay or Postponement.** Both parties agree that the City will suffer damages as a result of any substantial delay or postponement of the Display resulting from operator error, or malfunction or failure of the pyrotechnic equipment or materials, and therefore agree to the following liquidated damages provisions:

A. If FA, as a result of operator error, or malfunction or failure of the pyrotechnic equipment or materials, is unable to start the Display within 5 to 15 minutes after the Scheduled Time, or if at any time after the Display has begun and is underway, there is/are a gap(s) or break(s) in the program lasting 2 to 5 minutes in total, FA shall pay to the City as liquidated damages 20% of the Display Fee, or \$5,300.00 (Five Thousand Three Hundred Dollars).

B. If FA, as a result of operator error, or malfunction or failure of the pyrotechnic equipment or materials, is unable to start the Display more than 15 to 30 minutes after the Scheduled Time, or if at any time after the Display has begun and is underway, there is/are a gap(s) or break(s) in the program lasting more than 5 to 15 minutes in total, FA shall pay to the City as liquidated damages 50% of the Display Fee, or \$13,250.00 (Thirteen Thousand Two Hundred Fifty Dollars).

C. If FA, as a result of operator error, or malfunction or failure of the pyrotechnic equipment or materials, is unable to start the Display for more than 30 minutes after the Scheduled Time, or at any time after the Display has begun and is underway, there is/are a gap(s) or break(s) in the program lasting more than 15 minutes in total, the City, in its sole discretion, may cancel the Display without incurring any liability for payment to FA and without any obligation to reschedule the Display. In either event, it is expressly agreed that FA shall pay to the City as liquidated damages 100% of the Display Fee, or \$26,500.00 (Twenty Six Thousand Five Hundred Dollars).

8. Notice of Rescheduling or Cancellation.

8.1 Notice Prior to Scheduled Date. In the event that the City elects to reschedule or cancel the Display prior to the Scheduled Date, the City shall communicate its decision to Robert Wozniak of FA at bob@fireworksamerica.com and/or by phone to (800) 464-7976.

8.2 Notice on Scheduled Date. In the event that the City elects to reschedule or cancel the Display on the Scheduled Date, the City shall communicate its decision to Robert Wozniak of FA at bob@fireworksamerica.com and/or by phone to (800) 464-7976. In addition, the City shall inform the lead FA pyrotechnician onsite of its decision as appropriate.

9. City Contract Officer. The City Manager, or his/her designee, shall be solely authorized to make decisions concerning this Agreement and the Display including, but not limited to, requests to reschedule or cancel the Display.

10. Safety. FA shall comply with applicable federal, state and local laws and regulations and employ safety policies and procedures, programs, protocols and other measures consistent with recognized applicable industry standards and practices. At all times before and during the Display, it shall be within FA's sole discretion and control to determine whether or not the Display may be safely discharged or continued. It shall not constitute a breach of this Agreement by FA to determine that the Display cannot be discharged or continued as a result of any conditions or circumstances affecting safety beyond the reasonable control of FA. Conditions or circumstances resulting from operator error, or malfunction or failure of the

pyrotechnic equipment or materials shall not be deemed "beyond the reasonable control of FA" for purposes of this Paragraph and shall remain subject to the liquidated damages provisions set forth in Paragraph 7.2.

11. Security. City shall provide and maintain sufficient security personnel, barricades, and police services before, during and after the Display until the lead FA pyrotechnician declares the Site clear. The City shall also provide and maintain a shell casing fallout area clear of any buildings, cars and spectators with a minimum 500-foot radius, or as may otherwise be specified by the current edition of *National Firework Protection Association 1123: Code for Fireworks Display* ("NFPA 1123"), as a Fire Safety Zone ("FSZ") from the time the fireworks are delivered to the Site until the lead FA pyrotechnician declares the Site clear. The approximate location and scope of the FSZ is depicted in Exhibit "B" attached hereto. It is understood and agreed that FA will cease the discharge of all fireworks due to any security breach of the FSZ. FA shall not be responsible for personal injury, vehicle or property damage occurring within the FSZ as a result of the City's failure to maintain the 500-foot radius FSZ clear of any buildings, cars, or spectators. Furthermore, City shall be responsible for any property damage to the Laguna Hills High School Tennis Court, Baseball Field, Track and/or Football Field solely within the FSZ caused by ordinary fallout from the Display. City acknowledges and agrees that FA's responsibilities are limited to the Display and that FA is relying on City to maintain the aforementioned FSZ and to comply with all Federal, State, and local laws, orders, regulations and ordinances pertaining to the implementation of any and all security measures at the FSZ. Any inspections of the FSZ by or on behalf of City made during setup of the Display shall be in accordance with the current edition of NFPA 1123, and under the direct supervision of the lead FA pyrotechnician. Any such inspection shall not interfere with the safety of the setup, discharge, or disassembly of the Display. The lead FA pyrotechnician may, at his/her sole discretion, cancel any inspection that in his/her opinion may compromise the safety of the setup, discharge, or disassembly of the Display.

12. Continuity. FA shall establish Display "continuity" (i.e., test and confirm the functionality of electrically fired pyrotechnic lines, channels and circuits) by no later than 7:00 p.m. on the Scheduled Date, or no less than two hours prior to the Scheduled Time as such time may be modified by the City.

13. Contract Subject to Government Regulation. This Agreement and FA's obligations and FA's performance hereunder are subject to all applicable Federal, State, and local laws, rules, ordinances, regulations and codes, now or hereinafter in effect, and to the conditions and limitations contained in any necessary permits, as set forth in Paragraph 14 ("Display Permits"). In the event any Federal, State, or local law, rule, regulation or ordinance shall be enacted which in any way prohibits, limits or restricts the sale, performance or operation of the exhibition of the Display or in the event the Display Permits in any way limit or restrict the sale, performance or operation of said exhibition, FA shall limit or restrict its performance of the Display so as to comply with such law, rule, regulation or ordinance or limitation or restriction of Display Permits. The City acknowledges that any such limit or restriction placed on the performance or operation of the Display shall in no way result in or entitle City to a reduction or abatement in the full contract price.

14. **Permits.** FA agrees to apply for permits for the firing of pyrotechnics from the Orange County Fire Authority, and if required, the FAA. The City shall be responsible for any fees associated with these permits, including standby fees. The City shall be responsible for obtaining any other necessary permits, paying associated fees, and making other appropriate arrangements for police services, other fire departments, road closures, event/activity or land use permits or any permission or permit required by any local, regional, state or federal government.

15. **Cleanup.** FA shall be responsible for the removal of all Display equipment and any live pyrotechnics from the Site. The City shall be responsible for cleaning the Site and FSZ.

16. **Insurance and Indemnification.**

16.1 **Insurance.** FA shall procure and maintain, at its sole cost and expense, and submit concurrently with its execution of this Agreement, in a form and content satisfactory to City, public liability and property damage insurance against any and all claims for injuries against persons or damages to property resulting from FA's performance under this Agreement. FA shall also carry workers' compensation insurance in accordance with California workers' compensation laws. Such insurance shall be kept in full force and effect during the term of this Agreement, including any extension thereof, and shall not be cancelable without thirty (30) days written notice to City of any proposed cancellation. Certificates of insurance evidencing the foregoing and designating the City and the Saddleback Valley Unified School District, their elected and appointed officials and officers, employees, agents, and volunteers as additional insureds by original endorsement shall be delivered to and approved by City prior to commencement of services. The procuring of such insurance and the delivery of policies, certificates, and endorsements evidencing the same shall not be construed as a limitation of FA's obligation to indemnify City and the Saddleback Valley Unified School District, their elected and appointed officials and officers, agents, employees, and volunteers.

16.1.1 **Minimum Scope of Insurance.** The minimum amount of insurance required hereunder shall be as follows:

A. Comprehensive general liability and personal injury with limits of at least five million dollars (\$5,000,000.00) per occurrence, six million dollars (\$6,000,000.00) in the general aggregate, and six million dollars (\$6,000,000.00) for products and completed operations; the commercial general liability policy shall name the City of Laguna Hills and the Saddleback Valley Unified School District as additional insureds;

B. Automobile liability insurance with limits of at least one million dollars (\$1,000,000.00) per occurrence;

C. Workers' compensation insurance in the statutory amount as required by the State of California, and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

For any claims related to this Agreement, FA's insurance coverage shall be primary insurance as respects City and the Saddleback Valley Unified School District, and their respective elected and appointed officials and officers, employees, agents, and volunteers. Any

insurance or self-insurance maintained by City or the Saddleback Valley Unified School District and their respective elected officials, officers, employees, agents, and volunteers shall be in excess of FA's insurance and shall not contribute with it. For workers' compensation and employer's liability insurance only, the insurer shall waive all rights of subrogation and contribution it may have against City, its elected and appointed officials and officers, employees, agents, and volunteers.

16.1.2 Sufficiency of Insurers. Insurance required herein shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Eligible Surplus Lines Insurers (LESLI), by the latest edition of A.M. Best's Key Rating Guide, except that the City will accept workers' compensation insurance from the State Compensation Fund.

16.1.3 Verification of Coverage. FA shall furnish City with both certificates of insurance and original endorsements, including additional insured endorsements, effecting all of the coverages required by this Agreement. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All proof of insurance is to be received and approved by the City by no later than May 29, 2016. City reserves the right to require FA's insurers to provide complete, certified copies of all required insurance policies at any time. Additional insured endorsements are not required for workers' compensation policies.

16.1.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City and the Saddleback Valley Unified School District, their elected officials, officers, employees, agents, and volunteers; or, FA shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

16.1.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City and the Saddleback Valley Unified School District, their directors, officials, officers, employees, agents, and volunteers.

16.2 Indemnification. To the fullest extent permitted by law, FA shall defend (at FA's sole cost and expense with legal counsel reasonably acceptable to the City), indemnify, protect, and hold harmless City and the Saddleback Valley Unified School District, their elected and appointed officials, officers, directors, employees, agents, and volunteers (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (FA's employees included), for damage to property, including property owned by City and the Saddleback Valley Unified School District, or from any violation of any federal, state, or local law or ordinance, which Claims arise out of, pertain to, or are related to FA's performance under this Agreement. Under

no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit FA's indemnification obligation or other liability hereunder.

17. **Attorney Fees.** In the event any dispute between the parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing party all reasonable costs and expenses, including but not limited to reasonable attorney fees, expert consultant fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding.

18. **Substitutions.** FA shall have the right, at its discretion, to substitute any fireworks it deems necessary provided same does not detract from the aesthetic value or quality of the Display. This includes, but is not limited to, shell sizes, quantities, types and brand names. Any substitutions shall in no way result in or entitle City to a reduction or abatement of the full contract price.

19. **California Law.** This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and FA covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

20. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the parties with respect to the subject matter hereof, and may not be changed, modified, renewed or extended except by a written agreement, signed by both parties.

21. **Severability.** In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement, which shall be interpreted to carry out the intent of the parties hereunder

22. **Amendment.** This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

23. **Prohibition Against Subcontracting or Assignments.** The experience, knowledge, capability, expertise, and reputation of FA, its principals and employees, were a substantial inducement for City to enter into this Agreement. Therefore, FA shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, voluntarily or by operation of law, without the prior written consent of City. FA shall not contract with any other entity to perform the Display service and work required without prior written consent of City. If FA is permitted to subcontract any part of this Agreement by City, FA shall be responsible to City for the acts and omissions of its subcontractor(s) in the same manner as it is

for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any approved FA subcontractor and City.

24. Independent Contractor.

A. The legal relationship between the parties is that of an independent contractor, and nothing herein shall be deemed to make FA a City employee. During the performance of this Agreement, FA and its officers, employees, and agents shall act in an independent capacity and shall not act as City officers or employees. The personnel performing the Display services under this Agreement on behalf of FA shall at all times be under FA's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of FA or any of its officers, employees, or agents, except as set forth in this Agreement. FA, its officers, employees, or agents shall not maintain an office or any other type of fixed business location at City's offices. City shall have no voice in the selection, discharge, supervision, or control of FA's employees, servants, representatives, or agents, or in fixing their number, compensation, or hours of service. FA shall pay all wages, salaries, and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. City shall not in any way or for any purpose be deemed to be a partner of FA in its business or otherwise a joint venturer or a member of any joint enterprise with Consultant.

B. FA shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

C. No City benefits shall be available to FA, its officers, employees, or agents in connection with any performance under this Agreement. Except for professional fees paid to FA as provided for in this Agreement, City shall not pay salaries, wages, or other compensation to FA for the performance of the Display services and work under this Agreement. City shall not be liable for compensation or indemnification to FA, its officers, employees, or agents, for injury or sickness arising out of performing the Display services and work hereunder. If for any reason any court or governmental agency determines that the City has financial obligations, other than pursuant to Section 4 herein of any nature relating to salary, taxes, or benefits of FA's officers, employees, servants, representatives, subcontractors, or agents, FA shall indemnify City for all such financial obligations.

25. Interpretation. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties. The terms of this Agreement are contractual and the result of negotiation between the parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or paragraphs.

26. **Waiver.** No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. Any waiver by the parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the parties from enforcing the full provisions hereof.

27. **Rights and Remedies Cumulative.** Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

28. **Legal Action.** In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

29. **Third Party Beneficiary.** Except as may be expressly provided for herein, nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

30. **Notice.** Except as set forth in Paragraph 8, any notice, request, demand, direction, or other communication required or permitted hereunder shall be in writing, and shall be personally delivered, sent by registered or certified mail, postage prepaid, return-receipt-requested, or delivered or sent by facsimile with attached evidence of completed transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) five (5) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Any notice or other communication sent by facsimile must be confirmed within forty-eight (48) hours by letter mailed or delivered. Other forms of electronic transmission such as e-mails, text messages, instant messages are not acceptable manners of notice required hereunder. Notices or other communications shall be addressed as follows:

To City:

City of Laguna Hills
Attention: City Manager
24035 El Toro Road
Laguna Hills, CA 92653
Telephone: (949) 707-2600
Facsimile: (949) 707-2614

To Fireworks and Stage FX America, Inc.:

Fireworks America
Attention: Robert Wozniak, President
12485 Highway 67 North
Lakeside, CA. 92040
Telephone: (800) 464-7976
Facsimile: (619) 938-8273

31. **Binding Effect.** This Agreement shall not be binding on either party until executed by both City and FA.

32. **Corporate Authority.** Each of the undersigned represents and warrants that (i) the party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the party for which he/she is signing, (iii) by so executing this Agreement, the party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the party for which he/she is signing is bound.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates stated below.

“CITY”
City of Laguna Hills

Date: _____

By: _____
Bruce E. Channing,
City Manager

APPROVED AS TO FORM:

ATTEST

By: _____
Gregory E. Simonian,
City Attorney

By: _____
Melissa Au-Yeung,
City Clerk

“FA”
Fireworks and Stage FX America, Inc.

Date: _____

By : _____
Robert F. Wozniak, President/CFO

Date: _____

By : _____
Kevin T. Brueckner, Secretary

Exhibit A
Scope of Work
for
City of Laguna Hills
2016 Fourth of July Celebration

City of Laguna Hills



Presents

Land Of The Free

A Fireworks Extravaganza

July 4th, 2016

Produced by



"The Difference is Quality"

City of Laguna Hills

Land Of The Free

July 4th, 2016

National Anthem

Rockets Red Glare

4" 2

Bombs Bursting In Air

3" 10

Red, White & Blue Finale

3" 10

Aerial Grand Finale

Color and Multi-Color Finale Shells

3" 300

4" 16

Aerial Flash Salutes

3" 200

Finale Crown

5" 10

Aerial Show Presentation

Aerial Titanium Flash Salutes

3" 20

Color and Multi-Color Aerial Shells

3" 130

4" 60

5" 45

Flitter, Glitter, Electric Color and
Color Changing Shells

3" 100

4" 50

5" 25

Distinctive and Unique Aerial Shells

3" 50

4" 25

5" 12

Streaking Comets & Tiger Tails

3" 10

Premium Aerial Shells

3" 10

4" 10

5" 8

Grand Totals

Aerial Shells

3" 840

4" 163

5" 100

Total Aerial Shells

1103

Program Price

Total Program Price Inclusive of
Insurance, Operator and
Transportation

Cost \$26,500

Show Duration 18 Min



Fireworks America Products

The Quality Difference

Fireworks America has sought to affiliate itself with world renown-award winning manufacturers, both foreign and domestic. In every show you will find only the highest quality products and variety which will far surpass those of our competitors.

Product Definitions Are:

Color and Multi-Color include standard one color products and multiple colors such as Chrysanthemums, Peonies and Hearts, Red, Green and Blue, Variegated, etc.
Our variety is unmatched and as such we can guarantee over 40 varieties in this category.

Compare to our competitors "Color", "Fancy", some "Extra Fancy", "Standard" or "Japanese Style Deluxe" Shells.

Classic: includes Flitter, Glitter, Electric Color and Color Changing Transformation Penny Glitter, Glitter & Color, Magnesium Red Electric, Red to Blue, Comets, etc. Our variety is unmatched and as such we can guarantee over 50 varieties in this category.

Compare to our competitors "Extra Fancy", "Floral", "Classic" or "Japanese Style Super Effect" Shells

Select: Shells feature Distinctive and Unique Aerial Shells including, Spiders, Multiple Reports, Strobes, Multiple Effect Shells, Domestic Glittering Comets, . Crackling Effects, Double Ring Shells, Saturn Shells, Tourbillion Shells, Special Pattern Shells, Weeping Willow Shells, Shell of Shells and Serpentine Shells, etc..

Compare to our competitors "Special", "Special Effect", or "Japanese Style Special Effect" Shells.

Premium: Aerial Shells include Crossettes, Serpents, Whistles, Whistles and Reports, Serpents and Strobes, Fish and Whistles, Tourbillions to Reports, Thunder and Rainbow, Serpents and Stars, Nishiki Kamuros, and many other American Made Specialty Shells.

Our competitors cannot compare with our Domestically-Made Superstars.



City of Laguna Hills
**Show Concept, Services List,
and Miscellaneous Details**

Services List:

Fireworks America to Provide:

- 1) Permit Filings as Required
- 2) Storage and Delivery of fireworks
- 3) All Equipment to produce the display
- 4) Insurance Aggregate amount of 10,000,000
- 5) Worker's Compensation Insurance (Statute)
- 6) Music CD
- 7) Choreography

City of Laguna Hills to Provide:

- 1) A Suitable Firing Site
- 2) Adequate Security for Firing Site
- 3) Sand & Sand Removal, if req'd
- 4) Permit Fees
- 5) Standby Firefighter Fees, if req'd
- 6) Sound System and Playback

Operators and Assistants:

Fireworks America will provide the services of a State Licensed Pyrotechnic Operator and experienced crew to fire your display. The entire crew will be covered under Fireworks America's Worker's Compensation Insurance.

Payment Terms:

50% of the Sum is to be paid to FA at the signing of the Contract,
Balance Net 10 Days After Display

Method of Discharge:

The show will be fired electrically. Each fireworks event will have its own ignitor for precise timing. Fireworks America will provide the firing panel, cable, distribution system and power for the show.

Choreography:

The program will be choreographed utilizing the latest innovation in computerized-fireworks choreography. This will allow maximum accuracy in firing and timing of the display. The fireworks will follow the music precisely and provide an exhilarating experience for the viewer.

Exhibit B

Approximate Fire Safety Zone

for

City of Laguna Hills

2016 Fourth of July Celebration





City of Laguna Hills

City Council Meeting Agenda

Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

**FROM: KENNETH H. ROSENFELD, P.E.
DIRECTOR OF PUBLIC SERVICES/CITY ENGINEER**

ISSUE: NOTICE OF INTENT TO VACATE A PORTION OF A STREET EASEMENT ON THE WESTERLY SIDE OF AVENIDA DE LA CARLOTA NORTHERLY OF LOS ALISOS BOULEVARD, A FORMER DRIVEWAY ACCESS TO OAKBROOK VILLAGE

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DECLARING ITS INTENTION TO VACATE AND ABANDON A PORTION OF A PUBLIC STREET EASEMENT ON THE WESTERLY SIDE OF AVENIDA DE LA CARLOTA NORTHERLY OF LOS ALISOS BOULEVARD, A FORMER DRIVEWAY ACCESS TO OAKBROOK VILLAGE, AND SETTING A PUBLIC HEARING THEREON."

SUMMARY:

The redevelopment of Oakbrook Village, located at 24231-24391 Avenida de la Carlota, to modify the retail buildings and add housing units included modifications to the frontage of the property along Avenida de la Carlota. The siting of the first phase residential buildings in this project resulted in the abandonment of a former driveway access from Avenida de la Carlota into this retail center. A small trapezoidal area of public street easement protrudes into the Oakbrook Village property at this former driveway location and this area is no longer necessary for current or prospective public uses. The Streets and Highways Code establishes the procedure for the vacation of public street easements and staff recommends the City Council adopt the attached Resolution of Intention to Vacate the unnecessary public street easement area in order to begin the procedure leading to a public hearing on the matter.

BACKGROUND:

The recent Oakbrook Village redevelopment project to modify the retail buildings and add housing units to this shopping center located at 24231-24391 Avenida de la Carlota

included modifications to Avenida de la Carlota across the frontage of the site. The addition of the first phase residential buildings at the southerly edge of the shopping center necessarily required the closing of a former driveway access from Avenida de la Carlota into the shopping center. A small trapezoidal area of public street easement protrudes into the Oakbrook Village property at this former driveway location and this area is no longer necessary for current or prospective public use.

It is now appropriate to consider the vacation of this public street easement area by the adoption of a Resolution, attached, which declares the City's intention to vacate a portion of the public street easement on the westerly side of Avenida de la Carlota northerly of Los Alisos Boulevard, as more particularly described and shown on the exhibits attached to the Resolution, and setting a public hearing on the matter.

The procedures for the consideration of the vacation of a public street easement, and other types of public services easements, are found in Chapter 3, Part 3 of Division 9, of the Streets and Highways Code. The procedures include:

- Adoption of a Resolution of Intention to Vacate.
- Setting a Public Hearing not less than 15 days after the initiation of proceedings.
- Publishing the notice of the Public Hearing for at least two consecutive weeks.
- Posting at least three notices on the property to be vacated.

It is proposed that the City Council adopt the Resolution of Intention to Vacate and hold a Public Hearing on the matter on April 12, 2016.

FISCAL IMPACT:

None

CEQA:

The vacation action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical changes to the environment, directly or indirectly.

ATTACHMENTS:

- Resolution of Intention to Vacate

RESOLUTION NO. 2016-03-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DECLARING ITS INTENTION TO VACATE AND ABANDON A PORTION OF A PUBLIC STREET EASEMENT ON THE WESTERLY SIDE OF AVENIDA DE LA CARLOTA NORTHERLY OF LOS ALISOS BOULEVARD, A FORMER DRIVEWAY ACCESS TO OAKBROOK VILLAGE, AND SETTING A PUBLIC HEARING THEREON

The City Council of the City of Laguna Hills, California, which also serves as the Planning Agency of the City of Laguna Hills, hereby finds, determines, declares, and resolves as follows:

WHEREAS, the City of Laguna Hills ("City") owns a public street easement along Avenida de la Carlota northerly of Los Alisos Boulevard; and

WHEREAS, a portion of said easement includes an approximately 827 square foot trapezoidal area located within a portion of Oakbrook Village, located at 24231-24391 Avenida de la Carlota, currently described as Lot 3 of Lot Line Adjustment LLA-2013-01, which formerly served as a driveway entrance into the Oakbrook Village shopping center; and

WHEREAS, this easement area is no longer necessary for current or prospective public street purposes, or as a non-motorized transportation facility; and

WHEREAS, pursuant to Streets and Highways Code Sections 8300 et seq, the City Council is authorized on its own initiative to initiate proceedings for vacation of public street easements that are no longer necessary for current or prospective public street purposes or as a non-motorized transportation facility; and

WHEREAS, pursuant to Streets and Highways Code Section 8312, the City Council is authorized to vacate all or a portion of a street easement within the City; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated by reference herein.

SECTION 2. It is the intention of the City Council to vacate and abandon the public street easement over the former driveway entrance to Oakbrook Village located along the westerly side of Avenida de la Carlota northerly of Los Alisos Boulevard, as more particularly described on Exhibit "A" and depicted on Exhibit "B", attached hereto and incorporated herein by reference. Exhibit "A" and Exhibit "B" are on file in the office of the City Clerk located at 24035 El Toro Road, Laguna Hills, California, and available for public review and inspection.

SECTION 3. It is the intention of the City Council to find that the former driveway entrance to Oakbrook Village located along the westerly side of Avenida de la Carlota northerly of Los Alisos Boulevard is unnecessary for present or prospective public street purposes, or as a non-motorized transportation facility.

SECTION 4. It is the intention of the City Council to reserve easements per Section 8340 of the Streets and Highways Code.

SECTION 5. The City Council intends to find that this vacation action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical changes to the environment, directly or indirectly.

SECTION 6. It is the intention of the City Council, which also serves and the City's Planning Agency, to find in accordance with Section 65402 of the Government Code that vacating and abandoning the public street easement over the former driveway entrance to Oakbrook Village located along the westerly side of Avenida de la Carlota northerly of Los Alisos is in conformity with the General Plan.

SECTION 7. The City Council hereby sets a public hearing to be held on April 12, 2016, at 7:00 pm, or as soon hereafter as possible, in the Council Chambers of the City Council of the City of Laguna Hills located at 24035 El Toro Road, Laguna Hills, California, 92653. At this hearing, all interested persons may introduce evidence and testimony pertaining to the proposed vacation. At the conclusion of the hearing the City Council shall determine, from all evidence submitted, whether or not the proposed vacation is in the public interest.

SECTION 8. Notice of the Public Hearing shall be published, posted, and mailed in accordance with the requirements of Street and Highways Code Sections 8320, et seq.

SECTION 9. The City elects to proceed under the provisions of Chapter 3, Part 3, Division 9 (Section 8320 et seq.) of the California Streets and Highway Code.

PASSED, APPROVED, AND ADOPTED this 8th day of March, 2016.

BARBARA KOGERMAN, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, MELISSA AU-YEUNG, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No.
_____ adopted by the City Council of the City of Laguna Hills,
California, at a regular meeting thereof, held on the 8th day of March, 2016, by the
following vote:

AYES:

NOES:

ABSENT:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

EXHIBIT A

LEGAL DESCRIPTION

A RIGHT OF WAY VACATION OVER A PORTION OF LOT 3 OF LLA-2013-01, RECORDED APRIL 24, 2014 AS INSTRUMENT NO. 2014000156993, IN THE CITY OF LAGUNA HILLS, COUNTY OF ORANGE, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 3; THENCE ALONG THE EASTERLY LINE OF SAID LOT 3, NORTH 22°24'07" WEST 49.78 FEET TO THE BEGINNING OF AN 800.00 FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE NORTHERLY 8.13 FEET ALONG THE ARC OF SAID CURVE THROUGH A DELTA OF 00°34'57" TO THE TRUE POINT OF BEGINNING, TO WHICH A RADIAL BEARS NORTH 67°00'56" EAST; THENCE CONTINUING NORTHERLY ALONG SAID CURVE THROUGH A DELTA OF 06°00'54", AN ARC DISTANCE OF 83.99 FEET; THENCE LEAVING SAID EASTERLY LINE, SOUTH 12°51'33" WEST 15.94 FEET; THENCE SOUTH 24°39'55" EAST 59.39 FEET; THENCE SOUTH 69°05'00" EAST 16.65 FEET TO THE TRUE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 827 SQUARE FEET OF LAND, MORE OR LESS.

ALL AS PARTICULARLY SHOWN ON EXHIBIT "B", ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

ALL AS PARTICULARLY SHOWN ON EXHIBIT "B", ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PREPARED UNDER THE SUPERVISION OF:

Vincent W. Scarpati

VINCENT W. SCARPATI R.C.E. 33520
LICENSE EXPIRES 06/30/2016

DATE

5-12-15



P:\S\GHEA-004\DWG\SHEETS\EXHIBITS\CH-VACATION.DWG

SHEET 1 OF 2	EXHIBIT A LEGAL DESCRIPTION	 CONSULTING, INC. CIVIL ENGINEERING LAND PLANNING & SURVEYING 2755 BURBANK FOOTHILL RANCH, CA 92609 T. 949.963.800 F. 949.963.805 WWW.CVC-INC.NET	
JOB NO. SHEA-004			
BY: MOX	RIGHT OF WAY VACATION		
DATE: 03/10/15			
SCALE: N/A			

EXHIBIT B

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

LOT 1
LLA-2013-01

LEGEND

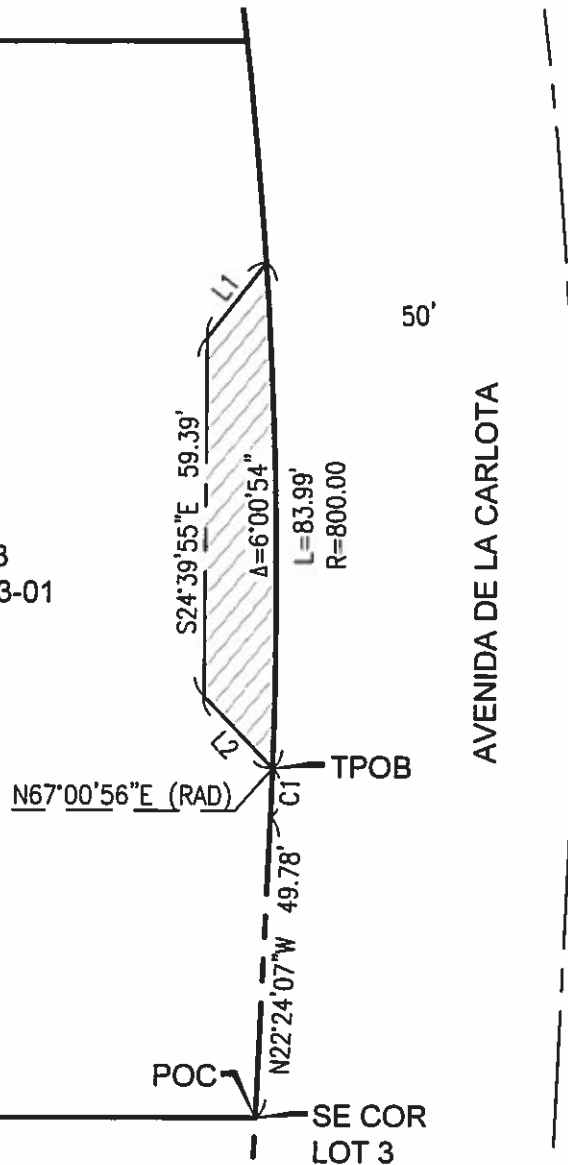
COR - CORNER
POC - POINT OF COMMENCEMENT
(RAD) - RADIAL BEARING
TPOB - TRUE POINT OF BEGINNING

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N12°51'33"E	15.94'
L2	S69°05'00"E	16.65'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	8.13'	800.00'	0°34'57"



LOT 3
LLA-2013-01



LOT 2
LLA-2013-01

SHEET 2 OF 2

JOB NO. SHEA-004

BY: MOX

DATE: 03/10/15

SCALE: 1" = 30'

EXHIBIT B

RIGHT OF WAY
VACATION



CONSULTING, INC.
CIVIL ENGINEERING
LAND PLANNING & SURVEYING

2755 BURBANK
FOOTHILL RANCH, CA 92600
T. 949.963.3000
F. 949.963.3005
WWW.CVC-INC.NET



City of Laguna Hills

City Council Meeting Agenda

Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

**FROM: KENNETH H. ROSENFELD, P.E.
DIRECTOR OF PUBLIC SERVICES/CITY ENGINEER**

ISSUE: SUMMARY VACATION OF A PORTION OF A SUPERSEDED PUBLIC SERVICE EASEMENT FOR DRAINAGE PURPOSES LOCATED NORTHERLY OF LA PAZ ROAD AND EASTERLY OF MOULTON PARKWAY WITHIN LOT A OF TRACT NO. 11237

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING AND ORDERING THE SUMMARY VACATION OF A PORTION OF A 20' WIDE PUBLIC SERVICE EASEMENT FOR STORM DRAIN PURPOSES (APPROX. 4,000 SQ. FT.) WITHIN LOT A, TRACT NO. 11237, LOCATED NORTHERLY OF LA PAZ ROAD AND EASTERLY OF MOULTON PARKWAY."

SUMMARY:

To facilitate the construction of new commercial buildings, the redevelopment of the shopping center at the northeasterly corner of Moulton Parkway at La Paz Road, known as the Village at Nellie Gail Ranch, required the relocation of a City storm drain and the acquisition of a new storm drain easement. The pre-existing storm drain easement, located within a portion of Lot A of Tract No. 11237, has been superseded by the dedication of a replacement easement as recorded within Parcel Map No. 2009-134. Therefore, the City Council may elect to proceed under the provisions of Public Streets, Highways, and Service Easements Vacation Law (Division 9, Part 3, of the California Streets and Highways Code, Section 8300 *et seq.*) and specifically Chapter 4 (Summary Vacation) (commencing with Section 8330) thereof, to summarily vacate the subject public service easement. A Resolution of vacation, with legal description and plat, has been prepared, see attached, and is provided for City Council approval.

BACKGROUND:

The City is the owner of a 20' to 30' wide public service easement for storm drain purposes within Lot A of Tract No. 11237, as recorded in the records of the County of Orange in

Map Book 494, Pages 28-33, inclusive, within the La Paz Open Space located northerly of La Paz Road between Moulton Parkway and Alameda Avenue (Original Easement).

The redevelopment of the shopping center at the northeasterly corner of Moulton Parkway at La Paz Road, known as the Village at Nellie Gail Ranch, included the approval of Parcel Map No. 2009-134, as recorded in the records of the County of Orange in Map Book 369, Pages 24-27, inclusive, with two parcels (Parcel Map). Parcel 1 of the Parcel Map was developed with new buildings and incorporated into the shopping center. Because the newly constructed buildings would overlay portions of the Original Easement, the Parcel Map offered for dedication, and the City accepted, a new public service easement for storm drain purposes which provided an equal facility for the City and is unobstructed by the new buildings. The shopping center developer relocated the City storm drain located within the affected portion of the Original Easement, totaling approximately 4,000 square feet, to the new public service easement.

The portion of the Original Easement located within Parcel 1 of the Parcel Map (formerly Lot A of Tract No. 11237) has been relocated and superseded. Therefore, staff recommends that the City Council approve and order the vacation of a portion of the Original Easement by adopting the proposed Resolution (attached).

In this case, the City Council may elect to proceed under the provisions of Public Streets, Highways, and Service Easements Vacation Law (Division 9, Part 3 of the California Streets and Highways Code, Section 8300 *et seq.*) and specifically Chapter 4 (Summary Vacation) (commencing with Section 8330) thereof, to summarily vacate the subject public service easement. The provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the City Council to summarily vacate a public service easement when the easement has been superseded by relocation, and there are no other public facilities located within the easement. Under such circumstances, only one action is necessary and published notice, posting, and public hearings are not required.

Once approved by the City Council, the City Clerk will cause a certified copy of the Resolution of vacation to be recorded in the Office of the Clerk-Recorder of the County of Orange in accordance with the provisions set forth in Section 8336 of the Streets and Highways Code. From and after the date the Resolution is recorded, the subject easement will no longer constitute a public service easement, the vacation action will be complete, and the easement extinguished.

FISCAL IMPACT:

None

CEQA:

This public service easement Summary Vacation action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). The Resolution of vacation is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment; the Resolution of vacation will not result in any changes to existing environmental conditions; therefore, there is no possibility that the adoption of the Resolution will have a significant effect on the environment, and this public service easement Summary Vacation action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

ATTACHMENTS:

- Resolution

RESOLUTION NO. 2016-03-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING AND ORDERING THE SUMMARY VACATION OF A PORTION OF A 20' WIDE PUBLIC SERVICE EASEMENT FOR STORM DRAIN PURPOSES (APPROX. 4,000 SQ. FT.) WITHIN LOT A, TRACT NO. 11237, LOCATED NORTHERLY OF LA PAZ ROAD AND EASTERLY OF MOULTON PARKWAY

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, a 20' to 30' wide public service easement for storm drain purposes exists within Lot A of Tract No. 11237, as recorded in the records of the County of Orange in Map Book 494, Pages 28-33, inclusive ("Original Easement"); and

WHEREAS, the redevelopment of the shopping center at the northeasterly corner of Moulton Parkway at La Paz Road, known as the Village at Nellie Gail Ranch, included the approval of Parcel Map No. 2009-134, as recorded in the records of the County of Orange in Map Book 369, Pages 24-27, inclusive, with two parcels ("Parcel Map"). Parcel 1 of the Parcel Map was developed with new buildings and incorporated into the shopping center; and

WHEREAS, because the newly constructed buildings would overlay a portion of the Original Easement, the Parcel Map, offered for dedication, and the City accepted, a new public service easement for storm drain purposes, unobstructed by the new buildings, as recorded in the records of the County of Orange in Map Book 369, Pages 24-27, inclusive ("New Easement"); and

WHEREAS, the storm drain facilities were relocated from the affected portion of the Original Easement to the New Easement to the satisfaction of the City; and

WHEREAS, the affected portion of the Original Easement, totaling approximately 4,000 sq. ft., has been superseded by relocation, as described and depicted on Exhibit "A" and Exhibit "B", respectively, attached hereto and incorporated herein, and there are no other public facilities located within the subject easement; and

WHEREAS, the provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the City Council to summarily vacate a public service easement when the easement has been superseded by relocation, and there are no other public facilities located within the easement; under such circumstances, only one summary vacation action is necessary and published notice, posting, and public hearing are not required.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. This public service easement summary vacation action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines § 15061(b)(3); this resolution of vacation is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment; this resolution of vacation will not result in any changes to existing environmental conditions; therefore, there is no possibility that the adoption of this resolution will have a significant effect on the environment, and this public service easement summary vacation action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

SECTION 3. City Council hereby orders the vacation of a portion of the public service easement for storm drain purposes, within Lot A of Tract No. 11237, as depicted on Exhibit "A" and Exhibit "B", respectively, attached hereto and incorporated herein, pursuant to the authority set forth under Division 9, Part 3, Chapter 4 of the California Streets and Highways Code (commencing with Section 8330).

SECTION 4. This public service easement summary vacation does not change the land use designation and is, therefore, hereby found and determined to be in conformity with the City of Laguna Hills General Plan Land Use Element. (Streets and Highways Code Section 8313(a))

SECTION 5. There are no in-place public utility facilities that are in use or that would be affected by the vacation of the public service easement. (Streets and Highways Code Section 8334.5)

SECTION 6. The City Clerk shall cause a certified copy of this resolution, attested to by the City Clerk under seal, to be recorded in the Office of the Clerk-Recorder of the County of Orange, California, in accordance with the provisions set forth in Section 8336 of the Streets and Highways Code.

SECTION 7. From and after the date this resolution is recorded, the public service easement identified herein shall no longer constitute a public service easement, the vacation shall be complete, and the public service easement is extinguished.

PASSED, APPROVED, AND ADOPTED this 8TH day of March 2016.

BARBARA KOGERMAN, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. x
adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting
thereof held on the 8TH day of March 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

**EXHIBIT A
LEGAL DESCRIPTION
STORM DRAIN EASEMENT VACATION (PARTIAL)**

SHEET 1 OF 1

THAT PORTION OF THAT CERTAIN STORM DRAIN EASEMENT, 20.00 FEET IN WIDTH, DEDICATED TO THE COUNTY OF ORANGE PER THE MAP OF TRACT NO. 11237, IN THE CITY OF LAGUNA HILLS, COUNTY OF ORANGE, STATE OF CALIFORNIA, FILED IN BOOK 494, PAGES 28 THROUGH 33, INCLUSIVE, OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, AND SHOWN ON PARCEL MAP NO. 2009-134, FILED IN BOOK 369, PAGES 24 THROUGH 27, INCLUSIVE, OF PARCEL MAPS, RECORDS OF ORANGE COUNTY, THE CENTERLINE OF SAID PORTION BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF MOULTON PARKWAY WITH THE CENTERLINE OF THAT CERTAIN STRIP OF SAID EASEMENT DEDICATED ON SAID TRACT NO. 11237, SAID POINT BEING NORTHERLY, ALONG SAID RIGHT OF WAY LINE, 81.64 FEET FROM THE SOUTHERLY TERMINUS OF SAID RIGHT OF WAY LINE SHOWN ON SAID PARCEL MAP AS HAVING A BEARING OF NORTH 13°47'24" EAST AND A DISTANCE OF 184.35 FEET; THENCE ALONG SAID CENTERLINE OF EASEMENT NORTH 76°12'05" EAST 83.00 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 200.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE 66.93 FEET THROUGH A CENTRAL ANGLE OF 19°10'31" TO THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION, A RADIAL LINE TO SAID POINT BEARS SOUTH 32°58'26" EAST; THENCE CONTINUING ALONG SAID CURVED CENTERLINE NORTHEASTERLY 107.55 FEET THROUGH A CENTRAL ANGLE OF 30°48'36" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 200.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 63°47'02" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE 164.39 FEET THROUGH A CENTRAL ANGLE OF 47°05'37"; THENCE NORTH 73°18'35" EAST 289.90 FEET TO A POINT ON THE NORTHEASTERLY LINE OF PARCEL 1 OF SAID PARCEL MAP.

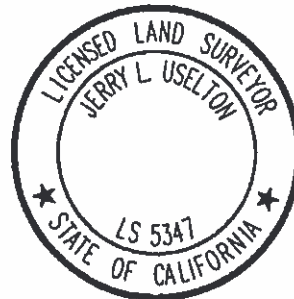
THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED TO TERMINATE NORTHEASTERLY AT SAID NORTHEASTERLY LINE OF PARCEL 1 AND SOUTHWESTERLY AT SAID RADIAL LINE PASSING THROUGH THE TRUE POINT OF BEGINNING.

Contains 11,237 sq. ft., or 0.258 acres, more or less.

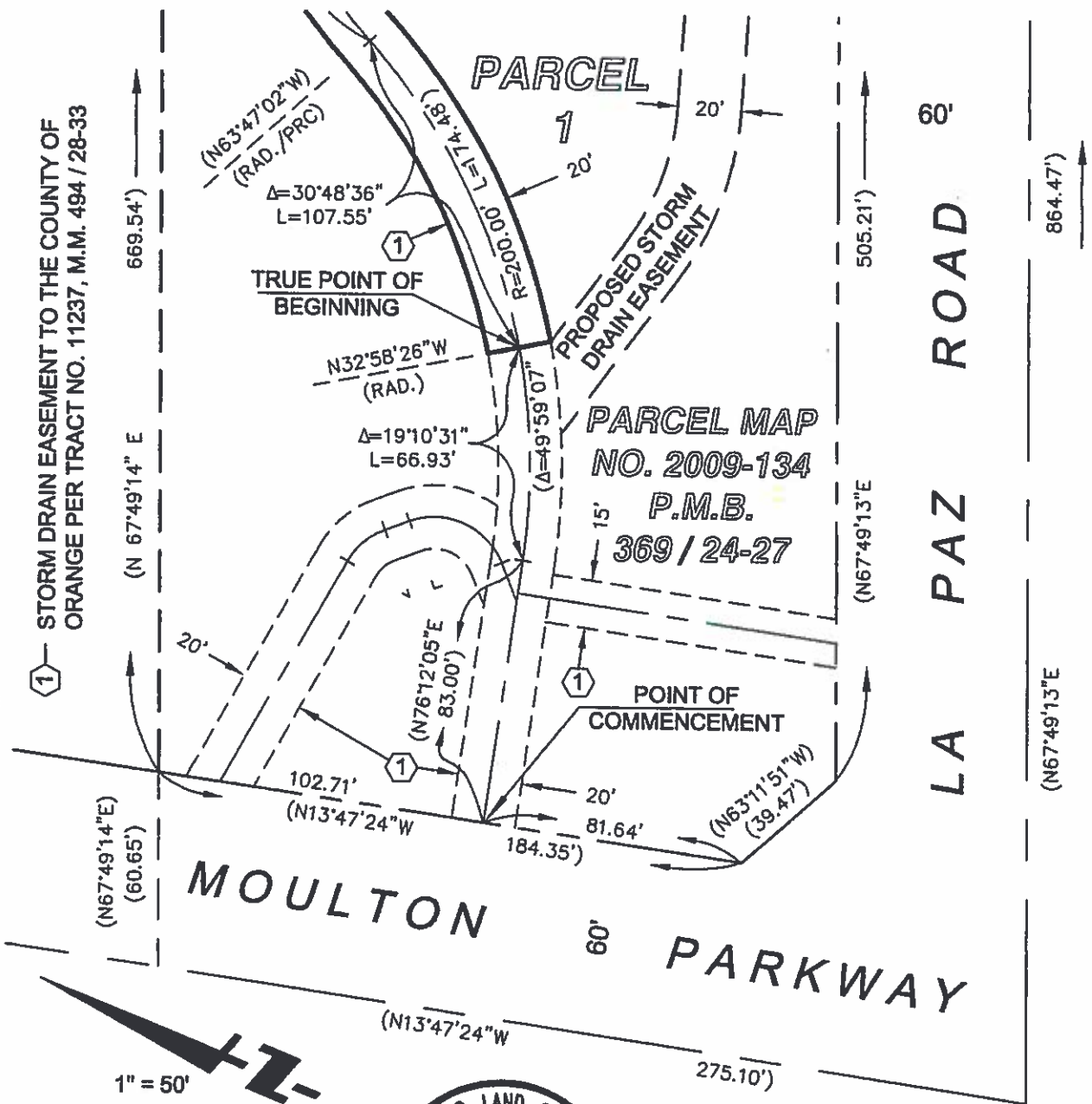
As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

DATED THIS 11th DAY OF April, 2012.


JERRY L. USELTON, L.S. 5347, EXP. 12/31/13



SEE SHEET 2 OF 3



1" = 50'



PREPARED BY ME OR UNDER MY DIRECTION:

[Signature] 4/11/12
 JERRY L. USELTON, L.S. 5347
 LICENSE EXPIRES 12/31/13

NOTE: BEARINGS AND DISTANCES
 IN PARENTHESES (100.00') ARE
 RECORD PER PARCEL MAP NO.
 2009-134, P.M.B. 369 / 24-27



FUSCOE

ENGINEERING

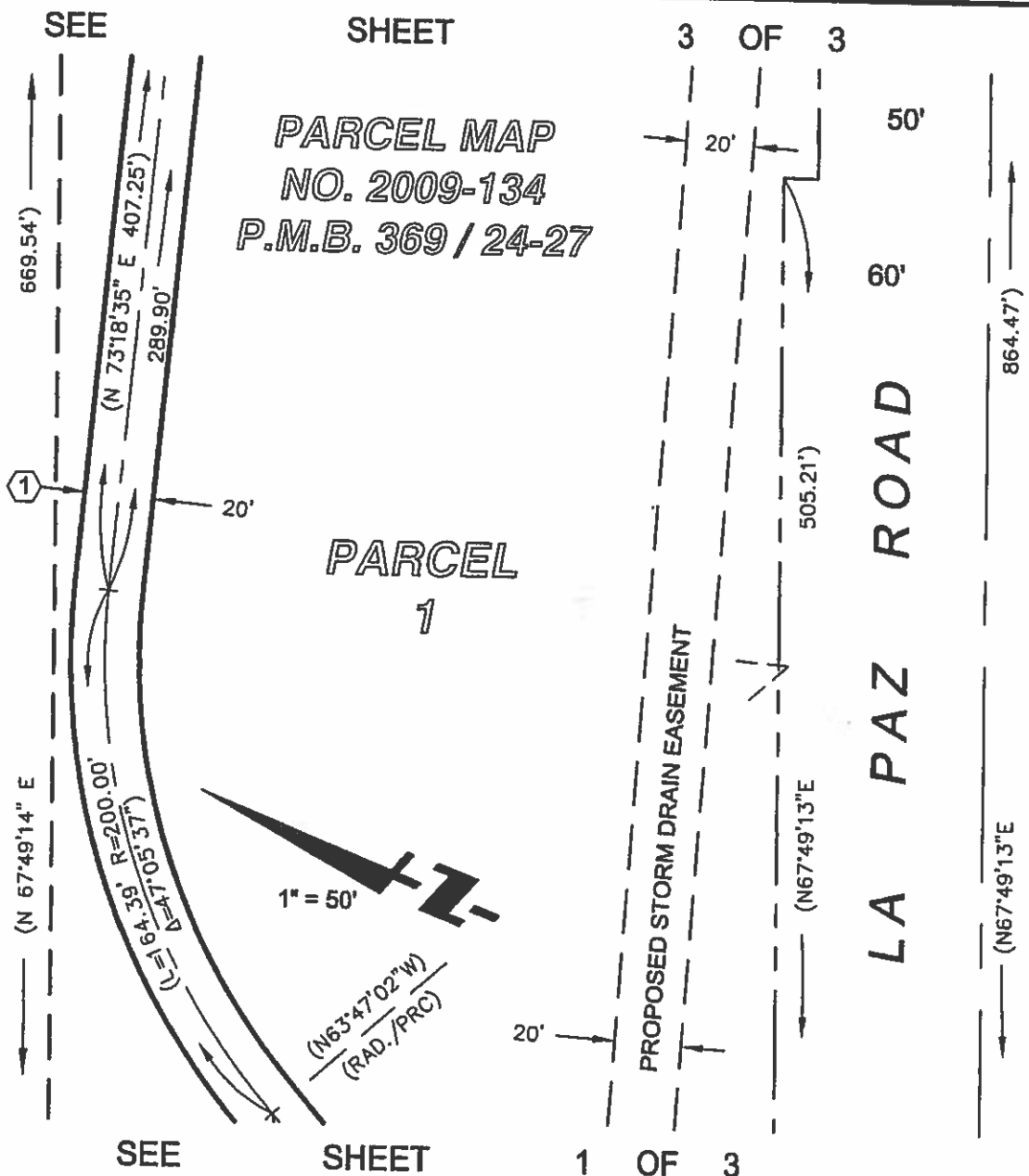
16795 Von Karman, Suite 100, Irvine, California 92606
 Tel 949.474.1960 • Fax 949.474.5315 • www.fuscoee.com

EXHIBIT 'B'

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
 VACATION OF STORM DRAIN EASEMENT
 LA PAZ ROAD / MOULTON PARKWAY
 CITY OF LAGUNA HILLS

DATE: APRIL 11, 2012
 SCALE: AS NOTED
 JN: 1169.02
 (PRIOR FEI JN 307.07)
 SHEET 1 OF 3

1 — STORM DRAIN EASEMENT TO THE COUNTY OF
ORANGE PER TRACT NO. 11237, M.M. 494 / 28-33



NOTE: BEARINGS AND DISTANCES
IN PARENTHESES (100.00') ARE
RECORD PER PARCEL MAP NO.
2009-134, P.M.B. 369 / 24-27



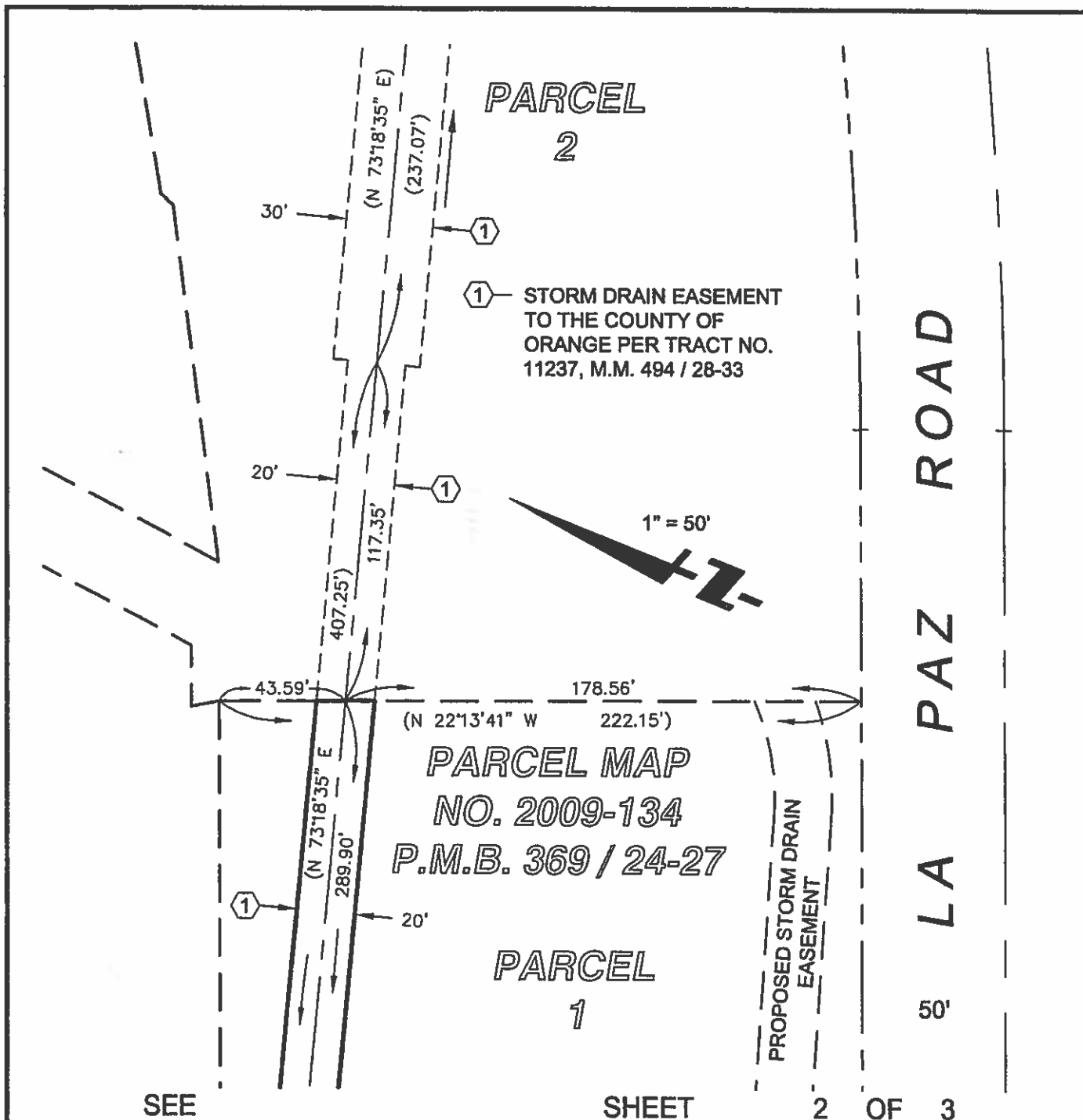
FUSCOE
ENGINEERING

16795 Van Korman, Suite 100, Irvine, California 92606
tel 949.474.1960 fax 949.474.5315 www.fuscoe.com

EXHIBIT 'B'

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
VACATION OF STORM DRAIN EASEMENT
LA PAZ ROAD / MOULTON PARKWAY
CITY OF LAGUNA HILLS

DATE: APRIL 11, 2012
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(PRIOR FEI JN 307.07)
SHEET 2 OF 3



NOTE: BEARINGS AND DISTANCES
IN PARENTHESES (100.00') ARE
RECORD PER PARCEL MAP NO.
2009-134, P.M.B. 369 / 24-27

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ENGINEERING
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EXHIBIT 'B'
SKETCH TO ACCOMPANY LEGAL DESCRIPTION
VACATION OF STORM DRAIN EASEMENT
LA PAZ ROAD / MOULTON PARKWAY
CITY OF LAGUNA HILLS

DATE: APRIL 11, 2012
SCALE: AS NOTED
JN: 1169.02
(PRIOR FEI JN 307.07)
SHEET 3 OF 3



City of Laguna Hills City Council Meeting Agenda Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

**FROM: KENNETH H. ROSENFELD, P.E.
DIRECTOR OF PUBLIC SERVICES/CITY ENGINEER**

ISSUE: COOPERATIVE AGREEMENT NO. C-5-3586 BETWEEN ORANGE COUNTY TRANSPORTATION AUTHORITY AND CITIES OF LAGUNA HILLS, ALISO VIEJO, LAGUNA NIGUEL, AND MISSION VIEJO FOR ALICIA PARKWAY REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROJECT (CITY DESIGNATED PROJECT, CIP NO. 168G)

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE COOPERATIVE AGREEMENT NO. C-5-3586 BETWEEN ORANGE COUNTY TRANSPORTATION AUTHORITY AND CITIES OF LAGUNA HILLS, ALISO VIEJO, LAGUNA NIGUEL, AND MISSION VIEJO FOR ALICIA PARKWAY REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROJECT (CITY DESIGNATED PROJECT, CIP NO. 168G) AND AUTHORIZE THE MAYOR TO SIGN AND THE CITY CLERK TO ATTEST THERETO.

SUMMARY:

The Traffic Signal Synchronization Program (TSSP) is a funding program within Measure M2 and seeks to coordinate over 2,000 traffic signals throughout Orange County. A proposed multi-agency project to meet this goal is the Alicia Parkway TSSP. The Orange County Transportation Authority (OCTA) has opted to become the lead agency on this project and will be responsible for coordinating the work of the consultant team, contractor, and cities involved in the project. The project spans from Mission Viejo to Laguna Niguel including all of the traffic signals along Alicia Parkway in the City of Laguna Hills. The intent of this project is to update traffic control equipment, update traffic signal timing plans, and reduce travel time during peak periods on this arterial highway. To implement this project, OCTA has provided the attached Cooperative Agreement setting forth the responsibilities of the parties. Approval of the Cooperative Agreement is recommended.

BACKGROUND:

The TSSP is a funding program within Measure M2 and seeks to coordinate over 2,000 traffic signals throughout Orange County. The Alicia Parkway TSSP is a proposed multi-

agency project to enhance the traffic signal equipment, update traffic control equipment, and reduce travel time along this arterial highway. The project spans the entire length of Alicia Parkway from the City of Mission Viejo to the City of Laguna Niguel. All traffic signals along Alicia Parkway in the City of Laguna Hills will be upgraded as a part of this project.

Due to the multi-agency and regional nature of the Alicia Parkway TSSP, the OCTA has opted to manage this project. OCTA has provided the attached Cooperative Agreement setting forth the responsibilities of the parties. Approval of the Cooperative Agreement is recommended.

FISCAL IMPACT:

The Alicia Parkway TSSP has an estimated cost of \$2,309,000 including improvements in the City of Laguna Hills in the estimated value of \$198,687.50. The City's contribution to this project is \$39,737.50. Funds for this work are included in the Fiscal Year 2016/2017 Capital Improvement Program Budget for Traffic Signal Synchronization, CIP No. 168.

ATTACHMENTS:

- Cooperative Agreement No. C-5-3586

1 **COOPERATIVE AGREEMENT NO. C-5-3586**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

5 **CITIES OF LAGUNA HILLS, ALISO VIEJO, LAGUNA NIGUEL,**

6 **AND**

7 **MISSION VIEJO**

8 **FOR**

9 **ALICIA PARKWAY REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROJECT**

10 **THIS COOPERATIVE AGREEMENT** (Agreement), is effective this _____ day of
11 _____, 201__, by and between the Orange County Transportation Authority, 550 South
12 Main Street, P.O. Box 14184, Orange California 92863-1584, a public corporation of the State of
13 California (herein referred to as "AUTHORITY") and the cities of Laguna Hills, Aliso Viejo, Laguna Niguel,
14 and Mission Viejo, (hereinafter referred to as "PARTICIPATING AGENCIES") each individually known
15 as "Party" and collectively known as the "Parties".

16 **RECITALS:**

17 **WHEREAS**, the AUTHORITY in cooperation with the PARTICIPATING AGENCIES is working
18 together in coordinating traffic signals across multiple jurisdictional boundaries as a part of the Renewed
19 Measure M (M2) Regional Traffic Signal Synchronization Program (Project P) to enhance countywide
20 traffic flow and reduce congestion; and

21 **WHEREAS**, the AUTHORITY has completed the competitive 2015 Call for Projects (hereinafter,
22 "2015 CALL") in support of Project P and awarded Project P funds based on the application (hereinafter,
23 "APPLICATION") prepared by the City of Laguna Hills (hereinafter referred to as the "APPLICANT
24 AGENCY") for implementation of signal synchronization of traffic signals along Alicia Parkway
25 (hereinafter, "PROJECT"); and

26 /

1 **WHEREAS**, the PARTICIPATING AGENCIES in their approved APPLICATION have elected to
2 designate the AUTHORITY and the AUTHORITY agrees to act as the implementing agency to carry out
3 PROJECT; and

4 **WHEREAS**, the PROJECT will include approximately forty (40) traffic signalized intersections
5 as identified in the APPLICATION; and

6 **WHEREAS**, the PROJECT will include Intelligent Transportation System (ITS) elements
7 identified in the APPLICATION including certain hardware and software upgrades to intersection traffic
8 controller units, traffic telematics and intertie systems, Advanced Transportation Management
9 Systems (ATMS), and other associated systems (hereinafter collectively referred to as "ITS
10 ELEMENTS"), will be constructed and/or installed and implemented as part of the PROJECT as
11 identified in the APPLICATION; and

12 **WHEREAS**, the AUTHORITY agrees to work with PARTICIPATING AGENCIES to coordinate
13 the inclusion of other ITS elements (hereinafter OTHER ELEMENTS) that should be installed at the
14 same time as the construction of the PROJECT and are not part of this Agreement; and

15 **WHEREAS**, all costs associated with the inclusion of these OTHER ELEMENTS are the sole
16 responsibility of the AGENCY owning each and any of those OTHER ELEMENTS during the course
17 of the project; and

18 **WHEREAS**, based on APPLICATION, the AUTHORITY agrees to implement the PROJECT; and

19 **WHEREAS**, the PARTICIPATING AGENCIES per the M2 Ordinance, agree to provide
20 PROJECT funding in a combined cash and in-kind services match of Four Hundred Sixty Two Thousand
21 Fifty Eight Dollars (\$462,058.00), as shown in Attachment A, or equivalent to twenty percent (20%) of
22 PROJECT cost; and

23 **WHEREAS**, the AUTHORITY and the PARTICIPATING AGENCIES desire to enter into this
24 Agreement to implement the PROJECT in support of Project P; and

25 /

26 /

1 **WHEREAS**, this Agreement defines the specific terms, conditions, and funding responsibilities
2 between the AUTHORITY and the PARTICIPATING AGENCIES for the implementation of the
3 PROJECT.

4 **WHEREAS**, the Orange County Transportation Authority Board of Directors approved funding for
5 the PROJECT and authorized the Chief Executive Officer to negotiate and execute this cooperative
6 agreement on April 27, 2015; and

7 **WHEREAS**, the City of Laguna Hills' City Council approved this Agreement on the ____ day of
8 _____, 20____.

9 **WHEREAS**, the City of Aliso Viejo's City Council approved this Agreement on the ____ day of
10 _____, 20____.

11 **WHEREAS**, the City of Laguna Niguel's City Council approved this Agreement on the ____ day
12 of _____, 20____.

13 **WHEREAS**, the City of Mission Viejo's City Council approved this Agreement on the ____ day
14 of _____, 20____.

15 **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and the
16 PARTICIPATING AGENCIES as follows:

17 **ARTICLE 1. COMPLETE AGREEMENT**

18 A. This Agreement, including any attachments incorporated herein and made applicable by
19 reference, constitutes the complete and exclusive statement of the term(s) and conditions(s) of this
20 Agreement between AUTHORITY and PARTICIPATING AGENCIES and it supersedes all prior
21 representations, understandings, and communications. The invalidity in whole or in part of any term or
22 condition of this Agreement shall not affect the validity of other term(s) or conditions(s) of this Agreement.
23 The above referenced Recitals are true and correct and are incorporated by reference herein.

24 B. AUTHORITY's failure to insist on any instance(s) of PARTICIPATING AGENCIES'
25 performance of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or
26 relinquishment of AUTHORITY's right to such performance or to future performance of such term(s) or

1 condition(s), and PARTICIPATING AGENCIES' obligation in respect thereto shall continue in full force
2 and effect. Changes to any portion of this Agreement shall not be binding upon AUTHORITY except
3 when specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written
4 amendment to this Agreement and issued in accordance with the provisions of this Agreement.

5 C. PARTICIPATING AGENCIES' failure to insist on any instance(s) of AUTHORITY's
6 performance of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or
7 relinquishment of PARTICIPATING AGENCIES' right to such performance or to future performance of
8 such term(s) or condition(s), and AUTHORITY's obligation in respect thereto shall continue in full force
9 and effect. Changes to any portion of this Agreement shall not be binding upon PARTICIPATING
10 AGENCIES except when specifically confirmed in writing by an authorized representative of
11 PARTICIPATING AGENCIES by way of a written amendment to this Agreement and issued in
12 accordance with the provisions of this Agreement.

13 **ARTICLE 2. SCOPE OF AGREEMENT**

14 This Agreement specifies the roles and responsibilities of the Parties as they pertain to the
15 subjects and projects addressed herein. Both AUTHORITY and PARTICIPATING AGENCIES agree
16 that each will cooperate and coordinate with the other in all activities covered by this Agreement and any
17 other supplemental agreements that may be required to facilitate purposes thereof.

18 **ARTICLE 3. RESPONSIBILITIES OF AUTHORITY**

19 AUTHORITY agrees to the following responsibilities for funding of the PROJECT:

20 A. AUTHORITY shall implement the PROJECT based on the intent of the usage in the
21 APPLICATION prepared by the APPLICANT AGENCY in accordance with the policies and procedures
22 contained in the Comprehensive Transportation Funding Program (CTFP) guidelines.

23 B. AUTHORITY shall provide oversight in order to maintain inter-jurisdictional traffic signal
24 operational integrity between PROJECT and other similar type projects not older than three (3) years.

25 C. AUTHORITY will act as the LEAD AGENCY and provide and file all documentation
26 necessary to comply with California Environmental Quality Act (CEQA) regulations for PROJECT.

1 D. AUTHORITY shall perform web-based public outreach activities for the project to
2 communicate major project milestones and results.

3 E. AUTHORITY shall provide formats, templates, and guidance in reporting requirements as
4 described in CTFP.

5 F. AUTHORITY, or agents of AUTHORITY, under this Agreement and upon closeout of
6 PROJECT, may perform a technical and/or field review to ensure that the CTFP guidelines, policies, and
7 procedures were followed. Such a review may be performed one hundred and eighty (180) days after the
8 PROJECT three-year grant period is complete. If the technical and or field review determines that any of
9 the activities performed are ineligible for CTFP funding, PARTICIPATING AGENCIES must reimburse
10 and return the amount of funding used to perform the ineligible activity to AUTHORITY.

11 G. AUTHORITY shall invoice the PARTICIPATING AGENCIES as identified in
12 APPLICATION and Attachment A for the dollar cash match at the start of the PROJECT or at a mutually
13 agreed upon time to facilitate any respective AGENCY funding timeframes.

14 H. AUTHORITY shall request updates on the PROJECT as part of semi-annual review
15 process, including documentation of in-kind match conforming to Attachment A and will include the
16 PROJECT in the list of active projects in OCfundTrAcker until completion of the three-year grant period.
17 Documents to be provided include, but are not limited to, payroll records, contracts, and purchase orders.

18 **ARTICLE 4. RESPONSIBILITIES OF THE AUTHORITY AS PROJECT LEAD AGENCY**

19 The AUTHORITY as the LEAD AGENCY agrees to the following responsibilities for the
20 implementation of the PROJECT:

21 A. AUTHORITY shall act as the LEAD AGENCY for the work necessary to manage, procure,
22 and complete the PROJECT as identified in APPLICATION.

23 B. To coordinate outreach with PARTICIPATING AGENCIES for PROJECT.

24 C. To collect all data necessary to provide new optimized timing plans including, but not
25 limited to, manual intersection all movement counts, and twenty four (24) hour / seven (7) day automated
26 machine traffic counts with vehicle classification.

1 D. To develop and implement new timing plans optimized for signal synchronization.

2 E. To provide updated timing plans for all control systems and all relevant data used to
3 develop said plans to PARTICIPATING AGENCIES.

4 F. To prepare a "Before and After Study" for PROJECT as described in the Measure M2
5 Eligibility Guidelines adopted by the AUTHORITY. The "Before and After Study" for the project is
6 considered the equivalent of the required Project Final Report (Measure M2 Ordinance No. 3, Section
7 B.III.9) for PROJECT. The AUTHORITY shall provide the "Before and After Study" to the
8 PARTICIPATING AGENCIES in draft and final formats for review and comment. AGENCY comments
9 shall be noted in the final study. If specified in APPLICATION, AUTHORITY shall provide a "Before and
10 After Study" video of a representative portion of PROJECT at up to two (2) public meetings.

11 **ARTICLE 5. RESPONSIBILITIES OF THE PARTICIPATING AGENCIES**

12 PARTICIPATING AGENCIES agree to the following responsibilities for implementation and
13 funding of PROJECT:

14 A. Provide a technical representative to meet and participate as a member of the
15 PROJECT's Traffic Forum.

16 B. To authorize the AUTHORITY to manage, procure, and implement all aspects of
17 PROJECT.

18 C. To participate and support PROJECT implementation within the timeframe outlined in
19 APPLICATION and consistent with the CTFP Guidelines adopted by AUTHORITY.

20 D. To provide AUTHORITY all current intersection, local field master, and/or ATMS timing
21 plans and related data upon request.

22 E. To provide the local cash match and/or documentation for the in-kind services match
23 for PROJECT in accordance with Attachment A. Failure to provide included local cash match and or
24 evidence of in-kind services match may result in the loss of future participation for competitive funding
25 opportunities.

26 /

1 F. PARTICIPATING AGENCIES that have included a dollar match as identified in
2 Attachment A shall provide payment for the dollar match to AUTHORITY within thirty (30) calendar
3 days of receipt of an invoice.

4 G. PARTICIPATING AGENCIES that have included an in-kind services match as identified
5 in Attachment A shall provide documentation of conformance as part of the semi-annual review process.

6 H. To waive all fees associated with any local agency permits that may be required of the
7 consultant, subconsultants, and/or service or equipment providers in the performance of the PROJECT.

8 I. PARTICIPATING AGENCIES shall provide updates on PROJECT to AUTHORITY as
9 part of semi-annual review process until completion of the three-year PROJECT grant period. Documents
10 to be provided include, but are not limited to, payroll records, contracts, and purchase orders.

11 J. PARTICIPATING AGENCIES shall, if specified in APPLICATION, continue ongoing
12 monitoring and maintenance after the three-year grant period is complete and continue until the end of
13 the PROJECT per additional maintenance of effort in APPLICATION.

14 **ARTICLE 6. DELEGATED AUTHORITY**

15 The actions required to be taken by PARTICIPATING AGENCIES in the implementation of this
16 Agreement are delegated to their respective City Manager, or designee, and the actions required to be
17 taken by AUTHORITY in the implementation of this Agreement are delegated to AUTHORITY's Chief
18 Executive Officer or designee.

19 **ARTICLE 7. AUDIT AND INSPECTION**

20 AUTHORITY and PARTICIPATING AGENCIES shall maintain a complete set of records in
21 accordance with generally accepted accounting principles. Upon reasonable notice, PARTICIPATING
22 AGENCIES shall permit the authorized representatives of AUTHORITY to inspect and audit all work,
23 materials, payroll, books, accounts, and other data and records of PARTICIPATING AGENCIES for a
24 period of five(5) years after final payment, or until any on-going audit is completed. For purposes of audit,
25 the date of completion of this Agreement shall be the date of AUTHORITY's payment of consultant's final
26 billing (so noted on the invoice) under this Agreement. AUTHORITY shall have the right to reproduce

any such books, records, and accounts. The above provision with respect to audits shall extend to and/or be included in contracts with PARTICIPATING AGENCIES' contractor.

ARTICLE 8. INDEMNIFICATION

A. To the fullest extent permitted by law, PARTICIPATING AGENCIES shall defend (at PARTICIPATING AGENCIES' sole cost and expense with legal counsel reasonably acceptable to AUTHORITY), indemnify, protect, and hold harmless AUTHORITY, its officers, directors, employees, and agents (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (PARTICIPATING AGENCIES' employees included), for damage to property, including property owned by AUTHORITY, or from any violation of any federal, state, or local law or ordinance, alleged to be caused by the negligent acts, omissions or willful misconduct of PARTICIPATING AGENCIES, its officers, directors, employees or agents in connection with or arising out of the performance of this Agreement.

B. To the fullest extent permitted by law, AUTHORITY shall defend (at AUTHORITY's sole cost and expense with legal counsel reasonably acceptable to PARTICIPATING AGENCIES), indemnify, protect, and hold harmless PARTICIPATING AGENCIES, its City Council, boards and commissions, officers, directors, employees, volunteers, and agents (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (AUTHORITY's employees included), for damage to property, including property owned by PARTICIPATING AGENCIES, or from any violation of any federal, state, or local law or ordinance, alleged to be caused by the negligent acts, omissions or willful misconduct of AUTHORITY, its officers, directors, employees or agents in connection with or arising out of the performance of this Agreement.

/

1 C. The indemnification and defense obligations of this Agreement shall survive its expiration
2 or termination.

3 **ARTICLE 9. ADDITIONAL PROVISIONS**

4 A. Term of Agreement: This Agreement shall be in full force and effect through _____
5 20 ____.

6 B. Amendment: This Agreement may be extended or amended in writing at any time by the
7 mutual consent of all Parties and AUTHORITY. No amendment shall have any force or effect unless
8 executed in writing by all Parties and AUTHORITY.

9 C. Termination: In the event any Party defaults in the performance of their respective
10 obligations under this Agreement or breaches any of the provisions of this Agreement, a non-defaulting
11 Party(s) shall have the option to terminate this Agreement upon thirty (30) calendar days prior written
12 notice to the Party in default.

13 D. Termination for Convenience: Either Party may terminate this Agreement for its
14 convenience by providing thirty (30) calendar days prior written notice of its intent to terminate for
15 convenience to the other Party.

16 E. AUTHORITY and PARTICIPATING AGENCIES shall comply with all applicable federal,
17 state, and local laws, statues, ordinances and regulations of any governmental authority having
18 jurisdiction over the PROJECT.

19 F. Legal Authority: AUTHORITY and PARTICIPATING AGENCIES hereto consent that they
20 are authorized to execute this Agreement on behalf of said Parties and that, by so executing this
21 Agreement, the Parties hereto are formally bound to the provisions of this Agreement.

22 G. Severability: If any term, provision, covenant or condition of this Agreement is held to be
23 invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the
24 remainder of this Agreement shall not be affected thereby, and each term, provision, covenant or
25 condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

26 /

1 H. Counterparts of Agreement: This Agreement may be executed and delivered in any
2 number of counterparts, each of which, when executed and delivered shall be deemed an original and all
3 of which together shall constitute the same agreement. Facsimile signatures shall be permitted.

4 I. Force Majeure: Either Party shall be excused from performing its obligations under this
5 Agreement during the time and to the extent that it is prevented from performing by an unforeseeable
6 cause beyond its control, including but not limited to: any incidence of fire, flood; acts of God;
7 commandeering of material, products, plants or facilities by the federal, state or local government; national
8 fuel shortage; or a material act or omission by the other Party, when satisfactory evidence of such cause
9 is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond
10 the control and is not due to the fault or negligence of the Party not performing.

11 J. Assignment: Neither this Agreement, nor any of the Parties' rights, obligations, duties, or
12 authority hereunder may be assigned in whole or in part by either Party without the prior written consent
13 of the other Party in its sole and absolute discretion. Any such attempt of assignment shall be deemed
14 void and of no force and effect. Consent to one assignment shall be deemed consent to any subsequent
15 assignment, nor the waiver of any right to consent to such subsequent assignment.

16 K. Governing Law: The laws of the State of California and applicable local and federal laws,
17 regulations and guidelines shall govern this Agreement.

18 L. Litigation fees: Should litigation arise out of this Agreement for the performance thereof,
19 the court shall award costs and expenses, including attorney's fees, to the prevailing Party.

20 /

21 /

22 /

23 /

24 /

25 /

26 /

M. Notices: Any notices, requests, or demands made between the Parties pursuant to this Agreement are to be directed as follows:

To LAGUNA HILLS:	To AUTHORITY:
City of Laguna Hills	Orange County Transportation Authority
24035 El Toro Road Laguna Hills, CA 92653	550 South Main Street P. O. Box 14184 Orange, CA 92863-1584
Attention: Ken Rosenfield City Engineer/Director of Public Works Tel: (949) 707-2655 Email: krosenfield@ci.laguna-hills.ca.us	Attention: Venita Anderson Senior Contract Administrator Tel: (714) 560-5427 E-mail: vanderson@octa.net

To ALISO VIEJO:	To LAGUNA NIGUEL:
City of Aliso Viejo	City of Laguna Niguel
12 Journey Suite 100 Aliso Viejo, CA 92656-5335	30111 Crown Valley Parkway Laguna Niguel, CA 92677
Attention: Shaun Pelletier Assistant City Engineer Tel: (949) 425-2533 Email: spelletier@cityofaliso Viejo.com	Attention: Edgar Abrenica Associate Traffic Engineer Tel: (949) 362-4338 Email: eabrenica@cityoflagunaniguel.org

To MISSION VIEJO:
City of Mission Viejo
200 Civic Center Mission Viejo, CA 92691 Attention: Philip Nitollama, Traffic Engineer Tel: 949-470-3068 Email: pnitollama@cityofmissionviejo.org

This Agreement shall be made effective upon execution by all Parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-5-3586 to be executed on the date first written above.

CITY OF LAGUNA HILLS

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____

By: _____

~~Doris J. Gilbert~~
Mayor
BARBARA KOGERMAN

Darrell Johnson
Chief Executive Officer

ATTEST:

APPROVED AS TO FORM:

By: _____

By: _____

~~Peggy J. Johns~~
City Clerk
MELISSA AU-YEUNG

James M. Donich
General Counsel

APPROVED AS TO FORM

APPROVAL RECOMMENDED:

By: _____

By: _____

Gregory E. Simonian
City Attorney

Kia Mortazavi
Executive Director, Planning

Dated: _____

Dated: _____

1 This Agreement shall be made effective upon execution by all Parties.

2 IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-5-3586 to be
3 executed on the date first written above.

4 CITY OF ALISO VIEJO

5 By: _____
6 William Philips
7 Mayor

8 ATTEST:

9
10 By: _____
11 Mitzi Ortiz
12 City Clerk

13 APPROVED AS TO FORM

14
15 By: _____
16 Scott Smith
17 City Attorney

18 Dated: _____
19
20
21
22
23
24
25
26

1 This Agreement shall be made effective upon execution by all Parties.

2 IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-5-3586 to be
3 executed on the date first written above.

4 CITY OF LAGUNA NIGUEL

5 By: _____
6 Jerry McCloskey
7 Mayor

8 ATTEST:

9
10 By: _____
11 Eileen Gomez
12 City Clerk

13 APPROVED AS TO FORM

14
15 By: _____
16 Terry E. Dixon
17 City Attorney

18 Dated: _____
19
20
21
22
23
24
25
26

1 This Agreement shall be made effective upon execution by all Parties.

2 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-5-3586 to be
3 executed on the date first written above.

4 **CITY OF MISSION VIEJO**

5 By: _____
6 Cathy Schlicht
7 Mayor

8 **ATTEST:**

9
10 By: _____
11 Karen Hamman
12 City Clerk

13 **APPROVED AS TO FORM**

14
15 By: _____
16 Bill Curley
17 City Attorney

18 Dated: _____
19
20
21
22
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DETAILED LOCAL MATCH COMMITMENT

SECTION 1: AGENCY TOTAL MATCH SUMMARY

AGENCY	CASH	IN-KIND	TOTAL MATCH
City of Laguna Niguel	\$ 220,809.50	\$0	\$ 220,809.50
City of Aliso Viejo	\$ 37,292.50	\$0	\$ 37,292.50
City of Laguna Hills	\$ 39,737.50	\$0	\$ 39,737.50
City of Mission Viejo	\$ 139,218.50	\$25,000.00	\$ 164,218.50
	\$437,058.00	\$25,000.00	\$462,058

SECTION 2: MATCH BREAKDOWN (CASH VS IN-KIND SERVICES)

A. Cash Match

AGENCY	FUNDING SOURCE	AMOUNT OF CASH CONTRIBUTION
City of Laguna Niguel	General Fund	\$ 220,809.50
City of Aliso Viejo	General Fund	\$ 37,292.50
City of Laguna Hills	General Fund	\$ 39,737.50
City of Mission Viejo	General Fund	\$ 139,218.50
TOTAL		\$437,058.00

B. In-Kind Services

i. Specific Improvements (List items and Cost):

Agency	Improvement	Date of Construction	Expenditure
N/A			\$
			\$
TOTAL			

**COOPERATIVE AGREEMENT NO. C-5-3586
ALICIA PARKWAY - RTSSP
ATTACHMENT A**

ii. Staffing Commitment:

AGENCY	STAFF POSITION	TYPE OF SERVICE TO PROJECT	NO. OF HOURS	FULLY BURDENED HOURLY RATE	TOTAL*
City of Mission Viejo	Traffic Engineer	Project Administration & Signal Timing	35	\$145	\$5,075
City of Mission Viejo	Transportation Analyst	Project Administration & Signal Timing	45	\$94	\$4,230
City of Mission Viejo	PW Inspector	Project Inspection	29	\$124	\$3,596
City of Mission Viejo	Traffic Systems Specialist (HCI)	Signal Timing Implementation & Operations	50	\$115	\$5,750
City of Mission Viejo	IT Manager	Fiber Design & System Integration	20	\$145	\$2,900
City of Mission Viejo	IT Specialist	Fiber Design & System Integration	30	\$115	\$3,450
Total for <u>City of Mission Viejo</u>:					\$ 25,000.00
TOTAL IN-KIND MATCH*:					\$ 25,000.00

**Total amount is the required participation by the identified agency. The number of hours and hourly rate will be based on each agency's actual fully burdened billing rates, which must collectively equal the same value of the assigned "Total" dollars. Each agency will be responsible for keeping detailed records of hours worked and description of work. An accounting record of personnel, hours at fully burdened rate is expected to be included with the final submittal. Records will be subject to auditing.*



City of Laguna Hills

City Council Meeting Agenda

Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

**FROM: DAN MEEHAN
COMMUNITY SERVICES SUPERINTENDENT**

ISSUE: SUBMISSION OF AN APPLICATION FOR COVERAGE UNDER THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR POLLUTANT DISCHARGES RELATING TO THE CITY'S 4TH OF JULY FIREWORKS DISPLAY AND ADOPTION OF A CATEGORICAL EXEMPTION DETERMINING THAT THE EVENT IS EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO TITLE 14, CHAPTER 3, SECTION 15304(E) OF THE CALIFORNIA CODE OF REGULATIONS

RECOMMENDATION: THAT THE CITY COUNCIL: (1) DIRECT STAFF TO SUBMIT AN APPLICATION FOR COVERAGE UNDER THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR POLLUTANT DISCHARGES RELATING TO THE CITY'S 4TH OF JULY FIREWORKS DISPLAY; AND (2) ADOPT A CATEGORICAL EXEMPTION.

SUMMARY:

The City of Laguna Hills (City) is located within the jurisdiction of the San Diego Regional Water Quality Control Board (the Regional Board) which is responsible for regulating activities that could impact water quality throughout the San Diego Region (which also includes portions of Riverside County and South Orange County). In 2011, the Regional Board adopted a permit review process for fireworks displays as a result of the numerous private and public venues that maintained fireworks displays throughout the year on or adjacent to urban shorelines in the San Diego Region. The City must submit a permit application to the Regional Board in advance of the planned 4TH of July fireworks display and complete an environmental review of the event pursuant to the California Environmental Quality Act (CEQA).

After reviewing relevant available materials, staff has concluded that the City's 4TH of July Celebration and Fireworks Display is not subject to the requirements of CEQA and recommends that the City Council adopt a "Categorical Exemption."

BACKGROUND:

The City is located within the jurisdiction of the Regional Board, which regulates pollutant discharges into surface waters (rivers, streams, harbors, the ocean, etc.) associated with public fireworks displays within its service area. Examples of pollutants include airborne particulates, chemicals, and debris (paper, cardboard, wires, fuses) that are scattered by each burst charge in a fireworks display and could be deposited into local surface waters. Laguna Hills is located several miles away from the nearest body of water, but is still required to obtain a permit from the Regional Board to host a public fireworks display. The City hosts one fireworks event per year lasting approximately 18 minutes on the 4TH of July and no other events involving fireworks are held within the City during the course of the year.

Pollutant discharges associated with the event will not be significant. Based on water quality data obtained in 2011, the Regional Board determined that it was unlikely that single fireworks events of a smaller size than SeaWorld's 4TH of July and Labor Day events would cause exceedances of applicable water quality criteria in the water column of receiving waters.¹ Staff notes that SeaWorld's special events pyrotechnic displays involve approximately 1,000 pounds of fireworks while the City's is approximately 750 pounds. In addition, in 2002 the South Coast Air Quality Management District (SCAQMD) monitored and evaluated air quality impacts caused by fireworks shows similar in size to the one planned for the City's 4TH of July Celebration and determined there was no exceedance of State Relative Exposure Levels (RELs). AB2588 Health Risk Assessment values submitted as part of the evaluation also indicated that the cancer exposure risk from the fireworks displays is 1.8 in one million maximum cancer risk.²

FISCAL IMPACT:

The application for the fireworks display permit and adoption of the proposed Categorical Exemption will not have a fiscal impact. The City Council has awarded a contract for the City's 4TH of July fireworks display which currently has an approved budget of \$26,500.

CEQA FINDINGS:

The Regional Board has determined, pursuant to Order No. R9-2011-0022 adopted May 11, 2011, that fireworks shows do not exceed relevant requirements for water quality subject to the discharge prohibitions and specifications, receiving waters limitations, and

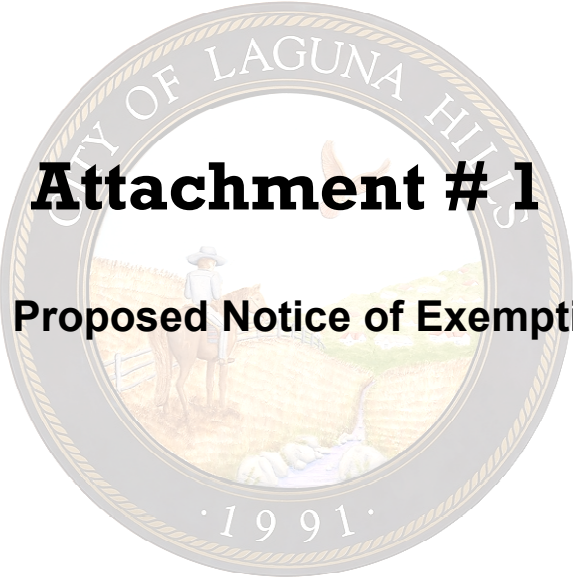
¹ SDRWQCB ORDER NO. R9-2011-0022/ NPDES NO. CAG999002: General National Pollutant Discharge Elimination System (NPDES) permit for residual firework pollutant waste discharges to waters of the United States in the San Diego Region from the public display of fireworks - Adopted May 11, 2011.

² White Paper on Status of Fireworks Displays and Fireworks Regulations in the South Coast Air Basin, South Coast Air Quality Management District, July 9, 2004.

provisions incorporated into the referenced order. In addition, in 2002 the South Coast Air Quality Management District monitored and evaluated air quality impacts caused by fireworks shows similar in size to the one planned for the City's 4TH of July Celebration and determined there was no exceedance of State RELs. AB2588 Health Risk Assessment values submitted as part of the evaluation also indicated that the cancer exposure risk from the fireworks displays is 1.8 in one million maximum cancer risk. (*SCAQMD, July 9, 2004*). Therefore, the City's fireworks display associated with its 4TH of July Celebration will not have a significant effect on the environment. In addition, it has been determined that the City's 4TH of July fireworks display is categorically exempt from CEQA pursuant to Guideline Section No. 15304 (Class 4, Minor Alterations to Land). A Class 4 categorical exemption applies to minor and temporary uses of land having negligible or no permanent effects on the environment.

ATTACHMENTS:

- Attachment 1 - Proposed Notice of Exemption
- Attachment 2 – Application Form

The seal of the City of Laguna Hills is a circular emblem. It features a central illustration of a person in a hat standing in a field, with a horse and a small stream. The text "CITY OF LAGUNA HILLS" is written in a circular path around the top, and "1991" is at the bottom.

Attachment # 1

- **Proposed Notice of Exemption** -

CITY OF LAGUNA HILLS NOTICE OF EXEMPTION

TO: Orange County Clerk Recorder
County of Orange
P. O. Box 238
Santa Ana, CA 92702

FROM: City of Laguna Hills
Planning Department
24035 El Toro Road
Laguna Hills, CA 92653

Project Title: City of Laguna Hills Fourth of July Celebration and Fireworks Display

Project Location: 25555 Alicia Pkwy

Project Location – City: Laguna Hills, CA Project Location – County: Orange

Project Approval Date: March 8, 2016

Description of nature, purpose, and beneficiaries of project: The City of Laguna Hills proposes to hold a Fourth of July Celebration, which includes a public fireworks display utilizing approximately 750 pounds of pyrotechnic material. The event will last several hours with the fireworks display lasting approximately 17 minutes.

Name of public agency approving project:
City of Laguna Hills

Name of person or Agency carrying out project:
City of Laguna Hills, 24035 El Toro Road, Laguna Hills, CA. 92653

Exempt Status: (Check One)

☐ Ministerial project. (Section 15073, State Guidelines)

☐ Not a project. (Section 15071(a) State Guidelines)

☐ Emergency project. (Section 15071(b) and (c) State Guidelines)

☒ Categorical Exemption. Code Number: Section 15304, Class 4(e).

"Minor temporary use of land having negligible or no permanent effects on the environment."

Reason why project was exempt: The San Diego Regional Water Quality Control Board evaluated water quality impacts from individual fireworks displays and determined that it was unlikely pyrotechnic displays utilizing under 1,000 pounds of material would cause exceedances of applicable water quality criteria of receiving waters. Similarly, the South Coast Air Quality Management District determined that air quality impacts caused by displays similar in size to the one to be carried out by the City do not do not exceed State RELs or result in a significant increase in cancer risk from air contaminants.

Lead Agency Contact Person: David Chantarangsu Phone: 949-707-2675

Signature: _____ Title: Community Development Director

Date Submitted to County Clerk:



Attachment # 2

Application Form

INTRODUCTION

This application package constitutes a Report of Waste Discharge (ROWD) pursuant to California Water Code Section 13260. Section 13260 states that persons discharging or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, shall file a ROWD containing information which may be required by the appropriate Regional Water Quality Control Board (RWQCB).

This package is to be used to start the application process for all waste discharge requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) permits* issued by a RWQCB except:

- a) Those landfill facilities that must use a joint Solid Waste Facility Permit Application Form, California Integrated Waste Management Board Form E-1-77; and
- b) General WDRs or general NPDES permits that use a Notice of Intent to comply or specify the use of an alternative application form designed for that permit.

This application package contains:

- 1. Application/General Information Form for WDRs and NPDES Permits [Form 200 (10/97)].
- 2. Application/General Information Instructions.

Instructions

Instructions are provided to assist you with completion of the application. If you are unable to find the answers to your questions or need assistance with the completion of the application package, please contact your RWQCB representative. *The RWQCBs strongly recommend that you make initial telephone or personal contact with RWQCB regulatory staff to discuss a proposed new discharge before submitting your application.* The RWQCB representative will be able to answer procedural and annual fee related questions that you may have. (See map and telephone numbers inside of application cover.)

All dischargers regulated under WDRs and NPDES permits must pay an annual fee, except dairies, which pay a filing fee only. The RWQCB will notify you of your annual fee based on an evaluation of your proposed discharge. Please do NOT submit a check for your first annual fee or filing fee until requested to do so by a RWQCB representative. Dischargers applying for reissuance (renewal) of an existing NPDES permit or update of an existing WDR will be billed through the annual fee billing system and are therefore requested NOT to submit a check with their application. Checks should be made payable to the State Water Resources Control Board.

Additional Information Requirements

A RWQCB representative will notify you within 30 days of receipt of the application form and any supplemental documents whether your application is complete. If your application is incomplete, the RWQCB representative will send you a detailed list of discharge specific information necessary to complete the application process. The completion date of your application is normally the date when all required information, including the correct fee, is received by the RWQCB.

*** NPDES PERMITS:** If you are applying for a permit to discharge to surface water, you will need an NPDES permit which is issued under both State and Federal law and may be required to complete one or more of the following Federal NPDES permit application forms: Short Form A, Standard Form A, Forms 1, 2B, 2C, 2D, 2E, and 2F. These forms may be obtained at a RWQCB office or can be ordered from the National Center for Environmental Publications and Information at (513) 891-6561.



**APPLICATION/REPORT OF WASTE DISCHARGE
GENERAL INFORMATION FORM FOR
WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT**



**INSTRUCTIONS
FOR COMPLETING THE APPLICATION/REPORT OF WASTE DISCHARGE
GENERAL INFORMATION FORM FOR:
WASTE DISCHARGE REQUIREMENTS/NPDES PERMIT**

If you have any questions on the completion of any part of the application, please contact your RWQCB representative. A map of RWQCB locations, addresses, and telephone numbers is located on the reverse side of the application cover.

I. FACILITY INFORMATION

You must provide the factual information listed below for ALL owners, operators, and locations and, where appropriate, for ALL general partners and lease holders.

A. FACILITY:

Legal name, physical address including the county, person to contact, and phone number at the facility.
(**NO P.O. Box numbers!** If no address exists, use street and nearest cross street.)

B. FACILITY OWNER:

Legal owner, address, person to contact, and phone number. Also include the owner's Federal Tax Identification Number.

OWNER TYPE:

Check the appropriate Owner Type. The legal owner will be named in the WDRs/NPDES permit.

C. FACILITY OPERATOR (The agency or business, not the person):

If applicable, the name, address, person to contact, and telephone number for the facility operator. Check the appropriate Operator Type. If identical to B. above, enter "same as owner".

D. OWNER OF THE LAND:

Legal owner of the land(s) where the facility is located, address, person to contact, and phone number. Check the appropriate Owner Type. If identical to B. above, enter "same as owner".

E. ADDRESS WHERE LEGAL NOTICE MAY BE SERVED:

Address where legal notice may be served, person to contact, and phone number. If identical to B. above, enter "same as owner".

F. BILLING ADDRESS

Address where annual fee invoices should be sent, person to contact, and phone number. If identical to B. above, enter "same as owner".



APPLICATION/REPORT OF WASTE DISCHARGE GENERAL INFORMATION FORM FOR WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT



II. TYPE OF DISCHARGE

Check the appropriate box to describe whether the waste will be discharged to: A. Land, or B. Surface Water.

Check the appropriate box(es) which best describe the activities at your facility.

Hazardous Waste - If you check the Hazardous Waste box, STOP and contact a representative of the RWQCB for further instructions.

Landfills - A separate form, APPLICATION FOR SOLID WASTE FACILITY PERMIT/WASTE DISCHARGE REQUIREMENTS, California Integrated Waste Management Board Form E-1-77, may be required. Contact a RWQCB representative to help determine the appropriate form for your discharge.

III. LOCATION OF THE FACILITY

1. Enter the Assessor's Parcel Number(s) (APN), which is located on the property tax bill. The number can also be obtained from the County Assessor's Office. Indicate the APN for both the facility and the discharge point.
2. Enter the Latitude of the entrance to the proposed/existing facility and of the discharge point. Latitude and longitude information can be obtained from a U.S. Geological Survey quadrangle topographic map. Other maps may also contain this information.
3. Enter the Longitude of the entrance to the proposed/existing facility and of the discharge point.

IV. REASON FOR FILING

NEW DISCHARGE OR FACILITY:

A discharge or facility that is proposed but does not now exist, or that does not yet have WDRs or an NPDES permit.

CHANGE IN DESIGN OR OPERATION:

A material change in design or operation from existing discharge requirements. Final determination of whether the reported change is material will be made by the RWQCB.

CHANGE IN QUANTITY/TYPE OF DISCHARGE:

A material change in characteristics of the waste from existing discharge requirements. Final determination of whether the reported change would have a significant effect will be made by the RWQCB.

CHANGE IN OWNERSHIP/OPERATOR:

Change of legal owner of the facility. Complete Parts I, III, and IV only and contact the RWQCB to determine if additional information is required.

WASTE DISCHARGE REQUIREMENTS UPDATE OR NPDES PERMIT REISSUANCE:

WDRs must be updated periodically to reflect changing technology standards and conditions. A new application is required to reissue an NPDES permit which has expired.

OTHER:

If there is a reason other than the ones listed, please describe the reason on the space provided. (If more space is needed, attach a separate sheet.)



APPLICATION/REPORT OF WASTE DISCHARGE GENERAL INFORMATION FORM FOR WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT



V. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

It should be emphasized that communication with the appropriate RWQCB staff is vital before starting the CEQA documentation, and is recommended before completing this application. There are Basin Plan issues which may complicate the CEQA effort, and RWQCB staff may be able to help in providing the needed information to complete the CEQA documentation.

Name the Lead Agency responsible for completion of CEQA requirements for the project, i.e., completion and certification of CEQA documentation.

Check YES or NO. Has a public agency determined that the proposed project is exempt from CEQA? If the answer is YES, state the basis for the exemption and the name of the agency supplying the exemption on the space provided. (Remember that, if extra space is needed, use an extra sheet of paper, but be sure to indicate the attached sheet under Section VII. Other.)

Check YES or NO. Has the "Notice of Determination" been filed under CEQA? If YES, give the date the notice was filed and enclose a copy of the Notice of Determination and the Initial Study, Environmental Impact Report, or Negative Declaration. If NO, check the box of the expected type of CEQA document for this project, and include the expected date of completion using the timelines given under CEQA. The date of completion should be taken as the date that the Notice of Determination will be submitted. (If not known, write "Unknown")

VI. OTHER REQUIRED INFORMATION

To be approved, your application MUST include a COMPLETE characterization of the discharge. If the characterization is found to be incomplete, RWQCB staff will contact you and request that additional specific information be submitted.

This application MUST be accompanied by a site map. A USGS 7.5' Quadrangle map or a street map, if more appropriate, is sufficient for most applications.

VII. OTHER

If any of the answers on your application form need further explanation, attach a separate sheet. Please list any attachments with the titles and dates on the space provided.

VIII. CERTIFICATION

Certification by the owner of the facility or the operator of the facility, if the operator is different from the owner, is required. The appropriate person must sign the application form.

Acceptable signatures are:

1. **for a corporation**, a principal executive officer of at least the level of senior vice-president;
2. **for a partnership or individual (sole proprietorship)**, a general partner or the proprietor;
3. **for a governmental or public agency**, either a principal executive officer or ranking elected/appointed official.

DISCHARGE SPECIFIC INFORMATION

In most cases, a request to supply additional discharge specific information will be sent to you by a representative of the RWQCB. If the RWQCB determines that additional discharge specific information is not needed to process your application, you will be so notified.



APPLICATION/REPORT OF WASTE DISCHARGE GENERAL INFORMATION FORM FOR WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT

**I. FACILITY INFORMATION****A. Facility:**

Name:			
Address:			
City:	County:	State:	Zip Code:
Contact Person:		Telephone Number:	

B. Facility Owner:

Name:		Owner Type (Check One) 1. ☐ Individual 2. ☐ Corporation 3. ☐ Governmental Agency 4. ☐ Partnership 5. ☐ Other: _____	
Address:			
City:	State:		
Contact Person:		Telephone Number:	Federal Tax ID:

C. Facility Operator (The agency or business, not the person):

Name:		Operator Type (Check One) 1. ☐ Individual 2. ☐ Corporation 3. ☐ Governmental Agency 4. ☐ Partnership 5. ☐ Other: _____	
Address:			
City:	State:		
Contact Person:		Telephone Number:	

D. Owner of the Land:

Name:		Owner Type (Check One) 1. ☐ Individual 2. ☐ Corporation 3. ☐ Governmental Agency 4. ☐ Partnership 5. ☐ Other: _____	
Address:			
City:	State:		
Contact Person:		Telephone Number:	

E. Address Where Legal Notice May Be Served:

Address:		
City:	State:	Zip Code:
Contact Person:	Telephone Number:	

F. Billing Address:

Address:		
City:	State:	Zip Code:
Contact Person:	Telephone Number:	



APPLICATION/REPORT OF WASTE DISCHARGE GENERAL INFORMATION FORM FOR WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT



II. TYPE OF DISCHARGE

Check Type of Discharge(s) Described in this Application (A or B):

☐ **A. WASTE DISCHARGE TO LAND**

☐ **B. WASTE DISCHARGE TO SURFACE WATER**

Check all that apply:

☐ Domestic/Municipal Wastewater
Treatment and Disposal

☐ Cooling Water

☐ Mining

☐ Waste Pile

☐ Wastewater Reclamation

☐ Other, please describe: _____

☐ Animal Waste Solids

☐ Land Treatment Unit

☐ Dredge Material Disposal

☐ Surface Impoundment

☐ Industrial Process Wastewater

☐ Animal or Aquacultural Wastewater

☐ Biosolids/Residual

☐ Hazardous Waste (see instructions)

☐ Landfill (see instructions)

☐ Storm Water

III. LOCATION OF THE FACILITY

Describe the physical location of the facility.

1. Assessor's Parcel Number(s)

Facility:

Discharge Point:

2. Latitude

Facility:

Discharge Point:

3. Longitude

Facility:

Discharge Point:

IV. REASON FOR FILING

☐ New Discharge or Facility

☐ Changes in Ownership/Operator (see instructions)

☐ Change in Design or Operation

☐ Waste Discharge Requirements Update or NPDES Permit Reissuance

☐ Change in Quantity/Type of Discharge

☐ Other: _____

V. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Name of Lead Agency: _____

Has a public agency determined that the proposed project is exempt from CEQA?

☐ Yes

☐ No

If Yes, state the basis for the exemption and the name of the agency supplying the exemption on the line below.

Basis for Exemption/Agency: _____

Has a "Notice of Determination" been filed under CEQA?

☐ Yes

☐ No

If Yes, enclose a copy of the CEQA document, Environmental Impact Report, or Negative Declaration. If no, identify the expected type of CEQA document and expected date of completion.

Expected CEQA Documents:

☐ EIR

☐ Negative Declaration

Expected CEQA Completion Date: _____



APPLICATION/REPORT OF WASTE DISCHARGE GENERAL INFORMATION FORM FOR WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT



VI. OTHER REQUIRED INFORMATION

Please provide a COMPLETE characterization of your discharge. A complete characterization includes, but is not limited to, design and actual flows, a list of constituents and the discharge concentration of each constituent, a list of other appropriate waste discharge characteristics, a description and schematic drawing of all treatment processes, a description of any Best Management Practices (BMPs) used, and a description of disposal methods.

Also include a site map showing the location of the facility and, if you are submitting this application for an NPDES permit, identify the surface water to which you propose to discharge. Please try to limit your maps to a scale of 1:24,000 (7.5' USGS Quadrangle) or a street map, if more appropriate.

VII. OTHER

Attach additional sheets to explain any responses which need clarification. List attachments with titles and dates below:

You will be notified by a representative of the RWQCB within 30 days of receipt of your application. The notice will state if your application is complete or if there is additional information you must submit to complete your Application/Report of Waste Discharge, pursuant to Division 7, Section 13260 of the California Water Code.

VIII. CERTIFICATION

"I certify under penalty of law that this document, including all attachments and supplemental information, were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Print Name: _____

Title: _____

Signature: _____

Date: _____

FOR OFFICE USE ONLY

Date Form 200 Received:	Letter to Discharger:	Fee Amount Received:	Check #:
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California Environmental Protection Agency

Bill of Rights for Environmental Permit Applicants

California Environmental Protection Agency (Cal/EPA) recognizes that many complex issues must be addressed when pursuing reforms of environmental permits and that significant challenges remain. We have initiated reforms and intend to continue the effort to make environmental permitting more efficient, less costly, and to ensure that those seeking permits receive timely responses from the boards and departments of the Cal/EPA. To further this goal, Cal/EPA endorses the following precepts that form the basis of a permit applicant's "Bill of Rights."

1. Permit applicants have the right to assistance in understanding regulatory and permit requirements. All Cal/EPA programs maintain an Ombudsman to work directly with applicants. Permit Assistance Centers located throughout California have permit specialists from all the State, regional, and local agencies to identify permit requirements and assist in permit processing.
2. Permit applicants have the right to know the projected fees for review of applications, how any costs will be determined and billed, and procedures for resolving any disputes over fee billings.
3. Permit applicants have the right of access to complete and clearly written guidance documents that explain the regulatory requirements. Agencies must publish a list of all information required in a permit application and of criteria used to determine whether the submitted information is adequate.
4. Permit applicants have the right of timely completeness determinations for their applications. In general, agencies notify the applicant within 30 days of any deficiencies or determine that the application is complete. California Environmental Quality Act (CEQA) and public hearing requests may require additional information.
5. Permit applicants have the right to know exactly how their applications are deficient and what further information is needed to make their applications complete. Pursuant to California Government code Section 65944, after an application is accepted as complete, an agency may not request any new or additional information that was not specified in the original application.
6. Permit applicants have the right of a timely decision on their permit application. The agencies are required to establish time limits for permit reviews.
7. Permit applicants have the right to appeal permit review time limits by statute or administratively that have been violated without good cause. For state environmental agencies, appeals are made directly to the Cal/EPA Secretary or to a specific board. For local environmental agencies, appeals are generally made to the local governing board or, under certain circumstances, to Cal/EPA. Through this appeal, applicants may obtain a set date for a decision on their permit and, in some cases, a refund of all application fees (ask boards and departments for details).
8. Permit applicants have the right to work with a single lead agency where multiple environmental approvals are needed. For multiple permits, all agency actions can be consolidated under a lead agency. For site remediation, all applicable laws can be administered through a single agency.
9. Permit applicants have the right to know who will be reviewing their application and the time required to complete the full review process.

3.6 SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING AND RESTATING CHAPTER 9-47 OF TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE REGARDING LANDSCAPE WATER EFFICIENCY

THE CITY COUNCIL ADOPTED ORDINANCE NO. 2016-1, AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 9-47 OF TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE REGARDING LANDSCAPE WATER EFFICIENCY.

ITEMS REMOVED FROM THE CONSENT CALENDAR

3.5 ENVIRONMENTAL DETERMINATION AND PROFESSIONAL SERVICES AGREEMENT WITH CNC ENGINEERING, INC., FOR THE LA PAZ ROAD SIDEWALK WIDENING PROJECT, CIP NO. 171

Council Member Gilbert removed Item No. 3.5 from the Consent Calendar to discuss his concerns regarding the project.

THE CITY COUNCIL ADOPTED AN ENVIRONMENTAL DETERMINATION OF CATEGORICAL EXEMPTION AND APPROVED A PROFESSIONAL SERVICES AGREEMENT WITH CNC ENGINEERING, INC., FOR THE LA PAZ ROAD SIDEWALK WIDENING PROJECT, CIP NO. 171, BY M/COUNCIL MEMBER CARRUTH, S/MAYOR KOGERMAN. APPROVED BY A VOTE OF 4-0 (COUNCIL MEMBER BLOUNT ABSENT).

4. PLANNING AGENCY

Mayor Kogerman recessed the City Council meeting and acting in the capacity of Chair, called the regular meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:22 p.m.

4.1 ROLL CALL OF PLANNING AGENCY MEMBERS

Present: Chair Kogerman, Vice Chair Sedgwick, Agency Member Carruth, Agency Member Gilbert

Absent: Agency Member Blount

4.2 PUBLIC COMMENTS

There were no Public Comments.

4.3 APPROVAL OF MINUTES FOR FEBRUARY 9, 2016

THE PLANNING AGENCY APPROVED THE MINUTES OF THE FEBRUARY 9, 2016, REGULAR MEETING. BY AGENCY MEMBER GILBERT, S/VICE CHAIR SEDGWICK. APPROVED BY A VOTE OF 4-0 (AGENCY MEMBER BLOUNT ABSENT).

4.4 ADMINISTRATIVE REPORTS

There were no Administrative Reports.

4.5 PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency Public Hearings.

PLANNING AGENCY ADJOURNMENT

Mayor Kogerman reconvened the City Council meeting at 7:23 p.m. All Council Members were present with the exception of Council Member Blount.

5. CITY COUNCIL PUBLIC HEARINGS

There were no City Council Public Hearings.

6. ADMINISTRATIVE REPORTS**6.1 City Manager**

There was no City Manager report.

7. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS AND MAYOR

There were no matters agendized and presented by City Council Members and Mayor.

8. CITY COUNCIL MEMBER COMMENTS**COUNCIL MEMBER CARRUTH**

Council Member Carruth commented on the success of the full closure of State Route 91 over the weekend. Ms. Carruth also reported that TCA revenues were up nearly 10% in the month of January, and they are currently in discussions as to what to do with the toll booths now that they are no longer in use.

MAYOR KOGERMAN

Mayor Kogerman reported that she attended the 2016 Law Enforcement and Firefighters Annual Appreciation Awards Dinner hosted by the Mission Viejo/ Saddleback Valley Elks Lodge on Saturday, February 20, 2016, where Deputy Peter Ada was presented with an award for meritorious service. Mayor Kogerman requested City Council consider organizing an event to recognize the City's hardworking deputies.



City of Laguna Hills

City Council Meeting Agenda

Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS & PLANNING AGENCY

**FROM: DAVID CHANTARANGSU, AICP
COMMUNITY DEVELOPMENT DIRECTOR**

ISSUE: CONSIDERATION OF A REQUEST BY LAGUNA HILLS INVESTMENT COMPANY AND OAKBROOK URBAN VILLAGE I, LLC, TO AMEND AN EXISTING DEVELOPMENT AGREEMENT AND MODIFY CONDITIONS OF APPROVAL NO. 47 AND NO. 54 OF SITE DEVELOPMENT PERMIT/MASTER SIGN PROGRAM/CONDITIONAL USE PERMIT/PARKING USE PERMIT/VESTING TENTATIVE TRACT MAP/PRECISE PLAN/DEVELOPMENT AGREEMENT NO. 12-11-2137 TO EXTEND THE TIME PERIODS FOR COMPLETION OF CERTAIN ON-SITE IMPROVEMENTS IN PHASE 1 OF THE OAKBROOK VILLAGE SHOPPING CENTER REDEVELOPMENT PROJECT LOCATED AT 24231-24391 AVENIDA DE LA CARLOTA

RECOMMENDATION: (1) THAT THE PLANNING AGENCY AND CITY COUNCIL CONDUCT A JOINT PUBLIC HEARING TO CONSIDER THE PROPOSED DEVELOPMENT AGREEMENT AMENDMENT AND MODIFICATION OF CONDITIONS OF APPROVAL NO. 47 AND NO. 54 OF THE EXISTING LAND USE ENTITLEMENTS FOR THE OAKBROOK VILLAGE SHOPPING CENTER REDEVELOPMENT PROJECT LOCATED AT 24231-24391 AVENIDA DE LA CARLOTA;

(2) THAT THE CITY COUNCIL INTRODUCE FOR FIRST READING, READ BY TITLE ONLY, AND WAIVE FURTHER READING OF AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING AND ADOPTING AMENDMENT NO. 2 TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAGUNA HILLS AND LAGUNA HILLS INVESTMENT COMPANY AND OAKBROOK URBAN VILLAGE I, LLC, FOR THE OAKBROOK VILLAGE SHOPPING CENTER REDEVELOPMENT PROJECT; AND

(3) THAT THE PLANNING AGENCY ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING RESOLUTION NOS. PA2015-02-10-1, PA2014-02-11-2, AND PA2012-11-13-1 TO MODIFY CONDITIONS OF APPROVAL NO. 47 AND NO. 54 OF SITE DEVELOPMENT PERMIT/MASTER SIGN PROGRAM/CONDITIONAL USE PERMIT/PARKING USE PERMIT/VESTING TENTATIVE TRACT MAP/ PRECISE PLAN/

DEVELOPMENT AGREEMENT NO. 12-11-2137 TO EXTEND THE TIME PERIODS FOR COMPLETION OF CERTAIN PHASE 1 ON-SITE IMPROVEMENTS, A REQUEST BY LAGUNA HILLS INVESTMENT COMPANY AND OAKBROOK URBAN VILLAGE I, LLC, FOR THE OAKBROOK VILLAGE SHOPPING CENTER LOCATED AT 24231-24391 AVENIDA DE LA CARLOTA."

SUMMARY:

Laguna Hills Investment Company and Oakbrook Urban Village I, LLC, (collectively, the "Owner") have requested that the City approve an amendment to the existing Development Agreement for the Oakbrook Village Shopping Center Redevelopment Project (the "Project") to extend the time periods by which the Owner is required to complete certain improvements and propose new site improvements generally described as follows:

1. Obtain all applicable permits for the renovation of the façades of Buildings A, P, Q, and C (Marshalls, Road Runner, and adjoining retail spaces);
2. Complete construction of the improved north-south pedestrian paseo adjacent to Buildings A, P, and Q;
3. Coordinate the construction of the hillside paseo connecting the north-south pedestrian paseo with the redevelopment of the Five Lagunas project (Laguna Hills Mall); and
4. Make improvements along the north property line adjacent to the Five Lagunas project to create a seamless transition between the two projects.

The proposed Amendment No. 2 to the existing Development Agreement would result in the granting of additional time to complete items 1 through 3. Item 4 would be deferred to allow the coordination of improvements occurring on and around the property line with the anticipated Five Lagunas project. **Attachment 1** describes the current timing required, and the proposed new timing for commencement, and completion of items 1 through 4. In addition, Amendment No. 2 incorporates Exhibits D through H depicting the north property line area (Exhibit D), anticipated location of new retail buildings and pedestrian walkways (Exhibit E), and revised façade and landscape improvements for buildings A, P, C, and Q (Exhibits F, G, H).

If the City Council approves the proposed Amendment No. 2 to Development Agreement, it will be necessary for the Planning Agency to modify Condition of Approval No. 47 of the current zoning approval for the project so that it remains consistent with the amended Development Agreement. Additionally, the Owner has requested more time to comply with Condition of Approval No. 54 which requires the Owner to construct required site

entry improvements. This change would delay the construction of the improvements by approximately five months.

BACKGROUND:

The City's Urban Village Specific Plan (UVSP) area is envisioned as a community gathering place where a variety of public, commercial, recreational, and residential uses work together to create an "urban village." Oakbrook Village is one of the key properties of the UVSP where important features of the approved plan are envisioned to be located. In addition to the housing and commercial uses the property can support, these features include public plazas, internal roads, and pedestrian walkways important to the walkability and vehicular circulation of the planning area.

Entitlement/ Development Agreement History

On November 13, 2012, the Planning Agency approved Site Development Permit/Master Sign Program/Conditional Use Permit/Parking Use Permit/Vesting Tentative Tract Map/Precise Plan/Development Agreement No. 12-11-2137 for Phase 1 of the Project (the "Phase 1 Land Use Entitlements"), subject to several Conditions of Approval. To facilitate the redevelopment of Oakbrook Village and carry out the City's adopted land use and economic development goals for the UVSP, the City also entered into a Development Agreement with the Laguna Hills Investment Company for the Project, which took effect on December 28, 2012.

On February 11, 2014, the Planning Agency adopted Resolution No. PA2014-02-11-2 approving various modifications to the Conditions of Approval for the Phase 1 Land Use Entitlements and allowing for early issuance of building permits and addressing other Project sequencing matters.

In April 2014, Laguna Hills Investment Company assigned an interest in the Development Agreement to Oakbrook Urban Village I, LLC, a Shea Homes related entity.

On February 10, 2015, the Planning Agency adopted Resolution No. PA2015-02-10-1 approving modifications to Condition of Approval No. 47 for the Phase 1 Land Use Entitlements to extend the time periods for the construction of three pedestrian paseos. On February 24, 2015, the City Council adopted Ordinance No. 2015-3 approving and adopting Amendment No. 1 to the existing Development Agreement for the Project to extend the time periods pursuant to which Owner had to commence façade renovations of the existing retail structures on the Property (with the exception of Lone Star and El Torito, for which no façade renovations are required), and to complete the construction of certain pedestrian paseos/trails on the western and northern areas of the Property.

The Development Agreement provides for the redevelopment of the property in two phases. Phase 1 of the Project is reflected in the Phase 1 Land Use Entitlements and includes: (i) the demolition of approximately 82,730 square feet of the approximately 190,956 square feet of existing retail space on the Property; (ii) the construction of two

"Deferred Retail Pads" and approximately 9,000 square feet of additional new retail space; (iii) the renovation of the façades of all remaining retail structures located on the Property other than restaurant Buildings D and E (Lone Star and El Torito); (iv) the construction of a maximum of 289 multi-family residential units; and (v) the construction of a 17,000 square foot Village Green, several pedestrian and parking lot paseos, a pedestrian trail on the Property, and various off-site public improvements. The Development Agreement provides for the Owner to commence and complete the various Phase 1 improvements within specified timeframes.

Phase 2 of the Project contemplates the potential future construction of up to an additional 200 multi-family residential units, replacement retail structures, and another approximately 7,000 square foot Village Green. For Phase 2 improvements, Owner has until eleven (11) years from the effective date, or December 28, 2023, to obtain all Phase 2 project approvals from the City. In the event Owner meets this requirement, the Development Agreement is automatically extended another four (4) years, or until December 28, 2027. A copy of the 2012 Development Agreement is included as **Attachment 2**. Amendment No. 1 is included as **Attachment 3**.

DISCUSSION:

Both staff and the Applicant believe Amendment No. 2 to the Development Agreement is necessary to ensure the project can proceed in a manner that provides the best opportunity for success as the City implements its vision for the UVSP. Amendment No.2 and the proposed Planning Agency Resolution address the following:

Better Coordination between the Redevelopment of Oakbrook Village and the Contemplated Five Lagunas Project. Certain site improvements slated to occur at Oakbrook Village would be more effective in promoting pedestrian circulation, wayfinding, and maintain a unified appearance in design and quality if they can be coordinated with the expected redevelopment of the Five Lagunas project. Staff would like to see a seamless transition between the two projects in terms of the pedestrian environment, vehicular connections, and landscaping, and proposes allowing the Applicant to defer improvements along the north property line to provide for close coordination with the timing of the Five Lagunas project.

Complex timing issues in the Contemplated Phase 2 Area. The Applicant is concerned about constructing building façade and landscape improvements for buildings A, P, and Q only to have them torn down within the next few years when construction of Phase 2 could commence. The Applicant has requested that the City reconsider the extent of improvements needed to modify existing buildings A, P, and Q.

New Construction – Buildings A and B. The Applicant intends to apply for land use approvals to construct new retail buildings with adjacent enhanced pedestrian paseos near the north property line (Buildings A & B) in the near future. Consequently, the Applicant

has asked that renovations to Building C be revised as submitted, and that the project's Parking Lot Paseo No. 2 be moved when these new buildings are constructed.

Modifications to Project Conditions of Approval. Condition of Approval No. 47 to the existing Land Use Approvals currently contains time frames related to the construction of the pedestrian and parking lot paseos that are consistent with those set forth in the existing Development Agreement. Therefore, in conjunction with the amendment of the Development Agreement modifying these timeframes, it is necessary for the Planning Agency to likewise modify Condition of Approval No. 47 to maintain consistency between the Project Conditions and the Development Agreement.

Additionally, the Owner has requested a modification to Condition of Approval No. 54 to the Phase 1 Land Use Entitlements for the Project. Condition No. 54 requires the Owner to construct secondary entry signs (depicted by Exhibit G of the Project's Master Sign Program) prior to the issuance of the last residential certificate of occupancy for Phase 1. The applicant is requesting more time to satisfy this condition. If the time extension is approved, the Applicant would have to construct the secondary entry signs prior to the issuance of building permits for the façade renovations on Buildings A, P, Q, and C.

A proposed Resolution approving the necessary modifications to Conditions of Approval No. 47 and No. 54 is included as **Attachment 4** to this report.

The project's current circumstances could not have been anticipated when the City Council entered into the Development Agreement in 2012. Amendment No. 2 is now needed to revise the project to address the issues previously described above. To memorialize these changes to the timing and design of the improvements between the City and the Applicant, staff and the Applicant have negotiated the proposed Amendment No. 2 to the Development Agreement, and the City Attorney has prepared a proposed Ordinance for its adoption, which are included as **Attachment 5** to this report.

FISCAL IMPACT:

None.

CEQA FINDINGS:

It is recommended that the City Council and Planning Agency find that no further environmental review is required. The approval of Amendment No. 2 to the Development Agreement and corresponding modifications to the Conditions of Approval of Planning Agency Resolution No. PA2012-11-13-1 (as modified by Planning Agency Resolution Nos. PA2015-02-10-1 and PA2014-02-11-2), as set forth in the attached Resolution, will merely make minor modifications to the scope and timing of the development of façade renovations and pedestrian, vehicular, and landscaping improvements on the Property, and will not affect the size, scope, or timing of development of any structures on the Property. It is recommended that the Planning Agency find that the approval of

Amendment No.2 to the Development Agreement and modification to Conditions of Approval, as set forth in the attached Resolution, are within the scope of the Addendum adopted in conjunction with the approval of SDPM/MSP/CUP/PUP/TTM/PREC/DEVA No. 12-11-2137 and the Development Agreement, and that none of the circumstances triggering further environmental review have occurred since the adoption of the Addendum: (i) there are no substantial changes in the project requiring major revisions of the PEIR or the Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (ii) there are no substantial changes with respect to the circumstances under which the project is being undertaken which will require major revisions of the PEIR or the Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects; and (iii) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the PEIR or the Addendum was adopted showing that: (a) the project will have one or more significant effects not discussed in the PEIR or the Addendum; (b) significant effects previously examined will be substantially more severe than shown in the PEIR or the Addendum; (c) mitigation measures or alternatives previously found not feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the mitigation measures or alternatives have not been adopted; or (d) mitigation measures or alternatives considerably different from those analyzed in the PEIR or the Addendum would substantially reduce one or more significant effects on the environment, but the mitigation measures or alternatives have not been adopted. (Public Resources Code Section 21166 and CEQA Guidelines Sections 15162).

ATTACHMENTS:

- Timing Exhibit
- 2012 Development Agreement
- Amendment No. 1
- Proposed Planning Agency Resolution of Approval
- Proposed Ordinance / Amendment No. 2 to Development Agreement

Attachment #1
Explanation of Timing Changes

Summary of Proposed Timing Modifications

Phase 1 Improvement Obligation	Existing Timeframe	Proposed Extended Time
Obtain building permits for façade renovations for Buildings A, C, P and Q.	On or before September 30, 2015.	Construction completed by December 31, 2016.
Complete construction of the north-south pedestrian paseo.	Prior to issuance of <i>final</i> residential certificate of occupancy for Phase 1.	Construction completed by December 31, 2016.
Complete construction of the hillside paseo connecting the north-south pedestrian paseo with the Laguna Hills Mall property.	On or before December 28, 2017	Within six months of the City's issuance of the first certificate of occupancy for residential Building B on the Five Lagunas property, or December 28, 2023, whichever occurs first.
Complete construction of the pedestrian trail along the north Property line.	On or before December 28, 2017.	Eliminate trail. Instead owner shall coordinate with the owner of the Laguna Hills Mall to plan and construct improvements along Owner's north property line, including vehicular access, enhanced paving, pedestrian connections and other enhanced landscaping improvements within six months of the City's issuance of the first certificate of occupancy for Building A on the Five Lagunas property, or by December 28, 2023, whichever occurs first.

Attachment #2
2012 Development Agreement

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:
City of Laguna Hills
c/o City Clerk
24035 El Toro Road
Laguna Hills, California 92653

Recorded In Official Records, Orange County
Renee Ramirez, Assistant Clerk-Recorder



NO FEE

* \$ R 0 0 0 5 4 7 7 4 6 8 \$ *

2013000002329 2:13 pm 01/02/13

62 417 A12 59

0.00 0.00 0.00 0.00 174.00 0.00 0.00 0.00

(Space Above Line for Recorder's Use)
Exempt from Recorder's Fees Pursuant to
Government Code §§ 6103 and 27383

DEVELOPMENT AGREEMENT
(Oakbrook Village Shopping Center Mixed Use Project)

BY AND BETWEEN

**THE CITY OF LAGUNA HILLS, a municipal corporation, duly organized and existing
under the Constitution and laws of the State of California**

AND

LAGUNA HILLS INVESTMENT COMPANY, a Delaware limited partnership

THIS DEVELOPMENT AGREEMENT SHALL BE RECORDED WITHIN TEN DAYS OF ITS EFFECTIVE DATE
PURSUANT TO THE REQUIREMENTS OF GOVERNMENT CODE §65868.5

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**DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF LAGUNA HILLS
AND
LAGUNA HILLS INVESTMENT COMPANY**

This Development Agreement ("Development Agreement") is made and entered into this 28th day of December, 2012 ("Development Agreement Date"), by and between the City of Laguna Hills, a municipal corporation, duly organized and existing under the Constitution and laws of the State of California ("City") and Laguna Hills Investment Company, a Delaware limited partnership (collectively "Owner"), pursuant to the authority set forth in Article 2.5 of Chapter 4 of Division I of Title 7, Sections 65864 through 65869.5 of the California Government Code (the "Development Agreement Statute").

RECITALS

This Development Agreement is predicated upon the following facts:

A. City is authorized, pursuant to California Government Code §§65864 through 65869.5 (the "Development Agreement Statute") and Chapter 9-84 of the Laguna Hills Municipal Code (the "Development Agreement Ordinance") to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property in order to, among other things: encourage and provide for the development of public facilities in order to support development projects; provide certainty in the approval of development projects in order to avoid the waste of resources and the escalation in project costs and to encourage investment in and commitment to comprehensive land use planning, which will make maximum efficient utilization of resources at the least economic cost to the public; provide assurance to the applicants of development projects: (i) that they may proceed with their projects in accordance with existing policies, rules and regulations, subject to the conditions of approval of such projects and provisions of such development agreements, and (ii) encourage private participation in comprehensive planning and reduce the private and public economic costs of development.

B. These Recitals refer to and utilize certain terms which are defined in this Development Agreement. The Parties intend to refer to those definitions in conjunction with the use thereof in these Recitals.

C. City desires that the approximately 240 acre area bounded by Paseo de Valencia on the north and west, Los Alisos Boulevard on the south, and I-5 on the east be developed in a manner consistent with the Village Commercial land use designation of the City's General Plan, which generally envisions the development of this area as a community core in which a variety of public, regional commercial, recreational, and high density residential uses work in concert to create an "urban village" with enhanced pedestrian areas conveniently linking commercial, residential, and civic areas.

D. In order to carry out the goals and policies of the General Plan for the Village Commercial area, on November 26, 2002, the Laguna Hills City Council adopted the Urban Village Specific Plan (the "Specific Plan"), establishing a land use concept, plans for additional public open space and pedestrian pathways, design guidelines, and development standards for new developments in the Specific Plan area aimed at creating an urban village identity. The allowed development intensity in the Specific Plan area is determined based upon vehicle trip generation limits, rather than land use type or size, and the Specific Plan provides for flexibility in development options and the mixture of land uses, provided established anticipated aggregate vehicle trip limits generated by new development are not exceeded. The City implements this aspect of the Specific Plan through a vehicle trip budget debiting process pursuant to which additional peak hour vehicle trips generated by each new development or redevelopment project are subtracted from the current aggregate total additional peak hour vehicle trips available to accommodate future new development in the Specific Plan area (the "Specific Plan Area Trip Budget Allocation"). Pursuant to the Specific Plan, applicants for new development projects are authorized to develop to the maximum intensity of their plans upon verification that the vehicle trip generation impacts created by the new development will not exceed the remaining Specific Plan Area Trip Budget Allocation. In July 2009, the Laguna Hills City Council adopted a comprehensive update to the City's General Plan, which authorized increased development intensity, and a corresponding increased number of authorized aggregate additional vehicle trips to accommodate future development projects, within the Specific Plan area. In April 2011, the Laguna Hills City Council approved amendments to the Specific Plan in order to implement the General Plan update.

E. In 2009, in connection with approving the updated General Plan, the City prepared a Program Environmental Impact Report entitled City of Laguna Hills General Plan Program Environmental Impact Report, June 2009, State Clearinghouse No. 20080811100 ("PEIR"). On July 14, 2009, the City Council certified the PEIR, adopted a Statement of Findings of Fact, a Statement of Overriding Considerations and Mitigation Monitoring Program. City filed a Notice of Determination on July 15, 2009. On April 12, 2011, the City Council adopted an Addendum to the PEIR in connection with the adoption of the Specific Plan Amendment (the "First Addendum").

F. In order to implement the Project, Owner has submitted, and City has approved, Site Development Permit / Master Sign Program / Conditional Use Permit / Parking Use Permit / Vesting Tentative Map / Precise Plan / Development Agreement No. 12-11-2137 for Phase 1 of the Project (the "Phase 1 Project Approvals").

G. Owner represents that it owns in fee the approximately 19.2-acre existing Oakbrook Village shopping center property (the "Property") located at 24231-24391 Avenida de la Carlota, Laguna Hills, California, within the Specific Plan area, which is more particularly described in **Exhibit A** to this Development Agreement.

H. Owner desires to re-develop the existing shopping center Property in accordance with the provisions of this Development Agreement by developing a multi-phase, mixed-use project consisting of multi-family residential units, renovated and expanded retail uses, public open space, pedestrian pathways, and private and public infrastructure improvements, all as more particularly defined herein (hereinafter collectively referred to as the "Project").

I. City desires to accomplish the goals and objectives set forth in City's General Plan and the Specific Plan, and finds that the Project will accomplish said goals and objectives. The City has determined that the Project is consistent with the General Plan, the Specific Plan and the Existing Land Use Regulations, as defined below.

J. In accordance with the Specific Plan, Owner has prepared a comprehensive traffic study dated October, 2012, (the "Traffic Study"), which analyzes the anticipated traffic impacts of the Project, calculates the additional peak hour vehicle trips that will be generated as a result of the Project, and demonstrates that there are sufficient remaining additional peak hour vehicle trips available in the current Specific Plan Area Trip Budget Allocation to accommodate the Project.

K. As consideration for the benefits gained by Owner from the vested rights acquired pursuant to the Development Agreement Statute and to conform with the requirements of the Specific Plan, City is requiring that Owner construct and install as part of Development of the Project certain public improvements and provide other public benefits.

L. In order to avoid any misunderstandings or disputes which may arise from time to time between Owner and City concerning the proposed Development of the Project and to assure each party of the intention of the other as to the processing of any land use entitlements which now or hereafter may be required for such development, the Parties believe it is desirable to set forth their intentions and understandings in this Development Agreement. In order for both City and Owner to achieve their respective objectives, it is imperative that each be as certain as possible that Owner will develop and that City will permit Owner to proceed with Development of the Project and public improvements and other public benefits as approved by City within the time periods provided in this Development Agreement, except as otherwise indicated herein.

M. On November 2, 2012, as required by Section 65867 of the Development Agreement Statute, the City caused public notice to be given of the City Council's intention to consider adoption of a development agreement for the Project.

N. On November 13, 2012, as required by Section 65867 of the Development Agreement Statute, the City Council held a public hearing on the Development Agreement.

O. The City has prepared an initial study checklist and has determined that the Project is within the scope of the PEIR. Based on the initial study completed, the Project will not result in any new significant effects that were not examined in the PEIR, or require any new mitigation measures pursuant to Public Resources Code Section 21166 and/or CEQA Guidelines Section 15162. The applicable mitigation measures identified in the PEIR are incorporated into the design of the Project and will be imposed as conditions of approval, as appropriate. The City, therefore, has prepared an Addendum to the PEIR for the Project (the "Second Addendum"). The City Council, after considering the requirements of the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, and California Code of Regulations, Title 14, Sections 15000 *et seq.* ("CEQA"), including Sections 21083.3 and 21166, of the California Public Resources Code and Sections 15168, 15162, 15164, and 15183 of the CEQA Guidelines, independently considered the Second Addendum, along with the PEIR, prior to approving this Development Agreement.

P. The City Council hereby finds and determines that this Development Agreement: (i) is consistent with the objectives, policies, general land uses, and programs contained City's General Plan and Urban Village Specific Plan; (ii) is compatible with the uses authorized in the Village Commercial land use district; (iii) provides for the orderly development of the Property; and (iv) is entered into pursuant to and in compliance with the requirements of Section 65867 of the Development Agreement Statute.

Q. In preparing and adopting the General Plan and in granting the Existing Development Approvals, City considered the health, safety and general welfare of the residents of City and prepared in this regard an extensive environmental impact report and other studies. Without limiting the generality of the foregoing, in preparing and adopting the General Plan and in granting the Existing Development Approvals, the City Council carefully considered and determined the projected needs (taking into consideration the planned development of the Project and all other areas within the City) for water service, sewer service, storm drains, electrical facilities, traffic/circulation infrastructure, police and fire services, paramedic and similar improvements, facilities and services within the Specific Plan, and the appropriateness of the density and intensity of the development comprising the Project and the needs of City and surrounding areas for other infrastructure.

R. On November 27, 2012, the City Council adopted the Authorizing Ordinance approving and authorizing the execution of this Development Agreement.

NOW, THEREFORE, pursuant to the authority contained in the Development Agreement Statute, and pursuant to the Development Agreement Ordinance, and pursuant to the mutual promises and covenants herein contained, the Parties hereto agree as follows:

SECTION 1 DEFINITIONS

The following words and phrases are used as defined terms throughout this Development Agreement, and each defined term shall have the meaning set forth below.

1.1 Authorizing Ordinance. The "Authorizing Ordinance" means Ordinance No. 2012-4 approving and authorizing this Development Agreement.

1.2 CEQA. "CEQA" means the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, and the regulations adopted pursuant thereto (Title 14 of the California Code of Regulations, Section 15000 *et seq.*), as they may be amended from time to time.

1.3 City. "City" means the City of Laguna Hills, a municipal corporation, duly organized and existing under the Constitution and laws of the State of California.

1.4 Deferred Retail Pads. "Deferred Retail Pads" means the two pads identified as "Deferred Retail Pad" on the Phase 1 Site Plan and Phase 2 Building Envelope attached at Exhibit C to this Development Agreement, and on the site plan approved pursuant to the Phase 1 Project Approvals, and consisting of approximately 14,000 square feet of new retail space.

1.5 Development. "Development" or "Redevelopment" means the improvement or renovation of the Property for the purposes of completing the structures, improvements and facilities comprising the Project 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 buildings, structures, and other facilities; the installation of landscaping; and the construction of other facilities and improvements necessary or appropriate for the Project. "Development" or "Redevelopment" does not mean the maintenance, repair or reconstruction of any building, structure, improvement, landscaping or facility after the initial construction and completion thereof.

1.6 Development Agreement. "Development Agreement" means this Development Agreement and any subsequent amendments to this Development Agreement which have been made in compliance with the provisions of this Development Agreement, the Development Agreement Statute, and the Development Agreement Ordinance.

1.7 Development Agreement Date. The "Development Agreement Date" means the effective date of the Authorizing Ordinance, which date is shown on page 1, paragraph 1 of this Development Agreement.

1.8 Development Agreement Ordinance. The "Development Agreement Ordinance" means Chapter 9-84 of the Laguna Hills Municipal Code.

1.9 Development Agreement Statute. The "Development Agreement Statute" means Sections 65864 through 65869.5 of the California Government Code as it exists on the Development Agreement Date.

1.10 Development Approvals. "Development Approvals" means the Specific Plan, maps, permits and other entitlements to use of every kind and nature which are approved or granted by City in connection with Development of the Property, including, but not limited to: site plans, precise plans, tentative and vesting tentative maps, final subdivision maps, variances, conditional use permits, parking use permits, master sign programs, site development permits, lot line adjustments, and grading, building and other similar permits. To the extent any of such site specific plans, maps, permits and other entitlements to use are amended from time to time, "Development Approvals" shall include such matters as so amended. If this Development Agreement is required by law to be amended in order for "Development Approvals" to include any such amendments, "Development Approvals" shall not include such amendments unless and until this Development Agreement is so amended.

1.11 Development Fees. "Development Fees" shall have the meaning ascribed in Section 10.1 of this Development Agreement, as specified in **Exhibit B** to this Development Agreement.

1.12 Development Plan. "Development Plan" means Development of the Property pursuant to this Development Agreement, the Existing Development Approvals, and the Existing Land Use Regulations, as well as all Subsequent Development Approvals, and all Subsequent Land Use Regulations to which Owner has consented to in writing.

1.13 Discretionary Action(s), Discretionary Approval(s), or Discretionary Permit(s). "Discretionary Action(s)", "Discretionary Approval(s)", or "Discretionary Permit(s)" means an action which requires the exercise of judgment, deliberation or discretion on the part of the City, including any board, agency, commission or department and any officer or employee thereof, in the process of approving or disapproving a particular activity, as distinguished from an activity which is defined herein as a Ministerial Action, Ministerial Approval, or Ministerial Permit.

1.14 Existing Development Approvals. "Existing Development Approvals" means all Development Approvals, including, without limitation, the Specific Plan, this Development Agreement, and the Phase 1 Project Approvals, approved or issued for the Project on or before the Development Agreement Date.

1.15 Existing Land Use Regulations. "Existing Land Use Regulations" means all ordinances, laws, resolutions, codes, rules, regulations, moratoria, initiatives, policies, requirements, or guidelines of the City in effect on the Development Agreement Date, which govern the permitted uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Property, including, but not limited to, the General Plan, the Zoning Code, the Specific Plan, Mitigation Monitoring Program, and all other ordinances of City establishing subdivision standards, park regulations, impact or Development Fees and building and improvement standards. Existing Land Use Regulations do not include non-land use regulations, which include, without limitation, all City ordinances, resolutions, rules, regulations or official policies governing: business licenses issued by the City for the conduct of businesses, professions, and occupations; taxes and assessments; the control and abatement of nuisances; the granting of encroachment permits and the conveyance of rights and interests which provide for the use of the entry upon public property; and/or the exercise of the power of eminent domain.

1.16 General Plan. "General Plan" means the City General Plan, as updated on July 14, 2009.

1.17 Ministerial Action(s), Ministerial Approval(s), or Ministerial Permit(s). "Ministerial Action(s)", "Ministerial Approval(s)", and "Ministerial Permit(s)" means a permit approval or clearance in conformance with the Existing Land Use Regulations, including, without limitation, conformance maps for tentative maps, determinations of compliance with the Project conditions of approval of the Development Approvals, grading plans, improvement plans, buildings plans and specifications, and ministerial issuance of one or more final maps, zoning clearances, grading permits, improvement permits, wall permits, building permits, demolition permits, lot line adjustments, encroachment permits, temporary use permits, and certificates of use and occupancy as necessary for completion of the Development of the Property, as distinguished from an activity which is defined herein as a Discretionary Action, Discretionary Approval, or Discretionary Permit.

1.18 Mitigation Monitoring Program. "Mitigation Monitoring Program" means the Mitigation Monitoring and Reporting Program adopted by the City Council on July 14, 2009 in conjunction with certification of the Program Environmental Impact Report prepared in connection with the 2009 Comprehensive Update of the City's General Plan.

1.19 Mortgage. "Mortgage" means a mortgage, deed of trust or sale and leaseback arrangement or other transaction in which the Property, or a portion thereof or an interest therein, is pledged as security.

1.20 Mortgagee. "Mortgagee" means the holder of the beneficial interest under a Mortgage, or the owner of the Property, or interest therein, under a Mortgage.

1.21 Owner. "Owner" is Laguna Hills Investment Company, and any person or entity with which or into which Laguna Hills Investment Company may merge, and any person or entity who may acquire substantially all of the assets of Laguna Hills Investment Company, and any person or entity who receives any of the rights or obligations under this Development Agreement in accordance with the provisions of Section 21 (Assignment) of this Development Agreement.

1.22 Parties. "Parties" means the Owner and the City.

1.23 Phase 1. "Phase 1" of the Project means those certain improvements described in the Phase 1 Project Approvals and the public improvements required to be constructed pursuant to the Existing Land Use Regulations and the conditions of approval to the Existing Development Approvals. Phase 1 of the Project generally includes, without limitation: (i) the demolition of approximately 82,730 square feet of the approximately 190,956 square feet of existing retail space on the Property; (ii) the construction of the Deferred Retail Pads and approximately 9,000 square feet of additional new retail space, resulting in approximately 132,200 square feet, and no less than a minimum of 124,000 square feet of retail space on the Property; (iii) the renovation of the façades of all remaining retail structures located on the Property other than restaurant Buildings D and E (Lone Star and El Torito); (iv) the construction of a maximum of 289 multi-family residential units; and (v) the construction of the Phase 1 Public Improvements, as defined in Section 1.25, below.

1.24 Phase 1 Project Approvals. "Phase 1 Project Approvals" means Site Development Permit / Master Sign Program / Conditional Use Permit / Parking Use Permit / Vesting Tentative Map / Precise Plan / Development Agreement No. 12-11-2137 and all conditions of approval with respect thereto.

1.25 Phase 1 Public Improvements. "Phase 1 Public Improvements" means the following improvements, as more specifically described in the Phase 1 Project Approvals and this Development Agreement: (i) the construction of an approximately 17,000 square foot Village Green; (ii) the construction of an east-west pedestrian paseo; (iii) the construction of an improved north-south pedestrian paseo; (iv) the construction of a hillside pedestrian paseo connecting the north-south pedestrian paseo with the adjacent property occupied by the Laguna Hills Mall; (v) the construction of a pedestrian trail along the north property line; (vi) the construction of two parking lot paseos; (vii) the construction of various pedestrian connections between all buildings; (viii) the installation of a traffic signal at the intersection of Avenida de la Carlota and the main entrance to the Property, including interconnection to the existing traffic signal at the intersection of Avenida de la Carlota and Los Alisos Boulevard, and construction on the easterly side of Avenida de la Carlota of a public sidewalk connection to the Oakbrook Plaza office development; (ix) dedication of the public right-of-way necessary for, and construction of,

a new curb line along the entire Property frontage of Avenida de la Carlota, including a six (6) foot wide landscaped parkway space and a minimum six (6) foot wide sidewalk; (x) construction of storm drain connections, inlets, and/or other improvements necessary to eliminate all cross-gutter drainage across both the main and the northerly entrance driveway intersections with Avenida de la Carlota; (xi) the installation of debris gates at all catch basin inlets along the Property frontage to Avenida de la Carlota; (xii) the realignment of the intersection of the northerly entrance to the Property with Avenida de la Carlota; (xiii) the construction or reconstruction of all curb ramps on Avenida de la Carlota at each entrance to the Property to current Americans with Disability Act ("ADA") standards; and (xiv) construction of any and all other public improvements required to be constructed pursuant to the Existing Land Use Regulations and the conditions of approval to the Existing Development Approvals.

1.26 Phase 2. "Phase 2" of the Project means the Development or Redevelopment of the Property in accordance with the Subsequent Development Approvals and in a manner that shall result in: (i) the construction of a maximum of 200 additional multi-family residential units; (ii) the required construction of a minimum of 27,000 square feet of new retail space within the residential/retail mixed-use structures or on other areas on the Property; (iii) the required construction of such additional new retail space necessary to result in a minimum of 125,000 total aggregate square feet of retail space on the Property; and (iv) the required construction of an approximately 7,000 square foot secondary Village Green area directly adjacent to the Phase 1 Village Green area. Phase 2 may be developed in sub-phases, if, and to the extent, authorized pursuant to the Subsequent Development Approvals. The approximate locations and/or building envelope of the residential and retail structures and Village Green area on the Property following completion of Phase 2 are generally depicted on **Exhibit C** to this Development Agreement.

1.27 Phase 2 Project Approvals. "Phase 2 Project Approvals" means all Development Approvals necessary for Development of all portions and/or sub-phases Phase 2 of the Project, and which require Discretionary Action or Discretionary Approval by the City's Planning Agency or City Council.

1.28 Project. The "Project" means Phase 1 and Phase 2. In general, the Project consists of the Development of a multi-phase, mixed-use project on the Property generally consisting of multi-family residential units, renovated and expanded retail uses, public open space, pedestrian pathways, and private and public infrastructure improvements.

1.29 Project Trip Budget Allocation. "Project Trip Budget Allocation" means the total aggregate net additional AM and PM peak hour vehicle trips anticipated to be generated as a result of full development of the Project, as determined by the Traffic Study (see pages 14-15 and Table 5) and in accordance with Section 5.6. As set forth in the Traffic Study, as of the Development Agreement Date, the Project is allocated 194 total additional AM and 44 total additional PM peak hour vehicle trips.

1.30 Property. The "Property" means the real property described in **Exhibit A** to this Development Agreement.

1.31 Specific Plan. "Specific Plan" means the Urban Village Specific Plan approved by the City Council on November 26, 2002, and amended by the City Council in 2011.

1.32 Specific Plan Area Trip Budget Allocation. "Specific Plan Area Trip Budget Allocation" means the then current number of remaining AM and PM peak hour vehicle trips available to accommodate future new development in the Specific Plan area as calculated by the City in accordance with the vehicle trip budget debiting process contemplated by the General Plan and the Specific Plan.

1.33 Subsequent Development Approvals. "Subsequent Development Approvals" means all Development Approvals approved, granted, or issued for the Project after the Development Agreement Date, including the Phase 2 Project Approvals, which are required or permitted by the Existing Land Use Regulations, or by the Subsequent Land Use Regulations to which Owner has consented in writing, and this Development Agreement.

1.34 Subsequent Land Use Regulations. "Subsequent Land Use Regulations" means any change in or addition to the Existing Land Use Regulations adopted or becoming effective after the Development Agreement Date, including, without limitation, any change in any applicable general or specific plan, zoning, subdivision, or building regulation, including, without limitation, any such change by means of an ordinance, initiative, resolution, policy, order or moratorium, initiated or instituted for any reason whatsoever by the City Council or any other board, agency, commission or department of City, or any officer or employee thereof, or by the electorate, as the case may be, or changes in state law, which would, absent this Development Agreement, otherwise be applicable to the Project.

1.35 Term. "Term" is defined in Section 2 of this Development Agreement.

1.36 Traffic Study. "Traffic Study" means the comprehensive traffic study dated October, 2012, submitted by Owner pursuant to the Specific Plan and in conjunction with the Second Addendum, which analyzes the anticipated traffic impacts of the Project and calculates the additional AM and PM peak hour vehicle trips that will be generated by the Project. Pursuant to the Traffic Study, the estimated total additional AM and PM peak hour vehicle trips that will be generated by the Project are calculated utilizing the trip generation rates set forth in the Institute of Traffic Engineer's (ITE) Trip Generation Manual, 8th Edition.

1.37 Uniform Codes. "Uniform Codes" means codes adopted by the International Conference of Building Officials, or other similar body, as part of the then most current versions of the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code, or National Electrical Code, and also adopted by the City, if applicable City-wide.

1.38 Zoning Code. "Zoning Code" refers to Title 9 of the Laguna Hills Municipal Code.

SECTION 2 TERM

2.1 Duration of Term. The term ("Term") of this Development Agreement shall be that period of time during which this Development Agreement shall be in effect and bind the Parties hereto. The Term shall commence on the Development Agreement Date and shall extend for an initial period of eleven (11) years thereafter, terminating at the end of the day on the eleventh (11th) anniversary of the Development Agreement Date, subject to the mandatory

extension provisions of Section 2.2 , the termination provisions of Sections 2.3, 2.4, 2.5, and 5.4.1, the mutual cancellation provisions of Section 17, the periodic review provisions of Section 18, the default provisions of Section 19, the modification or termination provisions of Section 20, and the force majeure tolling provisions of Section 22.1, respectively, of this Development Agreement.

2.2 Extension of Term. The Term of this Development Agreement shall be automatically extended an additional four (4) years if, prior to expiration of the initial Term, as defined in Section 2.1, Owner has completed Development of all portions of Phase 1 of the Project and has obtained all Phase 2 Project Approvals. For purposes of the foregoing sentence, "completed" shall have the same meaning as defined in Section 5.4.1 of this Development Agreement. Notwithstanding the foregoing, the Parties may mutually agree to extend the Term of the Development Agreement, regardless of whether the mandatory extension provisions of this Section 2.2 are applicable.

2.3 Termination Due to Owner's Failure to Timely Commence or Complete Phase 1. This Development Agreement and all Development Approvals for the Project shall automatically terminate and be void and of no further force and effect upon the effective date of an ordinance adopted by the City Council in accordance with Section 5.4.1 of this Development Agreement terminating the Development Agreement pursuant to a finding by the City Council that Owner has failed to timely commence or complete Phase 1 of the Project.

2.4 Termination Due to Judicial Order. This Development Agreement shall terminate and be of no further force and effect upon the occurrence of the entry of a final judgment or issuance of a final order, after all appeals have been exhausted, directed to City as a result of any lawsuit filed against City to set aside, withdraw or abrogate the approval of the City Council of this Development Agreement.

2.5 Automatic Termination upon Completion of Project. If not already terminated by reason of any other provision in this Development Agreement, or for any other reason, this Development Agreement shall automatically terminate and be of no further force and effect upon completion of the Project pursuant to the terms of this Development Agreement and any further amendments thereto and the issuance of all occupancy permits and acceptance by City of all dedications and improvements as required by the Development of the Project.

2.6 Effect of Expiration of Term Prior to Completion of Project. If not already terminated by reason of any other provision in this Development Agreement, or for any other reason, this Development Agreement and all Development Approvals shall automatically terminate and be of no further force and effect upon expiration of the Term, regardless of whether the Project has been completed. Upon expiration of the Term, Owner's rights to proceed with Development of the Project pursuant to this Development Agreement shall also automatically terminate and be of no further force and effect.

SECTION 3 BINDING COVENANTS

The provisions of this Development Agreement to the extent permitted by law shall constitute covenants which shall run with the Property for the benefit thereof, and the benefits and burdens of this Development Agreement shall bind and inure to the benefit of the Parties and all successors in interest to the Parties hereto.

SECTION 4 EFFECT OF AGREEMENT

As a material part of the consideration of this Development Agreement, unless otherwise provided herein, the Parties agree that the Existing Land Use Regulations shall be applicable to development of the Project. In connection with all subsequent Discretionary Actions which City takes or has the right to take under this Development Agreement relating to the Project, including any review, approval, renewal, conditional approval or denial, City shall exercise its discretion or take action in a manner which complies and is consistent with the Existing Land Use Regulations (as same may be modified in accordance with this Development Agreement) and such other standards, terms and conditions expressly contained in this Development Agreement. City shall accept and timely process, in the normal manner for processing such matters as may then be applicable, all applications for further approvals with respect to the Project called for or required under this Development Agreement, including, without limitation, any necessary site plan, precise plan, site development permit, conditional use permit, parking use permit, lot line adjustment, tentative map, vesting tentative map, final map and any grading, construction or other permits filed by Owner in accordance with the Development Approvals.

SECTION 5 DEVELOPMENT OF PROJECT

5.1 Rights to Develop. Subject to and during the Term of this Development Agreement, including Section 16 (Reserved Authority), Owner shall have a vested right to develop the Project in accordance with, and to the extent of, the Development Plan, the Development Approvals, and this Development Agreement. No Subsequent Land Use Regulation shall delay, hinder, or impede the purpose or the effect of this vested right unless specifically permitted by this Development Agreement or agreed to in writing by Owner. The Project shall remain subject to all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes shall be those set forth in the Development Plan.

5.2 Vesting of Rights of Developer. The City agrees that the right to Develop the Project consistent with the Development Plan is vested in Owner by this Development Agreement. Owner's right to develop the Project shall be vested in accordance with this Development Agreement and the Development Agreement Statute.

5.3 Effect of Development Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Development Agreement, the only rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to Development of the Property, shall be

those set forth in the Existing Land Use Regulations and the Subsequent Land Use Regulations to which Owner has consented in writing, subject to the terms of this Development Agreement.

5.4 Timing of Development.

5.4.1 Phase 1. Owner expressly understands and agrees that its commitment to timely commence and complete Phase 1 of the Project is a material inducement to City's approval of this Development Agreement. Accordingly, except as otherwise expressly provided herein, Developer shall (i) have obtained all applicable grading, encroachment, building, demolition, and similar permits for Development of all portions of Phase 1 of the Project within two (2) years of the Development Agreement Date, and (ii) have completed Development of all portions of Phase 1 of the Project within five (5) years of the Development Agreement Date. For purposes of this Section 5.4.1, "completed" means that Owner (i) has obtained all required written City approvals for the façade renovations required by the Existing Development Approvals, (ii) has obtained residential and commercial certificates of occupancy for all Development contemplated under the Existing Development Approvals, and (iii) has obtained written approval from the appropriate City officials for all Phase 1 Public Improvements. Notwithstanding Sections 17, 18, 19, 20, or any other provision of this Development Agreement, and without complying with the provisions of Sections 17, 18, 19, and 20, it is expressly understood and agreed by the Parties that the City Council may unilaterally terminate this Development Agreement if, following notice and a public hearing in accordance with applicable law, the City Council finds that Owner has failed to commence or complete the required portions of Phase 1 of the Project in accordance with this Section. Notwithstanding Section 5.5, below, this Development Agreement and Development Approvals for the Project shall automatically expire, terminate and be of no further force and effect upon the effective date of an ordinance adopted by the City Council terminating this Development Agreement based on such a finding pursuant to this Section.

5.4.2 Deferred Retail Pads. Owner's Development of the Deferred Retail Pads shall not be subject to the requirements of Section 5.4.1 and may be completed at any time prior to, or concurrently with, Owner's Development of Phase 2. In addition, subject to all applicable Subsequent Development Approvals, in lieu of Development of either or both of the Deferred Retail Pads at the locations specified in the Phase 1 Project Approvals, Owner may proceed with Development or Redevelopment of an equivalent or greater amount of new retail space on the Property. If Owner elects to proceed with Development or Redevelopment of an equivalent or greater amount of new retail space on the Property, rather than proceed with the Development of either or both of the Deferred Retail Pads at the locations specified in the Phase 1 Site Plan and Phase 2 Building Envelope attached at **Exhibit C** and in the Phase 1 Project Approvals, such new retail space shall be in addition to, and not be included in the calculation of, the minimum 27,000 square feet of new retail space required to be constructed within the residential/retail mixed-use structures as part of Phase 2.

5.4.3 Phase 1 Public Improvements. Notwithstanding Section 5.4.1, Owner shall not be obligated to commence the Phase 1 Public Improvements within two (2) years of the Development Agreement Date. However, with the exception of the Village Green, Owner shall complete the Phase 1 Public Improvements prior to issuance of the first residential certificate of occupancy for Phase 1. Accordingly, Owner shall not be entitled to the issuance of, and City

shall not be obligated to issue, certificates of occupancy for any residential units constructed in Phase 1 of the Project until all Phase 1 Public Improvements, other than the Village Green, have been completed and accepted by City. Owner shall complete construction of the Phase 1 Village Green prior to issuance of the final residential certificate of occupancy for Phase 1. Accordingly, Owner shall not be entitled to the issuance of, and City shall not be obligated to issue, a certificate of occupancy for the last residential unit (or the building in which the last residential unit is located, if applicable) constructed in Phase 1 of the Project until the Village Green for Phase 1 has been completed and approved in writing by the City.

5.4.4 Phase 2. In the event Owner elects to proceed with the Development of Phase 2, Owner shall apply for all Phase 2 Project Approvals simultaneously, and Owner's Development of Phase 2 of the Project shall be in accordance with the Development Plan, including, but not limited to, the Subsequent Development Approvals. Except as otherwise modified pursuant to the Subsequent Development Approvals, the approximate locations and/or building envelope of the Phase 2 residential and retail structures and Village Green area shall be as generally depicted on **Exhibit C** to this Development Agreement. Owner expressly understands and agrees that Owner's right pursuant to this Development Agreement to proceed with the Development of any residential units as part of Phase 2 is expressly contingent upon: (i) Owner's Development of a minimum of 27,000 square feet of new retail space within the residential/retail mixed-use structure or structures housing the residential units or on other areas on the Property; (ii) Owner's Development of such additional retail space necessary to result in a minimum of 125,000 total aggregate square feet of retail space on the Property (inclusive of the Deferred Retail Pads) and/or payment of a Phase 2 retail loss impact fee pursuant to Section 10.4; and (iii) Owner's construction of a minimum 7,000 square foot secondary Village Green area on the Property. Accordingly, the timing and sequencing of Development of the component portions of Phase 2 shall be subject to City's discretionary approval pursuant to the Subsequent Development Approvals, provided, however, that Development of all of Phase 2 shall be completed within the Term of this Development Agreement. For purposes of this Section 5.4.4, "completed" means that Owner (i) has obtained residential and commercial certificates of occupancy for all Development contemplated under the Subsequent Development Approvals, and (ii) has obtained written approval from the appropriate City officials for the Phase 2 secondary Village Green area.

5.4.5 Owner's Discretion in Timing of Development. The Parties acknowledge that Owner cannot at this time predict when or the precise rate at which the Property will be developed. Such decisions depend upon numerous factors which are not within the control of Owner, such as market orientation and demand and other similar factors. The California Supreme Court held in *Pardee Construction v. City of Camarillo* (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of development resulted in a latter-enacted initiative restricting the timing of development to prevail over such parties' agreement. It is the Parties' intent to cure that deficiency by expressly addressing the timing of Development. Except as expressly set forth in the Development Plan, including, without limitation, Section 5.4 of this Development Agreement, regardless of any future enactment, whether by initiative or otherwise, Owner shall have the vested right to Develop the various components of the Project in such order, at such rate, and at such times as Owner deems appropriate within the exercise of its subjective business judgment.

5.5 Tentative Subdivision Map and Other Entitlement Extensions. Unless otherwise terminated pursuant to Section 5.4.1, above, in accordance with California Government Code Sections 65863.9 and 66452.6, all tentative subdivision maps or tentative parcel maps, whether vesting or not, or any other Development Approvals, except for grading and building permits and certificates of occupancy, which may be approved by the City in connection with Development of the Property, shall be granted an extension of time for the Term of this Development Agreement. The Parties also agree that phased final subdivision maps may be processed and recorded.

5.6 Project Trip Budget Allocation. During the Term of this Development Agreement, the City shall allocate to the Project the number of A.M. and P.M. peak hour vehicle trips equal to the Project Trip Budget Allocation and debit an equal amount from the Specific Plan Area Trip Budget Allocation available for other future new development in the Specific Plan area. As of the Development Agreement Date, the Project Trip Budget Allocation is equal to 194 total additional AM and 44 total additional PM peak hour vehicle trips, which has been calculated in accordance with the trip generation rates published in the Institute of Traffic Engineer's (ITE) Trip Generation Manual, 8th Edition (see Traffic Study, pages 14-15 and Table 5). During the Term of this Development Agreement, the Project Trip Budget Allocation shall be automatically adjusted without the need to amend this Development Agreement, to account for future changes in the trip generation rates published in future editions of the ITE Trip Generation Manual. Prior to issuance or approval of any permits or land use entitlements for the expansion or intensification of existing uses or the construction of new development in the Specific Plan area that would necessitate adjustment to the Specific Plan Area Trip Budget Allocation, City's City Manager, or his or her designee, shall review the trip generation rates published in the then latest edition of the ITE Trip Generation Manual and determine whether the Project Trip Budget Allocation should be automatically adjusted in accordance therewith. If the City Manager, or his or her designee, determines, in his or her reasonable discretion, that the Project Trip Budget Allocation should be automatically adjusted due to changes in the published trip generation rates, City shall debit the number of A.M. and P.M. peak hour vehicle trips equal to the adjusted Project Trip Budget Allocation from the Specific Plan Area Trip Budget Allocation available for other future new development in the Specific Plan area.

SECTION 6 ENFORCEMENT

Unless this Development Agreement is terminated or cancelled pursuant to the provisions of this Development Agreement, this Development Agreement or any amendment hereto, shall be enforceable by any party hereto notwithstanding any change hereafter in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance or building ordinance adopted by City which alters or amends the rules, regulations or policies of Development of the Project as provided in this Development Agreement pursuant to Section 65865.4 of the Development Agreement Statute; provided, however, that the limitations of this Section shall not apply to changes mandated by State or Federal laws or other permissible changes or new regulations as more particularly set forth in Section 16 of this Development Agreement.

SECTION 7 PUBLIC BENEFITS

7.1 Installation of Traffic Signal. In accordance with the Phase 1 Project Approvals, before issuance of the first residential certificate of occupancy for Phase 1 of the Project, Owner shall install, to the reasonable satisfaction of the City Engineer, a traffic signal at the intersection of Avenida de la Carlota and the main entrance to the Project, including interconnection to the existing traffic signal at the intersection of Avenida de la Carlota and Los Alisos Boulevard via conduit and hardware, and construction on the easterly side of Avenida de la Carlota of a public sidewalk connection to the Oakbrook Plaza office development. Said traffic signal shall be constructed to applicable State and City standards and specifications and shall be equipped with video detection and controller equipment as approved by City. The sidewalks and ramps at all corners of the newly signalized intersection and the sidewalk connection to the Oakbrook Plaza office development on the easterly side of Avenida de la Carlota shall be constructed and/or modified to conform to City and Americans With Disabilities Act ("ADA") standards.

7.2 Installation of New Curb Line, Landscaped Parkway, and Sidewalk. In accordance with the Phase 1 Project Approvals, before issuance of the first residential certificate of occupancy for Phase 1 of the Project, Owner shall dedicate and transfer to City the public right-of-way necessary for, and shall construct and create, a new curb line along the entire Property frontage of Avenida de la Carlota, including a six (6) foot wide landscaped parkway space and a minimum six (6) foot wide sidewalk to City standards and specifications. Such improvements shall not interfere with existing vehicular lane configurations or result in modifications that have the effect of reducing any on-site parking for the Project. Required parkway improvements shall be as shown on the landscape plans approved as part of the Phase 1 Project Approvals, shall be consistent with the Specific Plan, and shall include all irrigation and drainage facilities and improvements deemed necessary by City's City Engineer.

7.3 Provision of the Village Green Park Facilities. In accordance with the Development Approvals, Owner shall complete the construction and improvement of an approximately 17,000 square foot Village Green park facility in Phase 1 of the Project and an approximately 7,000 square foot Village Green park facility in Phase 2 of the Project. The Village Green park facilities are generally described and depicted in **Exhibit D** to this Development Agreement. Although the Village Greens will be available for public access and will be publically accessible, subject to Owner and City reaching an agreement upon park area operating hours and authorized uses, the Village Greens shall be privately owned, operated, and maintained by Owner.

7.4 Construction of Pedestrian Paseos. In accordance with the Development Approvals, Owner shall complete construction of various pedestrian paseos and pathways during Phase 1 of the Project, including, but not limited to, the following: (i) a pedestrian paseo, extending from the western driveway of the Project to the Laguna Hills Mall, connecting to the Village Green and then east to Avenida de la Carlota; (ii) a improved north-south pedestrian paseo; (iii) a hillside paseo connecting the north-south paseo with the Laguna Hills Mall; (iv) a pedestrian trail along the north Property line; (v) and two parking lot paseos. The pedestrian paseos are described and depicted in **Exhibit E** to this Development Agreement.

7.5 Provision of Public Art. Owner shall furnish public art in connection with the Project, and/or pay an in-lieu fee, pursuant to the Specific Plan and other Existing Development Approvals. The Parties understand and agree that the City shall have the right to approve, in advance, the proposed type, size, art medium, location, and content of all Public Art. The Parties agree that, to the extent that the value of the public art provided and/or in-lieu fee paid by Owner for Phase 1 exceeds one-half percent (0.5%) of the total construction costs of Phase 1, as determined by the City, if Owner Develops Phase 2, Owner shall be entitled to a credit in such amount towards Owner's obligation to provide public art and/or pay an in-lieu fee pursuant to the Development of Phase 2.

SECTION 8 PUBLIC IMPROVEMENTS AND SERVICES

8.1 Public Improvements Required to Support the Project. As material consideration for City's entering into this Development Agreement, Owner shall undertake the construction and installation of public improvements required by the Development Approvals, the Existing Land Use Regulations, this Development Agreement, and the Specific Plan to support the Project as specified in **Exhibit F** to this Development Agreement. **Exhibit F** constitutes a complete list of all required public improvements for the Project, unless the Project is modified, requiring the modification of **Exhibit F**.

8.2 Cooperation by City and Owner for Public Improvements. The required public improvements will be designed and constructed in phases as required to service the Project or as otherwise required by the Project conditions of approval and/or this Development Agreement. Owner shall design and construct these public improvements in accordance with all applicable federal, state and City laws, ordinances, regulations, codes, standards, and other applicable requirements. These improvements shall be subject to City's approval and acceptance. City shall cooperate with Owner for the purpose of coordinating all public improvements constructed under the Development Approvals or this Development Agreement to existing or newly constructed public improvements, whether located within or outside of the Property. Owner shall be responsible for and use good faith efforts to acquire any right(s)-of-way necessary to construct the public improvements required by, or otherwise necessary to comply with the conditions of, this Development Agreement or any Development Approvals. Should it become necessary due to Owner's failure or inability to acquire said right(s)-of-way within four (4) months after Owner begins its efforts to so acquire said right(s)-of-way, City shall negotiate the purchase of the necessary right(s)-of-way to construct the public improvements as required by, or otherwise necessary to comply with the conditions of, this Development Agreement and, if necessary in accordance with the procedures established by State law, and the limitations hereinafter set forth in this Section, City may use its powers of eminent domain to condemn said required right(s)-of-way. Owner agrees to pay for all costs associated with said acquisition and condemnation proceedings. If City cannot make the proper findings or if for some other reason under the condemnation laws City is prevented from acquiring the necessary right(s)-of-way to enable Owner to construct the public improvements required by, or otherwise necessary to comply with the conditions of, this Development Agreement, then the Parties agree to amend this Development Agreement to modify Owner's obligations accordingly. Any such required modification shall involve the substitution of other considerations or obligations by Owner (of similar value) as are negotiated in good faith between the parties hereto. Nothing contained in

this Section shall be deemed to constitute a determination or resolution of necessity by City to initiate condemnation proceedings.

8.3 Timing, Phasing and Sequence of Public Improvements and Facilities. The timing, phasing and sequence of the construction of public improvements, facilities or the payment of fees therefore shall be constructed or paid in accordance with the timing, phasing and sequence set forth in the Development Plan.

8.4 Maintenance of Public Improvements. City shall not be responsible or liable for the maintenance or care of public improvements, intended to be dedicated to the City, until City approves and accepts them. City shall exercise no control over the public improvements until accepted. Any use by any person of the public improvements, or any portion thereof, shall be at the sole and exclusive risk of the Owner at all times prior to City's acceptance of the public improvements. Owner shall maintain all the public improvements in a state of good repair until they are completed by Owner and approved and accepted by City. If Owner fails to properly prosecute its maintenance obligation under this Section, City may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Owner under this Development Agreement. City shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the public improvements or their condition prior to acceptance. Approval and acceptance of public improvements shall not be unreasonably withheld by the City.

8.5 Acceptance of Improvements; As-Built or Record Drawings. If the public improvements are properly completed by Owner and approved by the City Engineer, and if they comply with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements, the City shall accept the public improvements. Prior to the total or partial acceptance of the public improvements by City, Owner shall file with the Recorder's Office of the County of Orange a notice of completion for the accepted public improvements in accordance with California Civil Code section 3093, at which time the accepted public improvements shall become the sole and exclusive property of City without payment therefore. Issuance by City of occupancy permits for any buildings or structures located on the Property shall not be construed in any manner to constitute City's acceptance or approval of any public improvements. Notwithstanding the foregoing, City may not accept any public improvements unless and until Owner provides the required sets of "as built" or record drawings or plans to the City for review and approval for all such public improvements. The drawings shall be certified and shall reflect the condition of the public improvements as constructed, with all changes incorporated therein.

8.6 Facilitation of the Building of Future Pedestrian Connection Improvements. The City agrees that it shall use reasonable efforts to coordinate with the owner of the Laguna Hills Mall to facilitate the potential future building of a pedestrian connection between the northwest corner of the Property to the existing transit station and a pedestrian connection from the Property's west vehicular entry point to the Laguna Hills Mall.

SECTION 9 DEDICATIONS AND EXACTIONS

9.1 Dedications In Conjunction With Public Improvements. Right-of-way or property for required public improvements shall be irrevocably offered for dedication as required by the Phase 1 Project Approvals. These dedications shall be in fee or as an easement at the discretion of City. The City may accept the Owner's offer of dedication upon Owner's completion and acceptance by City of the associated improvements in compliance with the specifications as approved by City. Nothing contained in this Development Agreement, however, shall be deemed to preclude City from exercising the power of eminent domain with respect to the Property or the Project, or any part thereof.

9.2 Dedication for Public Roadway and Signalized Intersection at Laguna Hills Mall. In order to accommodate the potential need for a future public roadway along the southerly property line of the Laguna Hills Mall ("Mall") and a signalized intersection at the west vehicular entry point to the Mall, Owner shall irrevocably offer to dedicate real property needed for such public roadway and traffic signal improvements, as more particularly described and depicted on the vesting tentative map approved pursuant to the Phase 1 Project Approvals. If City accepts the irrevocable offer to dedicate while the Development Agreement is still in effect, Owner agrees to contribute Owner's fair share, as determined by the City in its reasonable discretion, of the cost of signal improvements for one signal for the future public roadway described above, not to exceed fifty percent (50%) of such estimated cost. Owner shall deposit said fair share of the estimated cost with City within one hundred twenty (120) days of written demand from City. If Owner's fair share of the actual cost to construct the signal improvements exceeds the amount of Owner's deposit, Owner shall deposit the difference with City within thirty (30) days of receipt of written notice and an accounting from City. If Owner's fair share of the actual cost to construct the signal improvements is less than the amount of Owner's deposit, City shall refund the difference to Owner.

9.3 Dedication for New Curb Line, Landscaped Parkway, and Sidewalk Along Avenida de la Carlota. Owner shall dedicate to City the real property necessary for the new curb line, six (6) foot wide landscaped parkway space, and a minimum six (6) foot wide sidewalk along the entire Property frontage of Avenida de la Carlota, as further described in Section 7.2. Such dedication shall be made pursuant to the vesting tentative map approved pursuant to the Phase 1 Project Approvals.

9.4 Dedication Associated with New Southerly Entrance to Property. Owner shall dedicate to City the real property necessary for street and highway and incidental purposes associated with Owner's construction of the southerly entrance to the Project. Such dedication shall be made pursuant to the vesting tentative map approved pursuant to the Phase 1 Project Approvals.

9.5 Vacation of Portion of Public Driveway Accessing Avenida de la Carlota. The Parties acknowledge that the existing driveway providing ingress and egress to the Property from Avenida de la Carlota includes property dedicated as public right of way, and that, as part of the Project, Owner intends to relocate said driveway. Subject to limitation by applicable legal and regulatory authority, upon Owner's completion of relocation of the driveway to the reasonable satisfaction of the City Engineer, in his sole discretion, City agrees to institute proceedings to

vacate that portion of the public right of way over the existing driveway determined by the City to no longer be necessary for public use and to promptly pursue such proceedings to a final decision. Upon completion of said vacation proceedings and vacation of the applicable portion of public right of way, City shall convey such portion of the former public right of way at no cost to Owner, which conveyance may be executed by City's City Manager.

SECTION 10 FEES

10.1 Development Fees Applicable to the Project. Owner shall pay all existing impact and development fees applicable to the Project on the Development Agreement Date charged by City for the purpose of defraying all or a portion of the cost of public facilities related to development of the Project ("Development Fees"). All Development Fees applicable to the Project are listed in **Exhibit B** to this Development Agreement.

The Parties acknowledge that the following fees, taxes, and charges do not constitute Development Fees and that nothing in this Development Agreement is intended or shall be construed to release Owner from the obligation to pay these fees, taxes, and charges, including increases, if and when they become due:

(a) City's normal fees for processing, environmental assessment and review, tentative tract and parcel map review, plan checking, site review and approval, administrative review, building permit, grading permit, inspection, and similar fees imposed to recover City's costs associated with processing, reviewing, and inspecting project applications, plans, and specifications; and

(b) Fees and charges levied by any other public agency, utility, district, or joint powers authority, regardless of whether City collects those fees and charges; and

(c) Community facility district special taxes or special district assessments or similar assessments, business license fees, bonds or other security required for public improvements, sales taxes, property taxes, sewer lateral connection fees, water service connection fees, new water meter fees, and the property development tax payable under the Laguna Hills Municipal Code.

10.2 Fees Applicable for Modified Development Approvals. Notwithstanding Section 10.1 of this Development Agreement, if and to the extent that the Development Approvals applicable to the Property are amended after the Development Agreement Date and Owner is authorized under the modified Development Approvals to develop any additional density or intensity of use beyond what is allowed as of the Development Agreement Date, City shall retain the right to require Owner to pay all City fees for such additional density or intensity of use to the extent such fees would be applicable in the absence of this Development Agreement.

10.3 Public Park In-lieu Fees. Owner hereby agrees that Chapter 8-06 of the Laguna Hills Municipal Code pertaining to park dedication and in-lieu fee requirements shall apply to both Phase 1 and Phase 2 of the Project, regardless of whether Owner proposes a subdivision map for each Phase. Accordingly, as part of the Development Fees applicable to the Project pursuant to this Development Agreement, Owner hereby agrees to, and shall, pay City a public park in-lieu fee of Seven Thousand Three Hundred Ninety Two Dollars (\$7,392.00) for each

residential unit constructed as part of the Project, which amount the Parties agree is the applicable per dwelling unit fee calculated pursuant to Chapter 8-06 of the Laguna Hills Municipal Code. Said fee shall be paid on a per unit basis at the time of filing of the final map or, if no final map is filed, prior to issuance of a building permit for each residential unit.

10.4 Phase 2 Retail Loss Impact Fee. Owner understands and agrees that Owner's commitment to timely construct such additional new retail space necessary to result in a minimum of 125,000 total aggregate square feet of retail space on the Property is a material inducement to City's agreement to permit Owner to demolish existing retail space and construct additional residential units on the Property in Phase 2, and that Owner's failure to complete construction of all such additional new retail space prior to completion of the additional Phase 2 residential units will result in the loss of future revenue to City necessary to offset the costs of certain City services required by the Project that are not otherwise being reimbursed to City. Accordingly, as security for Owner's commitment to construct such additional new retail space in Phase 2, prior to issuance of the first residential Certificate of Occupancy for Phase 2 for any portion of Phase 2, Owner shall provide security to the City in the amounts and forms described below.

10.4.1 Amount of Security. Owner shall provide security to the City in an amount equal to the present value of the aggregate "Projected Annual City Sales Tax Revenue" anticipated to be generated by the "Retail Square Footage Deficit" over a twenty (20) year period commencing on January 1st of the calendar year in which the "Phase 2 Retail Commencement Date" occurs, where:

(a) the assumed present value interest factor / discount rate is four percent (4.0%);

(b) "Projected Annual City Sales Tax Revenue" is assumed to equal three dollars (\$3.32) per square foot of retail space as of 2012 and to increase at a rate of two and one-half percent (2.5%) per year thereafter; and

(c) the "Retail Square Footage Deficit" is an amount of retail space equal to (1) 125,000 square feet, minus (2) the total square feet of additional new retail space anticipated to be constructed within one or more residential/retail mixed use structures in Phase 2 pursuant to the Subsequent Development Approvals, minus (3) the difference between (i) the actual total square feet of usable retail space existing on the Property as of the date the City issues the first building or demolition permit for any portion of Phase 2 and (ii) the total square feet of retail space anticipated to be demolished in Phase 2 pursuant to the Subsequent Development Approvals; and

(d) the "Phase 2 Commencement Date" is the date that is the earlier of (i) the date the City issues the first residential Certificate of Occupancy for Phase 2, or (ii) the date that is thirty (30) months after the date the City issues the first building or demolition permit for any portion of Phase 2.

10.4.2 Minimum Cash Deposit. Prior to issuance of the first residential Certificate of Occupancy for Phase 2, Owner shall provide a deposit to City, in immediately payable funds, of

a portion of the required security in an amount at least equal to the present value of the aggregate "Projected Annual City Sales Tax Revenue" anticipated to be generated by the "Retail Square Footage Deficit" over a five (5) year period commencing on January 1st of the calendar year in which the Phase 2 Commencement Date occurs. City shall place said deposit in a separate dedicated account and not commingle the funds with other funds of the City.

10.4.3 Alternative Security Instrument for Remaining Security Amount. Prior to issuance of the first residential Certificate of Occupancy for Phase 2, Owner shall provide City with a security instrument acceptable to City in its sole discretion, naming City as beneficiary, which guarantees payment to City upon demand of that additional amount of the required security due from Owner to City pursuant to Section 10.4.1 not included in the cash deposit described in Section 10.4.2. Such security instrument may be in the form of a letter of credit from a surety or financial institution acceptable to City, or such other type of security instrument deemed acceptable by City in its sole discretion. The terms and conditions of any letter of credit or other security instrument provided by Owner shall be subject to approval of City in its sole and absolute discretion.

10.4.4 Forfeiture of Security Due to Owner's Failure to Timely Construct Additional New Retail Space. If, prior to the earlier to occur of (i) expiration of the Term of this Development Agreement or (ii) the five (5) year anniversary of the date the Phase 2 Project Approvals are approved by the City, Owner has not obtained final certificates of occupancy for all new retail structures necessary to cause the total aggregate retail space actually existing on the Property (excluding any retail structures anticipated to be, but not yet, demolished) to equal at least 125,000 square feet, Owner shall forfeit the full amount of the security required to be provided pursuant to Section 10.4.1, City shall be entitled to retain the entire cash deposit provided by Owner pursuant to Section 10.4.2, and City shall be entitled to demand and retain payment from the surety or financial institution pursuant to the letter of credit or other security instrument provided by Owner pursuant to Section 10.4.3.

10.4.5 Partial Refund of Security to Owner. If, prior to the earlier to occur of (i) expiration of the Term of this Development Agreement or (ii) the five (5) year anniversary of the date the Phase 2 Project Approvals are approved by the City, Owner has obtained final certificates of occupancy for all new retail structures necessary to cause the total aggregate retail space actually existing on the Property (excluding any retail structures anticipated to be, but not yet, demolished) to equal at least 125,000 square feet, City shall take the following actions:

(a) City shall release the letter of credit or other security instrument provided by Owner pursuant to Section 10.4.3;

(b) City shall retain a portion of the cash deposit provided by Owner pursuant to Section 10.4.2 in an amount equal to the present value of the aggregate "Projected Annual City Sales Tax Revenue" anticipated to be generated by the "Retail Square Footage Deficit" over the period of time commencing on January 1st of the calendar year in which the Phase 2 Commencement Date occurs and running for a length of time equal to the number of days that elapse between the Phase 2 Commencement Date and the date Owner obtains a final certificate of occupancy for the retail structure or structures, which cause(s) the total aggregate retail space existing on the Property (excluding any retail

structures anticipated to be, but not yet, demolished) to equal at least 125,000 square feet; and

(c) City shall refund to Owner the portion of the cash deposit not retained by City pursuant to Section 10.4.5(b).

10.4.6 Phase 2 Retail Loss Impact Fee. Owner and City hereby agree that the amounts authorized to be retained by City pursuant to Sections 10.4.4 and 10.4.5, above, are intended to offset the costs of certain City services required by the Project that are not otherwise being reimbursed to City and shall be referred to collectively in this Development Agreement as the "Phase 2 Retail Loss Impact Fee."

10.4.7 Examples. For purposes of illustration and reference, depictions of the calculations of the amount of security that would be required and the amount of the Phase 2 Retail Loss Impact Fee pursuant to this Section 10.4 under various hypothetical circumstances are set forth in **Exhibit G** to this Development Agreement. The Projected Annual City Sales Tax Revenue per year and the Net Present Value multipliers to be used in calculating the amount of the required security and the Phase 2 Retail Loss Impact Fee pursuant to this Section 10.4 shall be those set forth in **Exhibit G**.

10.4.8 Survival of Termination of Development Agreement. Notwithstanding any other provision of this Development Agreement, to the extent, and for the period, necessary to implement the provisions hereof, this Section 10.4 shall survive termination of this Development Agreement and remain enforceable and executory by the Parties notwithstanding termination of the remainder of this Development Agreement.

SECTION 11 EXISTING USES

City and Owner agree that those existing legally established uses on the Property may be retained until the Project is implemented.

SECTION 12 FUTURE APPROVALS

12.1 Basis for Denying or Conditionally Granting Future Approvals. Before Owner can begin grading on the Property or other development of the Property, Owner must secure additional permits and/or approvals from City. The Parties agree that for Development of Phase 1 of the Project, only Ministerial Approvals are required. The Parties agree that to the extent said Development Approvals are Ministerial in nature, City shall not, through the enactment or enforcement of any subsequent ordinances, rules, regulations, initiatives, policies, requirements, guidelines, or other constraints, withhold such approvals as a means of blocking construction or of imposing conditions on the Project which were not imposed during an earlier approval period unless City has been ordered to do so by a court of competent jurisdiction. Notwithstanding the previous sentence, City and Owner will use reasonable efforts to ensure each other that all applications for and approvals of all required permits, or other Development Approvals, necessary for Owner to develop the Project in accordance with this Development Agreement are sought and processed in a timely manner.

12.2 Standard of Review. Except as otherwise provided under the terms of this Development Agreement, the rules, regulations and policies that apply to any Subsequent Development Approvals which Owner must secure prior to the Development of the Property shall be the Existing Land Use Regulations, as defined in this Development Agreement.

SECTION 13 AMENDMENT

13.1 Initiation of Amendment. Either party may propose an amendment to this Development Agreement.

13.2 Procedure. The procedure for proposing and adopting an amendment to this Development Agreement shall be the same as the procedure required for entering into this Development Agreement in the first instance.

13.3 Consent. Except as provided elsewhere within this Development Agreement, any amendment to this Development Agreement shall require the consent of both Parties. No amendment of this Development Agreement or any provision hereof shall be effective unless set forth in writing and signed by duly authorized representatives of each party hereto.

13.4 Effect of Amendment to Development Agreement. The Parties agree that except as expressly set forth in any such amendment, an amendment to this Development Agreement will not alter, affect, impair, modify, waive or otherwise impact any other rights, duties or obligations of either party under this Development Agreement.

13.5 Operating Memoranda. The provisions of this Development Agreement require a close degree of cooperation and flexibility between the City and Owner. The Development of the Property may demonstrate that clarifications or modifications to this Development Agreement and the Existing Land Use Regulations are appropriate with respect to the details of performance of the City and Owner. To the extent allowable by law, Owner shall retain a certain degree of flexibility as provided herein with respect to all matters, items and provisions covered in general under this Development Agreement. When and if the Owner finds it necessary or appropriate to make changes, adjustments or clarifications to matters, items or provisions, the Parties shall effectuate such changes, adjustments or clarifications through operating memoranda ("Operating Memoranda") approved by the Parties in writing which reference this Section 13.5. Operating Memoranda are not intended to constitute either a substantive change or an amendment to this Development Agreement, but are ministerial clarification; therefore public notices and hearings shall not be required. Operating Memoranda may be used and thus deemed non-substantive and/or procedural if they do not result in, for example: i) a material changes in fees or costs; ii) an increase in density or intensity of use; iii) a change in permitted uses; iv) an increase in the maximum height and size of buildings; v) a decrease in the amount of land to be dedicated for public purposes; or vi) the reduction of improvement and construction standards and specifications for the Project. The City Attorney shall be authorized, upon consultation with, and approval of, the Owner, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute either a substantive change or an amendment to this Agreement which requires compliance with the provisions of Section 13.2 of this Development Agreement.

SECTION 14 NON-CANCELLATION OF RIGHTS

Subject to defeasance pursuant to Sections 2, 5.4.1, 20, 21 or 22 of this Development Agreement, the Development Approvals as provided for in this Development Agreement shall be final and the rights once granted thereby shall be vested in the Property upon recordation of this Development Agreement.

SECTION 15 UNDERTAKINGS AND ASSURANCES CONTEMPLATED AND PROMOTED BY DEVELOPMENT AGREEMENT STATUTE

The mutual undertakings and assurances described above and provided for in this Development Agreement are for the benefit of City and Owner and promote the comprehensive planning, private and public cooperation and participation in the provision of public facilities, and the effective and efficient development of infrastructure and facilities supporting development which was contemplated and promoted by the Development Agreement Statute. City agrees that it will not take any actions which are intended to circumvent this Development Agreement; provided, however, that any action of the electorate shall not be deemed an action for purposes of this Section.

SECTION 16 RESERVED AUTHORITY

16.1 Reservation of Authority With Respect to Subsequent Development Approvals. Owner expressly understands and agrees that all Subsequent Development Approvals (including all Development Approvals required for Phase 2) shall be subject to review by the City pursuant to CEQA. Notwithstanding any other provision set forth in this Development Agreement to the contrary, City reserves the right after the Development Agreement Date to exercise the same degree of discretion and control in its consideration of Subsequent Development Approvals that it would have in the absence of this Agreement to impose conditions under CEQA, and other applicable laws and regulations that apply to all similar development throughout the City in order to mitigate the Project's impact on the environment.

16.2 State and Federal Laws and Regulations. In the event that the State or Federal laws or regulations enacted after this Development Agreement has been entered into prevent or preclude compliance with one or more provisions of the Development Agreement, such provisions of the Development Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Development Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

16.3 Uniform Codes. This Development Agreement shall not prevent City from applying new rules, regulations and policies contained in Uniform Codes as long as adoption of the Uniform Codes applies to all development in the City.

16.4 Public Health and Safety. This Development Agreement shall not prevent City from adopting new rules, regulations and policies, including amendments or modifications to Uniform Codes described in Section 16.3 of this Development Agreement which directly result

from findings by City that failure to adopt such rules, regulations or policies would result in a condition injurious or detrimental to the public health and safety.

SECTION 17 CANCELLATION

17.1 Initiation of Cancellation. Either Party may propose cancellation of this Development Agreement.

17.2 Procedure. The procedure for proposing a cancellation of and cancelling this Development Agreement shall be the same as the procedure required for entering into this Development Agreement in the first instance. Such procedures are set forth in Section 65868 of the California Government Code.

17.3 Consent of Owner and City. Any cancellation of this Development Agreement shall require the mutual consent of Owner and City.

SECTION 18 PERIODIC REVIEW

18.1 Time for Review. In accordance with the procedures set forth in the Development Agreement Ordinance, City shall, at least every twelve (12) months after the Development Agreement Date, review the extent of good faith compliance by Owner with the terms of this Development Agreement. Such periodic review shall determine compliance with the terms of this Development Agreement pursuant to California Government Code Section 65865.1 and other successor laws and regulations. If City fails to review the Project and the Owner's compliance with the material terms of this Development Agreement, Owner will be deemed to be in compliance with the provisions of this Development Agreement, and the Development Agreement will be deemed in full force and effect. The City's failure to review the Project or Owner's compliance with the terms of the Development Agreement, or Owner's failure to submit evidence concerning its good faith compliance with the material terms of the Development Agreement as specified in Section 18.2 of this Development Agreement, shall not constitute or be asserted by either Party as a breach of the Development Agreement by the other Party.

18.2 Owner's Submission. Each year, not less than forty-five (45) days nor more than ninety (90) days prior to the anniversary of the Development Agreement Date, Owner shall submit evidence to the City's Community Development Director demonstrating its good faith compliance with the terms and conditions of this Development Agreement. Owner shall pay to City a reasonable processing fee in an amount as City may reasonably establish from time to time on each occasion that Owner submits its evidence for a periodic review.

18.3 Findings. Within sixty (60) days after the submission of Owner's evidence, the City Council shall determine, on the basis of substantial evidence, whether or not Owner has, for the period under review, complied in good faith with the terms and conditions of this Development Agreement. The burden of proof on this issue shall be on the Owner. If the City Council finds that Owner has so complied, the review for that period shall be deemed concluded. If the City Council finds and determines, on the basis of substantial evidence, that Owner has not complied in good faith with the terms and conditions of this Development Agreement for the period under review, Owner shall be deemed to be in default of the Development Agreement, and City may proceed in accordance with Section 19.1.

18.4 Initiation of Review by City. In addition to the periodic review set forth in this Development Agreement, the City may at any time initiate a review of this Development Agreement upon the giving of written notice thereof to Owner. Within thirty (30) days following receipt of such notice, Owner shall submit evidence to the City's Community Development Director of Owner's good faith compliance with this Development Agreement and such review and determination shall proceed in the manner as otherwise provided in this Development Agreement.

SECTION 19 EVENTS OF DEFAULT

19.1 Defaults by Owner. If the City Council finds and determines, on the basis of substantial evidence, that Owner has not complied in good faith with the terms and conditions of this Development Agreement, City may, by written notice to Owner, specify the manner in which Owner has failed to so comply and state the steps Owner must take to bring itself into compliance. Owner shall be given at least sixty (60) days to cure such non-compliance and if the actions required to cure such non-compliance take more than sixty (60) days, then City shall give Owner additional time provided that Owner is making reasonable progress towards such end. If during the cure period, Owner fails to cure such noncompliance or is not making reasonable good faith progress towards such end, then, the City Council may, at its discretion, proceed to modify or terminate this Development Agreement or establish a time schedule for compliance in accordance with the procedures set forth in Section 20 of this Development Agreement.

19.2 Specific Performance Remedy. After implementation of the Project, Owner may be foreclosed from other choices it may have had to utilize the Property and provide for other benefits. Owner has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Development Agreement and will be investing even more significant time in implementing the Project in reliance upon the terms of this Development Agreement, and it is not possible to determine the sum of money which would adequately compensate Owner for such efforts. For the above reasons, City and Owner agree that damages would not be an adequate remedy if City fails to carry out its obligations under this Development Agreement. Therefore, specific performance of this Development Agreement is the only remedy which would compensate Owner if City fails to carry out its obligations under this Development Agreement, and City hereby agrees that Owner shall be entitled to specific performance in the event of a default by City hereunder. City and Owner acknowledge that, if Owner fails to carry out its obligations under this Development Agreement, City shall have the right to refuse to issue any permits or other approvals which Owner would otherwise have been entitled to pursuant to this Development Agreement. If City issues a permit or other approval pursuant to this Development Agreement in reliance upon a specified condition being satisfied by Owner in the future, and if Owner then fails to satisfy such condition, City shall be entitled to specific performance for the sole purpose of causing Owner to satisfy such condition. City's right to specific performance shall be limited to those circumstances set forth above, and City shall have no right to seek specific performance to cause Owner to otherwise proceed with the Development of the Project in any manner.

SECTION 20 MODIFICATION OR TERMINATION

If pursuant to Section 19.1 of this Development Agreement, City elects to modify or terminate this Development Agreement or establish a revised time schedule for compliance as herein provided, then City shall proceed as set forth in this Section.

20.1 Notice to Owner. City shall give notice to Owner of the City Council's intention to proceed to modify or terminate this Development Agreement or establish a time schedule for compliance within ten (10) days of making City's findings.

20.2 Public Hearing. The City Council shall set and give notice of a public hearing on modification, termination or a time schedule for compliance to be held within forty-five (45) days after the City Council gives notice to Owner.

20.3 Decision. The City Council shall announce its findings and decisions on whether this Development Agreement is to be terminated, how this Development Agreement is to be modified or the provisions of the Development Agreement with which Owner must comply and a time schedule therefore not more than ten (10) days following completion of the public hearing.

20.4 Standard of Review. Any determination by City to terminate this Development Agreement because Owner has not complied in good faith with the terms of this Development Agreement must be based upon a finding by the City Council, on the basis of substantial evidence, that Owner is in default and has not cured that default in the timeframe permitted by Sections 18 and 19 of this Development Agreement, as applicable.

20.5 Implementation. Amending or terminating this Development Agreement shall be accomplished by City enacting an ordinance. The ordinance shall recite the reasons which, in the opinion of City, make the amendment or termination of this Development Agreement necessary. Not later than ten (10) days following the adoption of the ordinance, one copy thereof shall be forwarded to Owner. This Development Agreement shall be terminated or this Development Agreement as modified shall become effective on the effective date of the ordinance terminating or modifying this Development Agreement.

20.6 Schedule for Compliance. Setting a reasonable time schedule for compliance with this Development Agreement may be accomplished by City enacting a resolution. The resolution shall recite the reasons which, in the opinion of City, make it advisable to set a schedule for compliance and why the time schedule is reasonable. Not later than ten (10) days following adoption of the resolution, one copy thereof shall be forwarded to Owner. Compliance with any time schedule so established as an alternative to amendment or termination shall be subject to periodic review as provided in this Development Agreement and lack of good faith compliance by Owner with the time schedule shall be basis for termination or modification of this Development Agreement.

SECTION 21 ASSIGNMENT

21.1 Right to Assign. Owner shall have the right to sell, mortgage, hypothecate, assign or transfer this Development Agreement, and any and all of its rights, duties and obligations hereunder, to any person, partnership, joint venture, firm or corporation at any time during the

Term of this Development Agreement, provided that any such sale, mortgage, hypothecation, assignment or transfer must be pursuant to a sale, assignment or other transfer of the interest of Owner in the Property, or a portion thereof. In the event of any such sale, mortgage, hypothecation, assignment or transfer, (a) Owner shall notify City of such event and the name of the transferee, together with the corresponding entitlements being transferred to such transferee, and (b) the agreement between Owner and such transferee shall provide that either Owner or the transferee or both shall be liable for the performance of all obligations of Owner pursuant to this Development Agreement and the Development Approvals. Such transferee and/or Owner shall notify City in writing which entity shall be liable for the performance of such obligations, and upon the express written assumption of any or all of the obligations of Owner under this Development Agreement by such assignee, transferee or purchaser shall, without any act of or concurrence by City, relieve Owner of its legal duty to perform said obligations under this Development Agreement with respect to the Property or portion thereof, so transferred, except to the extent Owner is in default under the terms of this Development Agreement.

21.2 Release upon Transfer. It is understood and agreed by the Parties that the Property may be subdivided following the Development Agreement Date. One or more of such subdivided parcels may be sold, mortgaged, hypothecated, assigned or transferred to persons for development by them in accordance with the provisions of this Development Agreement. Effective upon such sale, mortgage, hypothecation, assignment or transfer, the obligations of Owner shall become several and not joint. Upon the sale, transfer, or assignment of Owner's rights and interests under this Development Agreement as permitted pursuant to Section 21.1 of this Development Agreement, Owner shall be released from its obligations under this Development Agreement with respect to the Property, or portion thereof so transferred, provided that (a) Owner is not then in default under this Development Agreement, (b) Owner has provided to City the notice of such transfer specified in Section 21.1 of this Development Agreement, and (c) the transferee executes and delivers to City a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all the obligations of Owner under this Development Agreement and the Development Approvals with respect to the property, or portion thereof, so transferred. Non-compliance by any such transferee with the terms and conditions of this Development Agreement shall not be deemed a default hereunder or grounds for termination hereof or constitute cause for City to initiate enforcement action against the other Party or persons then owning or holding interest in the Property or any portion thereof and not themselves in default hereunder. The provisions of this Section shall be self-executing and shall not require the execution or recordation of any further document or instrument. Any and all successors, assigns and transferees of Owner shall have all of the same rights, benefits and obligations of Owner as used in this Development Agreement and the term "Owner" as used in this Development Agreement shall refer to any such successors, assigns and transferees unless expressly provided herein to the contrary.

SECTION 22 GENERAL

22.1 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes of beyond

the party's control. If any such events shall occur, the Term of this Agreement and the time for performance by either party of any of its obligations hereunder shall be extended for the period of time that any such events exist and/or delay or prevent performance of such obligations, provided the notice is timely given pursuant to this Section 22.1. Owner shall give notice to City of any delay which Owner believes to have occurred as a result of the occurrence of any of the events described in Section 22.1. For delays of six months or longer, this notice shall be given within a reasonable time after Owner becomes aware that the delay has lasted six (6) months or more. In no event, however, shall notice of a delay of any length be given later than thirty (30) days after the end of the delay or thirty days before the end of the Term, whichever comes first. In addition to the foregoing, any litigation filed attacking City's approval of the Development Approvals or this Development Agreement shall toll the expiration date of this Development Agreement and all Development Approvals for the length of time such litigation is pending until it is finally resolved.

22.2 Construction of Development Agreement. The language in all parts of this Development Agreement shall in all cases, be construed as a whole and in accordance with its fair meaning. The captions of the paragraphs and subparagraphs of this Development Agreement are for convenience only and shall not be considered or referred to in resolving questions of constructions. This Development Agreement shall be governed by the laws of the State of California. The Parties understand and agree that this Development Agreement is not intended to constitute, nor shall it be construed to constitute, an impermissible attempt to contract away the legislative and governmental functions of City, and in particular, City's police powers. In this regard, the Parties understand and agree that this Development Agreement shall not be deemed to constitute the surrender or abnegation of City's governmental powers over the Property.

22.3 Severability. If any provision of this Development Agreement shall be adjudged to be invalid, void or unenforceable, such provision shall in no way affect, impair or invalidate any other provision hereof, unless such judgment affects a material part of this Development Agreement, the Parties hereby agree that they would have entered into the remaining portions of this Development Agreement not adjudged to be invalid, void or illegal. In the event that all or any portion of this Development Agreement is found to be unenforceable, this Development Agreement or that portion which is found to be unenforceable shall be deemed to be a statement of intention by the Parties; and the Parties further agree that in such event they shall take all steps necessary to comply with such public hearings and/or notice requirements as may be necessary in order to make valid this Development Agreement or that portion which is found to be unenforceable. Notwithstanding any other provisions of this Development Agreement, in the event that any material provision of this Development Agreement is found to be unenforceable, void or voidable, Owner or City may mutually agree to terminate this Development Agreement in accordance with the provisions of the Development Agreement Statute.

22.4 Cumulative Remedies. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including suits for declaratory relief, specific performance, relief in the nature of mandamus and actions for damages. All of the remedies described above shall be cumulative and not exclusive of one

another, and the exercise of anyone or more of the remedies shall not constitute a waiver or election with respect to any other available remedy.

22.5 Indemnification. Owner agrees to, and shall, to the fullest extent permitted by law, defend (with legal counsel approved or selected by City and at Owner's sole cost and expense), indemnify and hold City and City's elective and appointive councils, boards, commissions, officers, officials, agents, representatives and employees harmless from any liability for damages or claims for damage for personal injury, including death, and from claims for property damage which may arise from the construction activities of Owner or Owner's contractors, subcontractors, agents, or employees which relate to the Project whether such activities be by Owner, or by any of Owner's contractors, subcontractors, or by anyone or more persons directly or indirectly employed by, or acting as agent for Owner or any of Owner's contractors or subcontractors. Additionally, Owner agrees to, and shall, to the fullest extent permitted by law, defend (with legal counsel approved or selected by City and at Owner's sole cost and expense), indemnify, and hold harmless City and City's elective and appointive councils, boards, commissions, officers, officials, agents, representatives and employees from and against each and every claim, action, proceeding, cost, fee, legal cost, damage, award or liability of any nature whatsoever arising out of City's approval of or its performance under this Development Agreement and/or the Development Approvals. City may in its discretion participate in the defense of any such legal action. The provisions of this Subsection shall not be binding on Owner to the extent the liability arises out of the gross negligence or willful misconduct of City, or its elective and appointive councils, boards, commissions, officers, officials, agents, representatives or employees. Owner's indemnity obligations set forth in this Development Agreement shall survive termination of this Development Agreement.

22.6 Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Development Agreement and/or the Development Approvals, the Parties hereby agree to cooperate fully with each other in defending said action and the validity of each provision of this Development Agreement; however, it is expressly understood and agreed to by Owner that Owner shall be solely liable for all legal expenses and costs incurred in defending any such action. City shall have the right to approve or select legal counsel to defend against any such legal action. Owner shall pay any attorneys' fees awarded against City or Owner, or both, resulting from any such legal action. Owner shall be entitled to any award of attorneys' fees arising out of any such legal action.

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

22.8 Initiative Measures. Both City and Owner intend that this Development Agreement is a legally binding contract which will supersede any initiative, measure, moratorium, referendum, statute, ordinance or other limitation (whether relating to the rate, timing or sequencing of the Development or construction of all or any part of the Project and whether enacted by initiative or otherwise) affecting parcel or subdivision maps (whether tentative, vesting tentative or final), building permits, occupancy certificates or other entitlements to use approved, issued or granted within City, or portions of City, and which

Agreement shall apply to the Project to the extent such initiative, measure, moratorium, referendum, statute, ordinance or other limitation is inconsistent or in conflict with this Development Agreement. Should an initiative, measure, moratorium, referendum, statute, ordinance, or other limitation be enacted by the citizens of City which would preclude construction of all or any part of the Project, and to the extent such initiative, measure, moratorium, referendum, statute, ordinance or other limitation be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of this Development Agreement, Owner shall have no recourse against City pursuant to the Development Agreement, but shall retain all other rights, claims and causes of action under this Development Agreement not so invalidated and any and all other rights, claims and causes of action at law or in equity which Owner may have independent of this Development Agreement with respect to the Project. The foregoing shall not be deemed to limit Owner's right to appeal any such determination that such initiative, measure, referendum, statute, ordinance or other limitation invalidates or prevails over all or any part of this Development Agreement. City agrees to cooperate with Owner in all reasonable manners in order to keep this Development Agreement in full force and effect, provided Owner shall reimburse City for its out-of-pocket expenses incurred directly in connection with such cooperation and City shall not be obligated to institute a lawsuit or other court proceedings in this connection.

22.9 Attorneys' Fees. In the event of any dispute between the Parties involving the covenants or conditions contained in this Development Agreement, the prevailing party shall be entitled to recover reasonable expenses, attorneys' fees and costs.

22.10 No Waiver. No delay or omission by either party in exercising any right or power accruing upon non-compliance or failure to perform by the other party under any of the provisions of this Development Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of any of the covenants or conditions to be performed by the other party shall not be construed as a waiver of any succeeding breach of nonperformance of the same or other covenants and conditions hereof.

22.11 Authority to Execute. The person executing this Development Agreement on behalf of Owner represents and warrants that he/she has the authority to execute this Development Agreement on behalf of his/her partnership and represents and warrants that he/she has the authority to bind Owner to the performance of Owner's obligations hereunder.

22.12 Notice.

22.12.1 To Owner. Any notice required or permitted to be given by City to Owner under or pursuant to this Development Agreement shall be deemed sufficiently given if in writing and delivered personally to an officer of Owner or mailed with postage thereon fully prepaid, registered or certified mail, return receipt requested, addressed; to Owner as follows:

Laguna Hills Investment Company
3425 Via Lido, Suite 250
Newport Beach, California 92663
Attn: Ryan Jones

With copies to:

Fritz Duda Company
The Berkshire at Preston Center
5950 Berkshire Lane
Suite 800
Dallas, TX 75225
Attn: Chief Financial Officer

and

Allen Matkins Leck Gamble Mallory & Natsis LLP
1900 Main Street, 5th Floor
Irvine, CA 92614
Attn: John Condas

or such changed address as Owner shall designate in writing to City.

22.12.2 To City. Any notice required or permitted to be given to City under or pursuant to this Development Agreement shall be made and given in writing, if by mail addressed to:

City Manager
City of Laguna Hills
24035 El Toro Road
Laguna Hills, California 92653

With copies to:

City Attorney
City of Laguna Hills
24035 El Toro Road
Laguna Hills, California 92653

or such changed address as City shall designate in writing to Owner. Alternatively, notices to City may also be personally delivered to the City Clerk, at the Laguna Hills City Hall, 24035 El Toro Road, Laguna Hills, California 92653, together with copies marked for the City Manager and the City Attorney or, if so addressed and mailed, with postage thereon fully prepaid, registered or certified mail, return receipt requested, to the City Council in care of the City Clerk at the above address with copies likewise so mailed to the City Manager and the City Attorney, respectively and also in care of the City Clerk at the same address. The provisions of this Section shall be deemed permissive only and shall not detract from the validity of any notice given in a manner which would be legally effective in the absence of this Section.

22.13 Captions. The captions of the paragraphs and subparagraphs of this Development Agreement are for convenience and reference only and shall in no way define, explain, modify, construe, limit, amplify or aid in the interpretation, construction or meaning of any of the provisions of this Development Agreement.

22.14 Consent. Any consent required by the Parties in carrying out the terms of this Development Agreement shall not unreasonably be withheld.

22.15 Further Actions and Instruments. Each of the Parties shall cooperate with and reasonably provide to the other to the extent contemplated hereunder in the performance of all obligations under this Development Agreement and the satisfaction of the conditions of this Development 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 under the terms of this Development Agreement to carry out the intent and to fulfill the provisions of this Development Agreement or to evidence or consummate the transactions contemplated by this Development Agreement.

22.16 Subsequent Amendment to Authorizing Statute. This Development Agreement has been entered into in reliance upon the provisions of the Development Agreement Statute in effect as of the Development Agreement Date. Accordingly, to the extent that subsequent amendments to the California Government Code would affect the provisions of this Development Agreement, such amendments shall not be applicable to this Development Agreement unless necessary for this Development Agreement to be enforceable or unless this Development Agreement is modified pursuant to the provisions set forth in this Development Agreement and California Government Code Section 65868 as in effect on the Development Agreement Date.

22.17 Governing Law. This Development Agreement, including, without limitation, its existence, validity, construction and operation, and the rights of each of the Parties shall be determined in accordance with the laws of the State of California.

22.18 Effect on Title. Owner and City agree that this Development Agreement shall not continue as an encumbrance against any portion of the Property as to which this Development Agreement has terminated.

22.19 Mortgagee Protection. Entering into or a breach of this Development Agreement shall not defeat, render invalid, diminish, or impair the lien of Mortgagees having a mortgage on any portion of the Property made in good faith and for value, unless otherwise required by law. No Mortgagee shall have an obligation or duty under this Development Agreement to perform Owner's obligations, or to guarantee such performance prior to any foreclosure or deed in lieu thereof.

22.20 Notice of Default to Mortgagee, Right of Mortgagee to Cure. If the City Clerk timely receives notice from a Mortgagee requesting a copy of any notice of default given to Owner under the terms of this Development Agreement, City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Owner. The Mortgagee

shall have the right, but not the obligation, for a period up to sixty (60) days after the receipt of such notice from City to cure or remedy, or to commence to cure or remedy the default unless a further extension of time to cure is granted in writing by City. If the default is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee shall seek to obtain possession with diligence and continually through foreclosure, a receiver or otherwise, and shall thereafter remedy or cure the default or noncompliance within thirty (30) days after obtaining possession. If any such default or noncompliance cannot, with diligence, be remedied or cured within such thirty (30) day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such default or non-compliance if such Mortgagee commences cure during such thirty (30) day period, and thereafter diligently pursues and completes such cure.

22.21 Bankruptcy. Notwithstanding the foregoing provisions of Section 22.20 of this Development Agreement, if any Mortgagee is prohibited from commencing or pursuing and prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving City, the times specified in this Section for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition.

22.22 Disaffirmance.

22.22.1 New Development Agreement upon Most Senior Mortgagee's Request. City agrees that in the event of termination of this Development Agreement by reason of any default by City, or by reason of the disaffirmance hereof by a receiver, liquidator or trustee for Owner or its property, City, if requested by any Mortgagee, shall enter into a new Development Agreement for the Project with the most senior Mortgagee requesting such new agreement, for the remainder of the Term, effective as of the date of such termination, upon the terms, provisions, covenants and agreements as herein contained to the extent and subject to the law then in effect, and subject to the rights, if any, of any parties then in possession of any part of the Property, provided:

(a) The Mortgagee shall make written request upon City for the new Development Agreement for the Project within thirty (30) days after the date of termination;

(b) The Mortgagee shall pay to City at the time of the execution and delivery of the new Development Agreement for the Project expenses, including reasonable attorneys' fees, to which City shall have been subjected by reason of Owner's default; and

(c) The Mortgagee shall perform and observe all covenants herein contained on Owner's part to be performed, and shall further remedy any other conditions which Owner under the terminated agreement was obligated to perform under its terms, to the extent the same are curable or may be performed by the Mortgagee.

22.22.2 New Development Agreement Not Required. Nothing herein contained shall require any Mortgagee to enter into a new Development Agreement pursuant to

Section 22.22.1 of this Development Agreement, nor to cure any default of Owner referred to above.

22.23 No Third Party Beneficiaries. This Development Agreement and all provisions hereof is made and entered into for the sole protection and benefit of City, Owner and their successors and assigns. No other person shall have right of action based upon any provision in this Development Agreement.

22.24 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Development Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California, and the Parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

22.25 Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties hereto 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 Development Agreement. No partnership, joint venture or other association of any kind is formed by this Development Agreement. The only relationship between City and Owner is that of a government entity regulating the development of private property and the owner of such private property.

22.26 Restrictions. Owner shall place in any agreements to sell or convey any interest in the Property or any portion thereof, provisions making the terms of this Development Agreement binding on any successors in interest of Owner and express provision for Owner or City, acting separately or jointly, to enforce the provisions of this Development Agreement and to recover attorneys' fees and costs for such enforcement.

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

22.28 Recording. The City Clerk shall cause a copy of this Development Agreement to be executed by City and recorded in the Official Records of Orange County no later than ten (10) days after the Development Agreement Date.

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

22.30 Successors and Assigns. The burdens of the Development Agreement shall be binding upon, and the benefits of the Development Agreement inure to all successors in interest and assigns of the Parties to the Development Agreement.

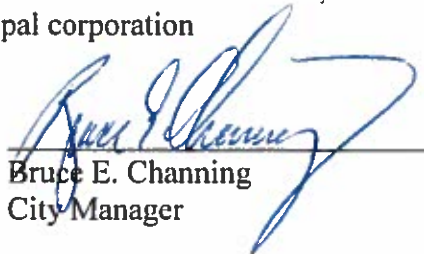
22.31 Exhibits. All exhibits, including attachments thereto, are incorporated in this Development Agreement in their entirety by this reference.

IN WITNESS WHEREOF, City and Owner have executed this Development Agreement as of the date and year first above written.

"CITY"

CITY OF LAGUNA HILLS, a California
municipal corporation

By:


Bruce E. Channing
City Manager

"OWNER"

LAGUNA HILLS INVESTMENT
COMPANY, a Delaware limited partnership

By: FRITZ DUDA COMPANY, a Texas
Corporation

Its General Partner

By:


Fritz L. Duda
President

By:

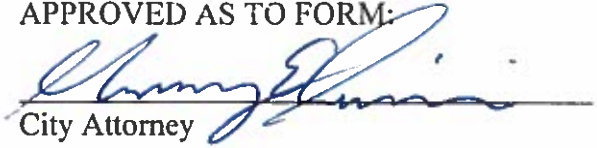
Name:

Title:

ATTEST:


Peggy J. Johns
City Clerk

APPROVED AS TO FORM:


City Attorney

All signatures to be acknowledged by a Public Notary

STATE OF CALIFORNIA

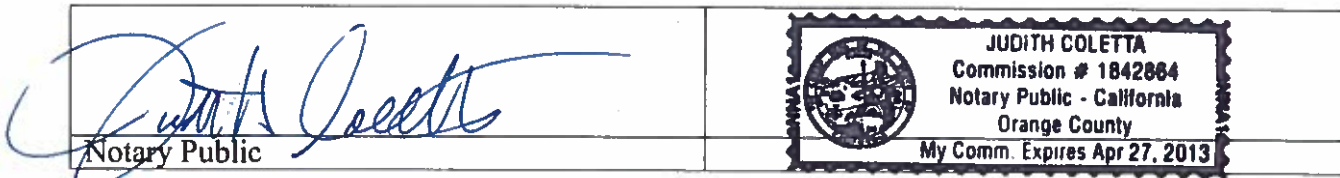
COUNTY OF ORANGE

SS

On November 6, 2012, before me, Judith Coletta, a Notary Public, personally appeared John & Susan, 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.



STATE OF CALIFORNIA

COUNTY OF ORANGE

SS

On November 27, 2012, before me, Peggy J. Johns, a Notary Public, personally appeared Bruce E. Channing, 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.



EXHIBIT A

PROPERTY DESCRIPTION

PARCELS 1 THROUGH 16 INCLUSIVE, AS SHOWN ON A MAP FILED IN BOOK 187, PAGES 42, 43 AND 44 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA. EXCEPTING ALL RIGHTS TO OIL, GAS AND OTHER HYDROCARBON AND MINERAL SUBSTANCES LYING UNDER OR THAT MAY BE PRODUCED FROM SAID LAND, WITHOUT, HOWEVER, THE RIGHT TO ENTER UPON ANY PORTION OF THE SURFACE AND 500 FEET BELOW THE SURFACE THEREOF, AS RESERVED IN DEEDS FROM GLEN E. MATHIS AND WIFE AND FIRST WESTERN BANK AND TRUST COMPANY, A CALIFORNIA CORPORATION, RECORDED JULY 28, 1972 IN BOOK 10248, PAGES 164, 167 AND 170 OF OFFICIAL RECORDS.

EXHIBIT B
DEVELOPMENT FEES

Public Park In-lieu Fees

Owner hereby agrees that Chapter 8-06 of the Laguna Hills Municipal Code pertaining to park dedication and in-lieu fee requirements shall apply to both Phase 1 and Phase 2 of the Project, regardless of whether Owner proposes a subdivision map for each Phase. Accordingly, as part of the Development Fees applicable to the Project pursuant to this Development Agreement, Owner hereby agrees to, and shall, pay City a public park in-lieu fee of Seven Thousand Three Hundred Ninety Two Dollars (\$7,392.00) for each residential unit constructed as part of the Project, which amount the Parties agree is the applicable per dwelling unit fee calculated pursuant to Chapter 8-06 of the Laguna Hills Municipal Code. Said fee shall be paid on a per unit basis at the time of filing of the final map or, if no final map is filed, prior to issuance of a building permit for each residential unit.

Urban Village Traffic Impact Mitigation Fee

Owner shall pay a traffic impact mitigation fee in accordance with Chapter 9-102 of Laguna Hills Municipal Code in the amount of Three Thousand Nine Hundred Fourteen Dollars (\$3,914.00) per each new PM peak hour trip generated as a result of the Project, as determined by the City Engineer based upon a traffic study.

Public Art / Public Art In-Lieu Fee

Owner shall furnish public art in connection with the Project, and/or pay an in-lieu fee, pursuant to the Specific Plan and other Existing Development Approvals. The Parties understand and agree that the City shall have the right to approve, in advance, the proposed type, size, art medium, location, and content of all Public Art. The Parties agree that, to the extent that the value of the public art provided and/or in-lieu fee paid by Owner for Phase 1 exceeds one-half percent (0.5%) of the total construction costs of Phase 1, as determined by the City, if Owner Develops Phase 2, Owner shall be entitled to a credit in such amount towards Owner's obligation to provide public art and/or pay an in-lieu fee pursuant to the Development of Phase 2.

Phase 2 Retail Loss Impact Fee

Owner shall pay City a Phase 2 Retail Loss Impact Fee in an amount calculated pursuant to Section 10.4 of the Development Agreement in order to offset the costs of certain City services required by the Project that are not otherwise being reimbursed to City.

EXHIBIT C

PHASE 1 SITE PLAN AND PHASE 2 BUILDING ENVELOPE

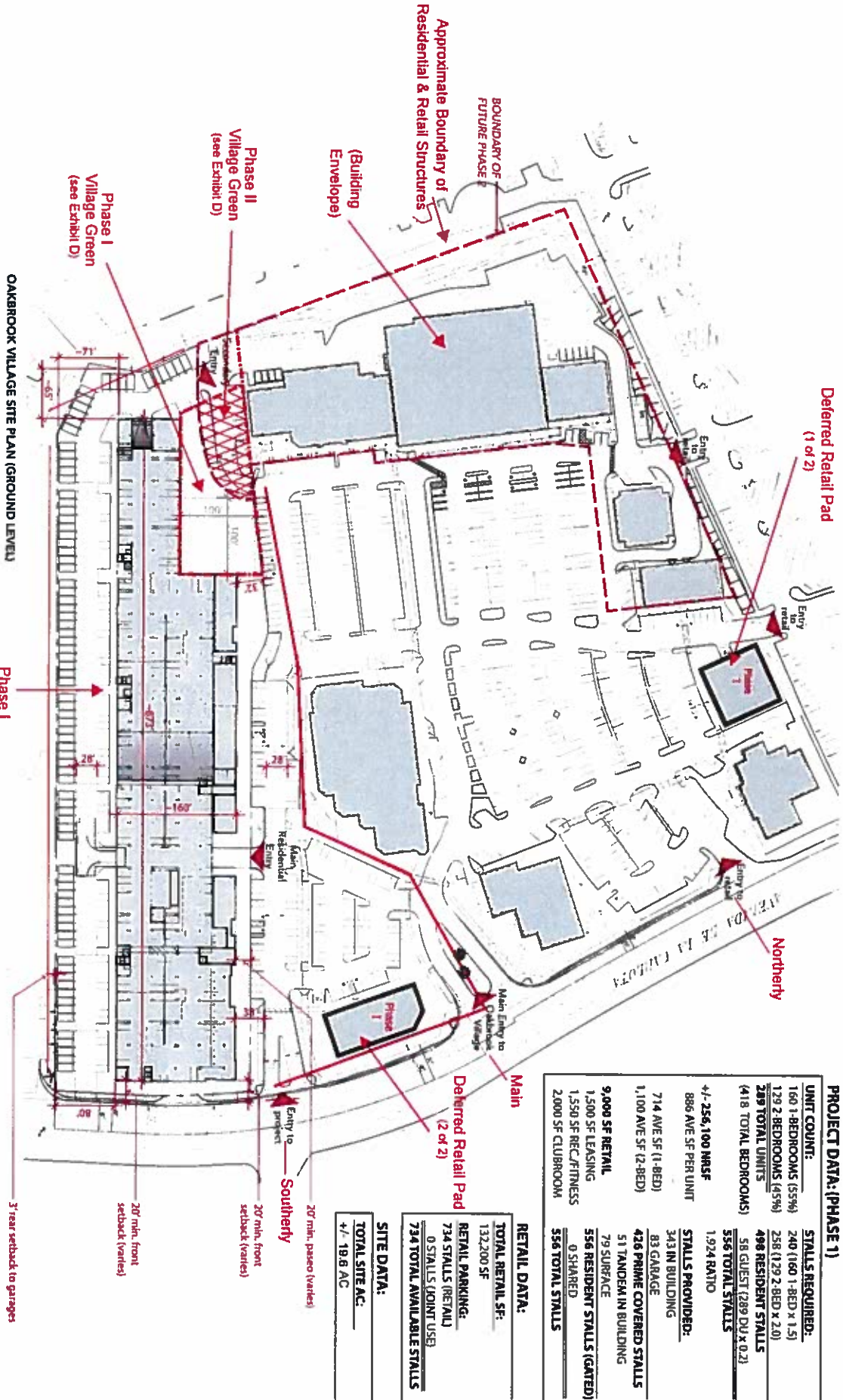
OAKBROOK VILLAGE SITE PLAN



SARPS REGIS Group



PHASE 1
TECHNICAL SITE PLAN



PROJECT DATA: (PHASE 1)

UNIT COUNT:	STALLS REQUIRED:
160 1-BEDROOMS (55%)	240 (160 1-BED x 1.5)
129 2-BEDROOMS (45%)	258 (129 2-BED x 2.0)
289 TOTAL UNITS	498 RESIDENT STALLS
(418 TOTAL BEDROOMS)	58 GUEST (289 DU x 0.2)
556 TOTAL STALLS	556 TOTAL STALLS
1,924 RATIO	
STALLS PROVIDED:	
886 AVE SF PER UNIT	343 IN BUILDING
714 AVE SF (1-BED)	83 GARAGE
1,100 AVE SF (2-BED)	426 PRIME COVERED STALLS
9,000 SF RETAIL	51 TANDEN IN BUILDING
1,500 SF LEASING	79 SURFACE
1,550 SF REC./FITNESS	556 RESIDENT STALLS (GATED)
2,000 SF CLUBROOM	0 SHARED
	556 TOTAL STALLS

RETAIL DATA:

TOTAL RETAIL SF:
132,200 SF
RETAIL PARKING:
734 STALLS (RETAIL)
0 STALLS (JOINT USE)
734 TOTAL AVAILABLE STALLS

SITE DATA:

TOTAL SITE AC:
+/- 19.8 AC

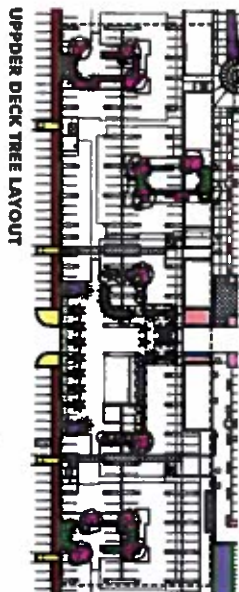
EXHIBIT D

VILLAGE GREEN FACILITIES FOR PHASE 1 AND PHASE 2

EXHIBIT E

PEDESTRIAN PASEOS DEPICTION

EXHIBIT E



JEE Lingo - Other term		
Symbol, Abbreviation	Definition	Example
	Pointing action	Point to that
	Pointing direction	Point towards
	Pointing action, together	Point together
	Pointing action	Point there
	Pointing direction	Point towards
	Pointing action	Point there
	Pointing action	Point there

JEE Lingo		
Symbol, Abbreviation	Definition	Example
	Pointing direction of action	Point there
	Pointing direction	Point towards
	Pointing to something	Point to that
	Pointing action, together	Point together
	Pointing action, together to point	Point together
	Pointing action, together to point	Point together
	Pointing action, together to point	Point together

[illegible][illegible]

The Pedestrian Paths will be designed and constructed in accordance with the Urban Village Specific Plan adopted by the City of Laguna Hills on November 28, 2002, City Council Ordinance No. 2002-8, Section III - Land Use Plan, Pedestrian Pathways.

FRITZ DUDA COMPANY
3625 Van Lido Suite 250
Newport Beach, California 92663
(949) 723-7100

0 25 50 100
SCALE: 1"=50'-0"
North
SECTION 4, 1973

EXHIBIT F

ALL REQUIRED PUBLIC IMPROVEMENTS

1. Installation, to the reasonable satisfaction of the City Engineer, of a traffic signal at the intersection of Avenida de la Carlota and the main entrance to the Project, including interconnection to the existing traffic signal at the intersection of Avenida de la Carlota and Los Alisos Boulevard via conduit and hardwire, and construction on the easterly side of Avenida de la Carlota of a public sidewalk connection to the Oakbrook Plaza office development. Said traffic signal shall be constructed to applicable State and City standards and specifications and shall be equipped with video detection and controller equipment as approved by City. The sidewalks and ramps at all corners of the newly signalized intersection and the sidewalk connection to the Oakbrook Plaza office development on the easterly side of Avenida de la Carlota shall be constructed and/or modified to conform to City and Americans With Disabilities Act ("ADA") standards.
2. Dedication of the public right-of-way necessary for, and construction of, a new curb line along the entire Property frontage of Avenida de la Carlota, including a six (6) foot wide landscaped parkway space and a minimum six (6) foot wide sidewalk, to City standards and specifications.
3. Construction of storm drain connections, and inlets, and/or other improvements necessary to eliminate all cross-gutter drainage across both the main and the northerly entrance driveway intersections with Avenida de la Carlota.
4. Installation of debris gates of the type specified by the City Engineer at all catch basin inlets along the Property frontage to Avenida de la Carlota.
5. Realignment of the intersection of the northerly entrance to the Property with Avenida de la Carlota to intersect Avenida de la Carlota at ninety (90) degrees, to the reasonable satisfaction of the City Engineer and as shown on the vesting tentative map approved as part of the Phase 1 Project Approvals.
6. Construction or reconstruction of all curb ramps on Avenida de la Carlota at each entrance to the Property to current ADA standards.
7. Construction of any and all other public improvements required to be constructed pursuant to the Existing Land Use Regulations and the conditions of approval to the Existing Development Approvals.

EXHIBIT G

PHASE 2 RETAIL LOSS IMPACT FEE EXAMPLES

Example 1

Calculation of Amount of Security

ASSUMPTIONS

Retail Square Footage Deficit	46,574	Phase 2 Commencement Date	March 1, 2024
Projected Annual City Sales Tax Revenue (including Use Tax) Per Sq. Ft. (2012 Dollars)	\$3.32	Date of Final Certificate of Occupancy for Minimum 125,000 Sq. Ft. Retail	September 1, 2027
Inflation Factor	2.50%	Time Elapsed Between March 1, 2024 and September 1, 2027	3 Years, 184 Days
Present Value Interest Factor	4.00%		

Calendar Year	Projected Annual City Sales Tax Revenue (Per Sq. Ft.)	4% Present Value Interest Factor Table (20 Years)	Discounted Projected Annual City Sales Tax Revenue (Per Sq. Ft.)	5-Year Cash Deposit Amount ^a	Alternative Security Instrument Amount ^a
2013	\$3.40				
2014	\$3.48				
2015	\$3.57				
2016	\$3.66				
2017	\$3.75				
2018	\$3.84				
2019	\$3.94				
2020	\$4.04				
2021	\$4.14				
2022	\$4.24				
2023	\$4.35				
2024	\$4.46	0.9615	\$4.29	\$199,646.98	
2025	\$4.57	0.9246	\$4.23	\$196,784.65	
2026	\$4.68	0.889	\$4.16	\$193,938.02	
2027	\$4.80	0.8548	\$4.10	\$191,139.11	
2028	\$4.92	0.8219	\$4.04	\$188,377.01	
2029	\$5.04	0.7903	\$3.99		\$185,662.74
2030	\$5.17	0.7599	\$3.93		\$182,983.99
2031	\$5.30	0.7307	\$3.87		\$180,351.44
2032	\$5.43	0.7026	\$3.82		\$177,751.19
2033	\$5.57	0.6756	\$3.76		\$175,193.46
2034	\$5.71	0.6496	\$3.71		\$172,662.54
2035	\$5.85	0.6246	\$3.65		\$170,168.02
2036	\$6.00	0.6006	\$3.60		\$167,720.12
2037	\$6.15	0.5775	\$3.55		\$165,301.08
2038	\$6.30	0.5553	\$3.50		\$162,920.32
2039	\$6.46	0.5339	\$3.45		\$160,557.78
2040	\$6.62	0.5134	\$3.40		\$158,252.71
2041	\$6.78	0.4936	\$3.35		\$155,953.21
2042	\$6.95	0.4746	\$3.30		\$153,698.90
2043	\$7.13	0.4564	\$3.25		\$151,499.97
			Subtotal	\$969,885.76	\$2,520,677.49

a. Discounted Projected City Sales Tax Revenue X Retail Square Footage Deficit

Example 1 Continued

Calculation of Phase 2 Retail Loss Impact Fee

ASSUMPTIONS

Retail Square Footage Deficit	46,574	Phase 2 Commencement Date	March 1, 2024
Projected Annual City Sales Tax Revenue (including Use Tax) Per Sq. Ft. (2012 Dollars)	\$3.32	Date of Final Certificate of Occupancy for Minimum 125,000 Sq. Ft. Retail	September 1, 2027
Inflation Factor	2.50%	Time Elapsed Between March 1, 2024 and September 1, 2027	3 Years, 184 Days
Present Value Interest Factor	4.00%		

Calendar Year	Discounted Projected Annual City Sales Tax Revenue (Per Sq. Ft.)	5-Year Cash Deposit Amount	Phase 2 Retail Loss Impact Fee	Refund to Owner
2013				
2014				
2015				
2016				
2017				
2018				
2019				
2020				
2021				
2022				
2023				
2024	\$4.29	\$199,646.98	\$199,646.98	
2025	\$4.23	\$196,784.65	\$196,784.65	
2026	\$4.16	\$193,938.02	\$193,938.02	
2027	\$4.10	\$191,139.11	\$96,355.06 ^a	
2028	\$4.04	\$188,377.01		
	Subtotal	\$969,885.76	\$ 686,724.70	\$283,161.06^b

a. $\$191,139.11 \times (184 \text{ Days} \div 365 \text{ Days}) = \$96,355.06$

b. $\$969,885.76 - \$686,724.70 = \$283,161.06$

Example 2

Calculation of Amount of Security

ASSUMPTIONS

Retail Square Footage Deficit	46,574	Phase 2 Commencement Date	January 1, 2018
Projected Annual City Sales Tax Revenue (including Use Tax) Per Sq. Ft. (2012 Dollars)	\$3.32	Date of Final Certificate of Occupancy for Minimum 125,000 Sq. Ft. Retail	November 1, 2020
Inflation Factor	2.50%	Time Elapsed Between March 1, 2024 and September 1, 2027	2 Years, 304 Days
Present Value Interest Factor	4.00%		

Calendar Year	Projected Annual City Sales Tax Revenue (Per Sq. Ft.)	4% Present Value Interest Factor Table (20 Years)	Discounted Projected Annual City Sales Tax Revenue (Per Sq. Ft.)	5-Year Cash Deposit Amount ^a	Alternative Security Instrument Amount ^a
2013	\$3.40				
2014	\$3.48				
2015	\$3.57				
2016	\$3.66				
2017	\$3.75				
2018	\$3.84	0.9615	\$3.70	\$172,154.97	
2019	\$3.94	0.9246	\$3.64	\$169,686.78	
2020	\$4.04	0.889	\$3.59	\$167,232.14	
2021	\$4.14	0.8548	\$3.54	\$164,818.66	
2022	\$4.24	0.8219	\$3.49	\$162,436.90	
2023	\$4.35	0.7903	\$3.44		\$160,096.40
2024	\$4.46	0.7599	\$3.39		\$157,786.52
2025	\$4.57	0.7307	\$3.34		\$155,516.48
2026	\$4.68	0.7026	\$3.29		\$153,274.30
2027	\$4.80	0.6756	\$3.24		\$151,068.77
2028	\$4.92	0.6496	\$3.20		\$148,886.37
2029	\$5.04	0.6246	\$3.15		\$146,735.35
2030	\$5.17	0.6006	\$3.11		\$144,624.54
2031	\$5.30	0.5775	\$3.06		\$142,538.60
2032	\$5.43	0.5553	\$3.02		\$140,485.68
2033	\$5.57	0.5339	\$2.97		\$138,448.47
2034	\$5.71	0.5134	\$2.93		\$136,460.82
2035	\$5.85	0.4936	\$2.89		\$134,477.96
2036	\$6.00	0.4746	\$2.85		\$132,534.08
2037	\$6.15	0.4564	\$2.80		\$130,637.95
2038	\$6.30				
2039	\$6.46				
2040	\$6.62				
2041	\$6.78				
2042	\$6.95				
2043	\$7.13				
			Subtotal	\$836,329.46	\$2,173,572.30

a. Discounted Projected City Sales Tax Revenue X Retail Square Footage Deficit

Example 2 Continued

Calculation of Retail Loss Impact Fee

ASSUMPTIONS

Retail Square Footage Deficit	46,574	Phase 2 Commencement Date	January 1, 2018
Projected Annual City Sales Tax Revenue (including Use Tax) Per Sq. Ft. (2012 Dollars)	\$3.32	Date of Final Certificate of Occupancy for Minimum 125,000 Sq. Ft. Retail	November 1, 2020
Inflation Factor	2.50%	Time Elapsed Between March 1, 2024 and September 1, 2027	2 Years, 304 Days
Present Value Interest Factor	4.00%		

Calendar Year	Discounted Projected Annual City Sales Tax Revenue (Per Sq. Ft.)	5-Year Cash Deposit Amount	Phase 2 Retail Loss Impact Fee	Refund to Owner
2013				
2014				
2015				
2016				
2017				
2018	\$3.70	\$172,154.97	\$172,154.97	
2019	\$3.64	\$169,686.78	\$169,686.78	
2020	\$3.59	\$167,232.14	\$139,283.76 ^a	
2021	\$3.54	\$164,818.66		
2022	\$3.49	\$162,436.90		
2023	\$3.44			
2024	\$3.39			
2025	\$3.34			
2026	\$3.29			
2027	\$3.24			
2028	\$3.20			
	Subtotal	\$836,329.46	\$481,125.51	\$355,203.95 ^b

a. $\$167,232.14 \times (304 \text{ Days} \div 365 \text{ Days}) = \$139,283.76$

b. $\$836,329.46 - \$481,125.51 = \$355,203.95$

The seal of the City of Laguna Hills is a circular emblem. It features a central illustration of a brown horse standing in a field, with a white fence and a small white building in the background. The text "CITY OF LAGUNA HILLS" is written in a circular path around the top of the seal, and "1991" is at the bottom. The seal is semi-transparent and serves as a background for the title text.

**Attachment #3
Amendment No. 1**

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:
City of Laguna Hills
c/o City Clerk
24035 El Toro Road
Laguna Hills, California 92653



NO FEE

2015000163595 11:38am 03/31/15

105 404 A17 17

0.00 0.00 0.00 0.00 48.00 0.00 0.00 0.00

(Space Above Line for Recorder's Use)
Exempt from Recorder's Fees Pursuant to
Government Code §§ 6103 and 27383

**AMENDMENT NO. 1 TO DEVELOPMENT AGREEMENT
(Oakbrook Village Shopping Center Mixed Use Project)**

BY AND BETWEEN

**THE CITY OF LAGUNA HILLS, a municipal corporation, duly organized and existing
under the Constitution and laws of the State of California**

AND

LAGUNA HILLS INVESTMENT COMPANY, a Delaware limited partnership

AND

OAKBROOK URBAN VILLAGE I, LLC, a Delaware limited liability company

THIS AMENDMENT NO. 1 TO DEVELOPMENT AGREEMENT SHALL BE RECORDED WITHIN TEN DAYS OF ITS EFFECTIVE
DATE PURSUANT TO THE REQUIREMENTS OF GOVERNMENT CODE §65868.5

1052779.5

**AMENDMENT NO. 1 TO DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF LAGUNA HILLS
AND
LAGUNA HILLS INVESTMENT COMPANY
AND
OAKBROOK URBAN VILLAGE I, LLC**

This Amendment No. 1 to Development Agreement ("Amendment No. 1") is made and entered into this 27th day of March, 2015 ("Effective Date"), by and between the City of Laguna Hills, a municipal corporation, duly organized and existing under the Constitution and laws of the State of California ("City"), on the one hand, and Laguna Hills Investment Company, a Delaware limited partnership, and Oakbrook Urban Village I, LLC, a Delaware limited liability company (collectively "Owner"), on the other hand, pursuant to the authority set forth in Article 2.5 of Chapter 4 of Division I of Title 7, Sections 65864 through 65869.5 of the California Government Code (the "Development Agreement Statute").

RECITALS

A. City is authorized, pursuant to California Government Code §§65864 through 65869.5 (the "Development Agreement Statute") and Chapter 9-84 of the Laguna Hills Municipal Code (the "Development Agreement Ordinance") to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property.

B. City and Laguna Hills Investment Company previously entered into to that certain Development Agreement, which was approved pursuant to City Council Ordinance No. 2012-4 on November 27, 2012, became effective December 28, 2012, and was recorded in the Official Records, Orange County Clerk-Recorder's Office on January 2, 2013, as Document No. 2013000002329 (the "Development Agreement"), pertaining to the redevelopment of the Oakbrook Village Shopping Center property (the "Property"), located at 24231-24391 Avenida de la Carlota in the Urban Village Specific Plan area, which is more particularly described in **Exhibit A** attached hereto, with a multi-phase, mixed-use project consisting of multi-family residential units, renovated and expanded retail uses, public open space, pedestrian pathways, and private and public infrastructure improvements (the "Project").

C. On November 27, 2012, pursuant to the California Environmental Quality Act ("CEQA"), the City Council and Planning Agency determined that the Project is within the scope of the "City of Laguna Hills General Plan Program Environmental Impact Report, June 2009, State Clearinghouse No. 20080811100" ("PEIR"), and that the Project would not result in any new significant effects that were not examined in the PEIR, a substantial increase in the severity of significant effects examined in the PEIR, or require any new mitigation measures or alternatives. The City therefore adopted Addendum to the PEIR for the Project pursuant to Public Resources Code Sections 21166, 21083.3, and CEQA Guidelines Sections 15168, 15162, 15164, and 15183. The City filed a Notice of Determination on November 28, 2012.

D. Following the approval and execution of the Development Agreement, Laguna Hills Investment Company subsequently assigned an interest in the Development Agreement to Oakbrook Urban Village I, LLC, as described and as set forth in that certain Assignment of Development Agreement dated April 24, 2014, as recorded in the Official Records, Orange County, Clerk Recorder, on April 24, 2014, bearing document number 2014000157001.

E. The Project consists of two phases. Phase 1 of the Project ("Phase 1") generally includes, without limitation: (i) the demolition of approximately 82,730 square feet of the approximately 190,956 square feet of existing retail space on the Property; (ii) the construction of the "Deferred Retail Pads" (as defined in Section 1.4 of the Development Agreement) and approximately 9,000 square feet of additional new retail space, resulting in approximately 132,200 square feet, and no less than a minimum of 124,000 square feet of retail space on the Property; (iii) the renovation of the façades of all remaining retail structures located on the Property other than restaurant Buildings D and E (Lone Star and El Torito); (iv) the construction of a maximum of 289 multi-family residential units; and (v) the construction of the "Phase 1 Public Improvements" (as defined in Section 1.25 of the Development Agreement).

F. The Phase 1 Public Improvements consist of several improvements, including, without limitation: (i) the construction of an approximately 17,000 square foot Village Green; (ii) the construction of an east-west pedestrian paseo; (iii) the construction of an improved north-south pedestrian paseo; (iv) the construction of a hillside pedestrian paseo connecting the north-south pedestrian paseo with the adjacent property occupied by the Laguna Hills Mall; (v) the construction of a pedestrian trail along the north Property line; (vi) the construction of two parking lot paseos; (vii) the construction of various pedestrian connections between all buildings; (viii) the installation of a traffic signal at the intersection of Avenida de la Carlota and the main entrance to the Property, including interconnection to the existing traffic signal at the intersection of Avenida de la Carlota and Los Alisos Boulevard, and construction on the easterly side of Avenida de la Carlota of a public sidewalk connection to the Oakbrook Plaza office development; (ix) dedication of the public right-of-way necessary for, and construction of, a new curb line along the entire Property frontage of Avenida de la Carlota, including a six (6) foot wide landscaped parkway space and a minimum six (6) foot wide sidewalk; (x) construction of storm drain connections, inlets, and/or other improvements necessary to eliminate all cross-gutter drainage across both the main and the northerly entrance driveway intersections with Avenida de la Carlota; (xi) the installation of debris gates at all catch basin inlets along the Property frontage to Avenida de la Carlota; (xii) the realignment of the intersection of the northerly entrance to the Property with Avenida de la Carlota; (xiii) the construction or reconstruction of all curb ramps on Avenida de la Carlota at each entrance to the Property to current Americans with Disability Act ("ADA") standards; and (xiv) construction of any and all other public improvements required to be constructed pursuant to the Existing Land Use Regulations and the conditions of approval to the Existing Development Approvals.

G. Section 5.4.1 of the Development Agreement provides, in part, that, except as otherwise expressly provided in the Development Agreement, Owner (i) shall have obtained all applicable grading, encroachment, building, demolition, and similar permits for Development of all portions of Phase 1 of the Project within two (2) years of the Development Agreement Date

(i.e., December 28, 2014), and (ii) shall have completed Development of all portions of Phase 1 of the Project within five (5) years of the Development Agreement Date (i.e., December 28, 2017). Section 5.4.3 of the Development Agreement provides that, notwithstanding Section 5.4.1 of the Development Agreement, Owner shall not be obligated to commence the Phase 1 Public Improvements within two (2) years of the Development Agreement Date; however, with the exception of the Village Green, Owner shall complete the Phase 1 Public Improvements prior to the issuance of the first residential certificate of occupancy for Phase 1. Section 5.4.3 further provides that Owner shall complete construction of the Phase 1 Village Green prior to issuance of the final residential certificate of occupancy for Phase 1.

H. In accordance with Section 13 of the Development Agreement, Owner has proposed that the Development Agreement be amended to extend the time periods by which Owner is required (i) to obtain all applicable permits for the renovation of the façades of all remaining retail structures located on the Property (other than restaurant Buildings D and E (Lone Star and El Torito), for which façade renovation is not required), and (ii) to complete construction of the improved north-south pedestrian paseo, the hillside pedestrian paseo connecting the north-south pedestrian paseo with the adjacent property occupied by the Laguna Hills Mall, and the pedestrian trail along the north Property line.

I. The remaining retail structures located on the Property to which façade renovations are to be made are described and depicted on **Exhibit B** attached to this Amendment No. 1. The pedestrian paseos and pedestrian trail to be constructed are described and depicted in **Exhibit C** attached to this Amendment No. 1, which shall hereafter replace **Exhibit E** to the Development Agreement.

J. On January 30, 2015, as required by Section 65867 of the Development Agreement Statute, the City caused public notice to be given of the City Council's intention to consider adoption of this Amendment No. 1.

K. On February 10, 2015, as required by Section 65867 of the Development Agreement Statute, the City Council held a public hearing on this Amendment No. 1.

L. The City has determined that no further environmental review is required. The Amendment No. 1 will merely extend the time periods by which Owner is required to obtain all applicable permits for the renovation of the façades of all remaining retail structures located on the Property and to complete construction of three pedestrian paseos, but will not impact the scope of Phase 1. Accordingly, the City has determined that the Amendment No. 1 is within the scope of the Addendum adopted on November 27, 2012, and that none of the circumstances triggering further environmental review have occurred since the adoption of the Addendum: (i) there are no substantial changes in the Project requiring major revisions of the PEIR or Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (ii) there are no substantial changes with respect to the circumstances under which the Project is being undertaken which will require major revisions of the PEIR or Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects; and (iii) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the PEIR or Addendum

was adopted showing that: (a) the Project will have one or more significant effects not discussed in the PEIR or Addendum; (b) significant effects previously examined will be substantially more severe than shown in the PEIR or Addendum; (c) mitigation measures or alternatives previously found not feasible would in fact be feasible, and would substantially reduce one or more significant effects of the Project, but the mitigation measures or alternatives have not been adopted; or (d) mitigation measures or alternatives considerably different from those analyzed in the PEIR or Addendum would substantially reduce one or more significant effects on the environment, but the mitigation measures or alternatives have not been adopted. (Public Resources Code Section 21166 and CEQA Guidelines Sections 15162.)

M. The City Council hereby finds and determines that the Development Agreement, as modified pursuant to this Amendment No. 1: (i) is consistent with the objectives, policies, general land uses, and programs contained City's General Plan and Urban Village Specific Plan; (ii) is compatible with the uses authorized in the Village Commercial land use district; (iii) provides for the orderly development of the Property; and (iv) is entered into pursuant to and in compliance with the requirements of Section 65867 of the Development Agreement Statute.

N. On February 24, 2015, the City Council adopted an Ordinance approving and authorizing the execution of this Amendment No. 1.

NOW, THEREFORE, pursuant to the authority contained in the Development Agreement Statute, and pursuant to the Development Agreement Ordinance, and pursuant to the mutual promises and covenants herein contained, the Parties hereto agree as follows:

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

2. Capitalized Terms. Unless otherwise specified herein, all capitalized terms in this Amendment No. 1 shall have the meaning(s) set forth for the same in the Development Agreement.

3. Amendment Extending Time to Commence Renovation of Façades of Remaining Retail Structures. Notwithstanding the provision of Section 5.4.1 of the Development Agreement requiring that Owner have obtained all applicable grading, encroachment, building, demolition, and similar permits for Development of Phase I of the Project within two (2) years of the Development Agreement Date, the dates by which Owner is required to obtain all applicable permits for the renovation of the façades of the remaining retail structures located on the Property are hereby extended as provided below:

A. Owner shall have obtained all applicable grading, encroachment, building, demolition, and similar permits for the façade renovations required by the Existing Development Approvals for Building H on or before April 15, 2015.

B. Owner shall have obtained all applicable grading, encroachment, building, demolition, and similar permits for the façade renovations required by the Existing Development Approvals for Buildings A, B, C, P and Q on or before September 30, 2015.

4. Amendment to Section 5.4.3 of the Development Agreement, entitled "Phase 1 Public Improvements". Section 5.4.3 of the Development Agreement is hereby amended as follows (additions shown in **bold/underline** text; deletions shown in ~~strikethrough~~ text):

5.4.3 Phase 1 Public Improvements. Notwithstanding Section 5.4.1, Owner shall not be obligated to commence the Phase 1 Public Improvements within two (2) years of the Development Agreement Date. However, with the exception of the (i) Village Green, **(ii) the improved north-south pedestrian paseo, (iii) the hillside pedestrian paseo connecting the north-south pedestrian paseo with the adjacent property occupied by the Laguna Hills Mall, and (iv) the pedestrian trail along the north Property line,** Owner shall complete the Phase 1 Public Improvements prior to issuance of the first residential certificate of occupancy for Phase 1. Accordingly, Owner shall not be entitled to the issuance of, and City shall not be obligated to issue, certificates of occupancy for any residential units constructed in Phase 1 of the Project until all Phase 1 Public Improvements, other than the (i) Village Green, **(ii) the improved north-south pedestrian paseo, (iii) the hillside pedestrian paseo connecting the north-south pedestrian paseo with the adjacent property occupied by the Laguna Hills Mall, and (iv) the pedestrian trail along the north Property line,** have been completed and accepted by City. Owner shall complete construction of the Phase 1 Village Green **and the north-south pedestrian paseo** prior to issuance of the final residential certificate of occupancy for Phase 1. Accordingly, Owner shall not be entitled to the issuance of, and City shall not be obligated to issue, a certificate of occupancy for the last residential unit (or the building in which the last residential unit is located, if applicable) constructed in Phase 1 of the Project until the Village Green **and the improved north-south pedestrian paseo** for Phase 1 have been completed and approved in writing by the City.

The Parties acknowledge that it is in their mutual interest for the planning and construction of the hillside pedestrian paseo connecting the north-south pedestrian paseo with the adjacent property occupied by the Laguna Hills Mall and the pedestrian trail along the north Property line be coordinated with the owners of the adjacent property occupied by the Laguna Hills Mall. Therefore, completion of these two portions of the Phase 1 Public Improvements shall not be a condition precedent to City's issuance of residential certificates of occupancy for Phase 1. However, in accordance with Section 5.4.1, Owner shall have completed the hillside pedestrian paseo connecting the north-south pedestrian paseo with the adjacent property occupied by the Laguna Hills Mall and the pedestrian trail along the north Property line within five (5) years of the Development Agreement Date (i.e., December 28, 2017). Owner agrees that it shall use best efforts to coordinate with the owner of the property occupied by the Laguna Hills Mall to plan and construct the Phase 1 Public Improvements along Owner's north property line that are adjacent to the Laguna Hills Mall property.

5. Amendment to Exhibit E, entitled "Pedestrian Paseos Exhibit," of Development Agreement. Exhibit E to the Development Agreement is hereby replaced in its entirety by the depiction attached as **Exhibit C** to this Amendment No. 1, which is hereby incorporated into the Development Agreement by reference.

6. Full Force and Effect. This modifying Amendment No. 1 is supplemental to the Development Agreement and is by reference made a part of said Development Agreement. All of the terms, conditions, and provisions, thereof, unless specifically modified herein, shall continue in full force and effect. In the event of any conflict or inconsistency between the provisions of this Amendment No. 1 and any provisions of the Agreement, the provision of this Amendment No. 1 shall in all respects govern and control.

7. Binding Effect. This Amendment No. 1 shall be binding on the parties hereto and their respective successors and assigns.

8. Authority to Execute. The person(s) executing this Amendment No. 1 on behalf of Owners represent and warrant that he/she/they has/have the authority to execute this Amendment No. 1 on behalf of his/her/their corporate entity/partnership and represent(s) and warrant(s) that he/she/they has/have the authority to bind Owners to the performance of Owners' obligations hereunder.

9. Counterparts. This Amendment No. 1 may be executed in one or more counterparts, all counterparts shall be valid and binding on the party executing them, and all counterparts shall together constitute one and the same document for all purposes.

10. Recording. The City Clerk shall cause a copy of this Amendment No. 1 to be executed by City and recorded in the Official Records of Orange County no later than ten (10) days after the Effective Date.

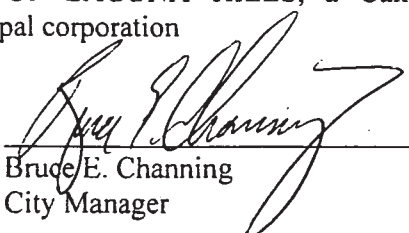
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, City and Owners have executed this Amendment No. 1 as of the date and year first above written.

"CITY"

CITY OF LAGUNA HILLS, a California
municipal corporation

By:


Bruce E. Channing
City Manager

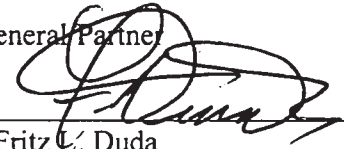
"OWNERS"

LAGUNA HILLS INVESTMENT
COMPANY, a Delaware limited partnership

By: FRITZ DUDA COMPANY, a Texas
Corporation

Its General Partner

By:

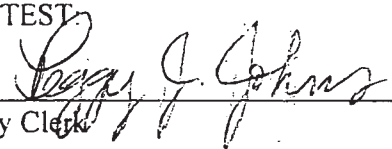

Fritz L. Duda
President

By:

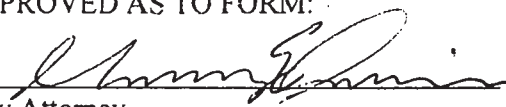
Name:

Title:

ATTEST:


Peggy J. Johns
City Clerk

APPROVED AS TO FORM:


City Attorney

OAKBROOK URBAN VILLAGE I, LLC,
a Delaware limited liability company

By: Shea Properties Management Company,
Inc., a Delaware corporation,
Its Development Manager

By:

Name:

Title:

By:

Name:

Title:

All signatures to be acknowledged by a Public Notary

STATE OF ~~CALIFORNIA~~ Texas)
COUNTY OF ~~ORANGE~~ Dallas) ss

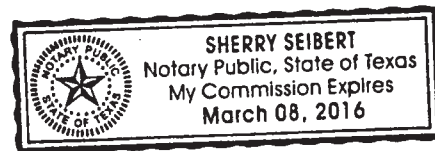
On Feb 9, 2015, before me, Sherry Seibert, a Notary Public, personally appeared Fritz L. Duda, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their 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.

<u>Sherry Seibert</u> Notary Public	<u>2/9/2015</u>
--	-----------------

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss



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.

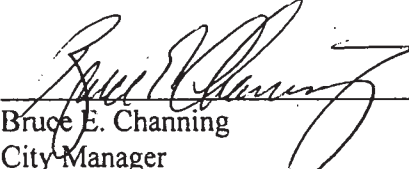
Notary Public	
---------------	--

IN WITNESS WHEREOF, City and Owners have executed this Amendment No. 1 as of the date and year first above written.

"CITY"

CITY OF LAGUNA HILLS, a California
municipal corporation

By:


Bruce E. Channing
City Manager

"OWNERS"

LAGUNA HILLS INVESTMENT
COMPANY, a Delaware limited partnership

By: FRITZ DUDA COMPANY, a Texas
Corporation

Its General Partner

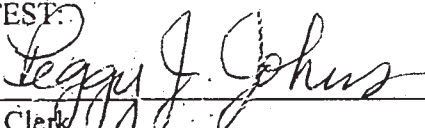
By:

Fritz L. Duda
President

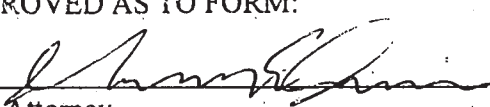
By:

Name: _____
Title: _____

ATTEST:


Peggy J. Johns
City Clerk

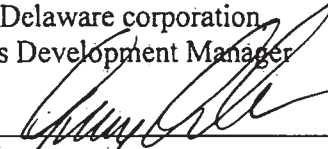
APPROVED AS TO FORM:


City Attorney

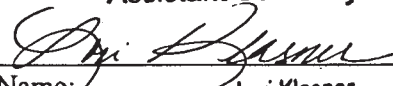
OAKBROOK URBAN VILLAGE I, LLC,
a Delaware limited liability company

By: Shea Properties Management Company,
Inc., a Delaware corporation
Its Development Manager

By:


Name: Greg Anderson
Title: Assistant Secretary

By:


Name: Lori Klasner
Title: Vice President

All signatures to be acknowledged by a Public Notary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California)

County of Orange)

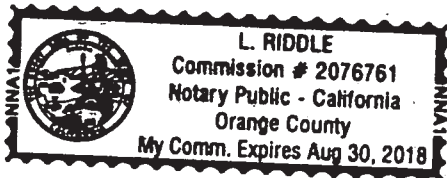
On 2/10/2015 before me, L. Riddle, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Greg Anderson and
Name(s) of Signer(s)
Lori Klasner

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

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

WITNESS my hand and official seal.



Signature L. Riddle
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Amendment NO 1 Document Date: 3/27/2015
Number of Pages: 116 Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: Greg Anderson
☒ Corporate Officer — Title(s): Asst Sec
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: Owner

Signer's Name: Lori Klasner
☒ Corporate Officer — Title(s): V P
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: Owner

EXHIBIT A

PROPERTY DESCRIPTION

LOT 1-4 OF LLA 2013-01 RECORDED APRIL 24, 2014 AS INSTRUMENT NO. 2014000156993 TOGETHER WITH PARCELS 5-15 AS SHOWN ON PARCEL MAP 80-120 FILED IN BOOK 187, PAGES 42-44 OF PARCEL MAPS, IN THE CITY OF LAGUNA HILLS, COUNTY OF ORANGE, BOTH OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, STATE OF CALIFORNIA.

EXHIBIT B

PHASE 1 REMAINING RETAIL STRUCTURES

1052779.5

3/8/2016 ITEM NO.

3/8/2016 ITEM NO.



EXHIBIT C

PEDESTRIAN PASEOS DEPICTION

1052779.5

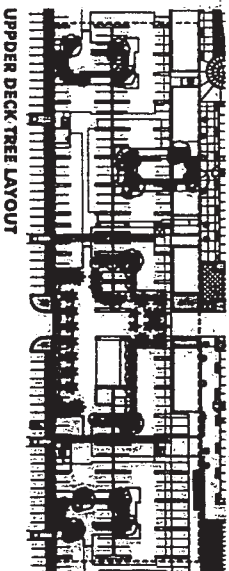
3/8/2016 ITEM NO.

PEDESTRIAN PASEOS EXHIBIT

**OAKBROOK VILLAGE
LAGUNA HILLS, CALIFORNIA**



The Pedestrian Passes will be designed and constructed in accordance with the Urban Village Specific Plan adopted by the City of Laguna Hills on November 28, 2002, City Council Ordinance No.: 2002-8, Section III - Land Use Plan, Pedestrian Pathways.

**FRITZ DUDA COMPANY**

3425 Via Lido Suite 250
Hempport Beach, California 92663
(949) 772-7100



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SCALE: 1" = 100' - 0"

11/21/11

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Attachment #4
Proposed Resolution

RESOLUTION NO. PA-2016-03-08-X

A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING RESOLUTION NOS. PA2015-02-10-1, PA2014-02-11-2, AND PA2012-11-13-1 TO MODIFY CONDITIONS OF APPROVAL NO. 47 AND NO. 54 OF SITE DEVELOPMENT PERMIT/MASTER SIGN PROGRAM/CONDITIONAL USE PERMIT/PARKING USE PERMIT/VESTING TENTATIVE TRACT MAP/PRECISE PLAN/ DEVELOPMENT AGREEMENT NO. 12-11-2137 TO EXTEND THE TIME PERIODS FOR COMPLETION OF CERTAIN PHASE 1 ON-SITE IMPROVEMENTS, A REQUEST BY LAGUNA HILLS INVESTMENT COMPANY AND OAKBROOK URBAN VILLAGE I, LLC, FOR THE OAKBROOK VILLAGE SHOPPING CENTER LOCATED AT 24231-24391 AVENIDA DE LA CARLOTA

The Planning Agency of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, on November 13, 2012, the Planning Agency adopted Resolution No. PA2012-11-13-1 approving Site Development Permit/ Master Sign Program/ Conditional Use Permit/ Parking Use Permit/ Vesting Tentative Tract Map/ Precise Plan/ Development Agreement (SDPM/MSP/CUP/PUP/TTM/PREC/DEVA) No. 12-11-2137 the redevelopment of Oakbrook Village Shopping Center with a Phase 1 mixed-use project (the "Project"), located at 24231-24391 Avenida de la Carlota, subject to specified conditions of approval (the "Conditions of Approval"); and

WHEREAS, on November 27, 2012, the City Council of the City of Laguna Hills adopted Ordinance No. 2012-4 approving a Development Agreement between the City of Laguna Hills and Laguna Hills Investment Company pertaining to the Project (the "Development Agreement"), which Development Agreement became effective December 28, 2012 and was recorded in the Official Records, Orange County Clerk-Recorder's Office on January 2, 2013, as Document No. 2013000002329; and

WHEREAS, on November 27, 2012, pursuant to the California Environmental Quality Act ("CEQA"), the City Council and Planning Agency determined that the Project is within the scope of the "City of Laguna Hills General Plan Program Environmental Impact Report, June 2009, State Clearinghouse No. 20080811100" ("PEIR"), and that the Project would not result in any new significant effects that were not examined in the PEIR, a substantial increase in the severity of significant effects examined in the PEIR, or require any new mitigation measures or alternatives. The City therefore adopted an addendum to the PEIR for the Project pursuant to Public Resources Code Sections 21166, 21083.3, and CEQA Guidelines Sections 15168, 15162, 15164, and 15183. The City filed a Notice of Determination on November 28, 2012; and

WHEREAS, on February 11, 2014, the Planning Agency adopted Resolution No. PA2014-02-11-2 making modifications to certain Conditions of Approval of SDPM/MSP/CUP/PUP/TTM/PREC/DEVA No. 12-11-2137 related to the early issuance of building permits and other project sequencing matters; and

WHEREAS, Laguna Hills Investment Company and Oakbrook Urban Village I, LLC (collectively, the "Owner") subsequently proposed an Amendment No. 1 to the Project Development Agreement to extend the time periods for commencement or completion of certain on-site improvements in Phase 1 of the Project; and

WHEREAS, on February 10, 2015, the Planning Agency adopted Resolution No. PA2015-02-10-1 modifying Condition of Approval No. 47 of SDP/MSP/CUP/PUP/TTM/PREC/DEVA No. 12-11-2137 to extend time frames related to the construction of the pedestrian and parking lot paseos consistent with the proposed Amendment No. 1 to the Project Development Agreement; and

WHEREAS, on February 24, 2015, the City Council of the City of Laguna Hills adopted Ordinance No. 2015-3 approving Amendment No. 1 to Development Agreement, which Amendment No. 1 to Development Agreement became effective March 27, 2015, and was recorded in the Official Records, Orange County Clerk-Recorder's Office on March 31, 2015, as Document No. 2015000163595; and

WHEREAS, the Owner has now requested that the Laguna Hills City Council approve an Amendment No. 2 to Development Agreement to modify the timing, location, and scope of development of certain on-site pedestrian, landscaping, and façade improvements; and

WHEREAS, Condition of Approval No. 47 specifies timeframes pertaining to the construction of the aforementioned pedestrian paseos and the pedestrian trail consistent with those set forth in the amended Development Agreement, some of which would be modified pursuant to Amendment No. 2 to Development Agreement; and

WHEREAS, Condition of Approval No. 54 specifies a timeframe by which the Owner is required to construct secondary entry signs, which the Owner is requesting be extended to correspond with commencement of façade renovation improvements for the remaining retail structures on the site pursuant to Amendment No. 2 to Development Agreement; and

WHEREAS, the Owner has requested that the Planning Agency amend Resolution Nos. PA2015-02-10-1, PA2012-11-13-1 and PA2014-02-11-2 to modify Condition of Approval No. 47 to be consistent with the Development Agreement, as amended by Amendment Nos. 1 and 2 to Development Agreement, and to modify Condition of Approval No. 54 to extend the time period by which Owner is required to construct secondary entry signs; and

WHEREAS, the Planning Agency has considered evidence presented by the Community Development Department, the Owner, and other interested parties with respect to the subject application at a public hearing, which was noticed for February 9, 2016 and duly continued to March 8, 2016.

NOW, THEREFORE, THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. The Planning Agency hereby finds and determines that no further environmental review is required. The modifications to the Conditions of Approval, as set forth herein, will merely make minor modifications to the scope and timing of development of façade renovations and pedestrian, vehicular and landscaping improvements on the Property, and will not affect the size, scope, or timing of development of any structures on the Property. Accordingly, the Planning Agency hereby determines that the modifications to the Conditions of Approval, as set forth herein, are within the scope of the Addendum adopted on November 27, 2012, and that none of the circumstances triggering further environmental review have occurred since the adoption of the Addendum: (i) there are no substantial changes in the Project requiring major revisions of the PEIR or Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (ii) there are no substantial changes with respect to the circumstances under which the Project is being undertaken which will require major revisions of the PEIR or Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects; and (iii) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the PEIR or Addendum was adopted showing that: (a) the Project will have one or more significant effects not discussed in the PEIR or Addendum; (b) significant effects previously examined will be substantially more severe than shown in the PEIR or Addendum; (c) mitigation measures or alternatives previously found not feasible would in fact be feasible, and would substantially reduce one or more significant effects of the Project, but the mitigation measures or alternatives have not been adopted; or (d) mitigation measures or alternatives considerably different from those analyzed in the PEIR or Addendum would substantially reduce one or more significant effects on the environment, but the mitigation measures or alternatives have not been adopted. (Public Resources Code Section 21166 and CEQA Guidelines Sections 15162).

SECTION 3. The required findings for approval of SDPM/MSP/CUP/PUP/TTM/PREC/DEVA No. 12-11-2137 set forth in Planning Agency Resolution No. 2012-11-13-1 are hereby reaffirmed and incorporated herein by reference as if set forth in full.

SECTION 4. Planning Agency Resolution No. PA2012-11-13-1, as amended by Planning Agency Resolution Nos. PA2014-02-11-2 and PA2015-02-10-1, approving SDPM/MSP/CUP/PUP/TTM/PREC/DEVA No. 12-11-2137 and the related Conditions of Approval are hereby amended to modify Conditions of Approval No. 47 and No. 54 as follows (deleted text is identified by ~~strike-through/bold~~ formatting, and added text is indicated by underlined/bold formatting):

- 47a. Prior to their installation and construction, plans for the pedestrian and parking lot paseos shall be reviewed and approved by the Community Development Director. Until the completion of Phase II as defined by the project Development Agreement (as amended), The design of the north-south paseo shall be consistent with the layout depicted by the "Landscape Construction Drawings For Oakbrook Village" prepared by FORMA dated September 4, 2012. The design and construction of all other pedestrian and parking lot paseos shall be consistent with Figures 17 and 18 of the Urban Village Specific Plan.
- 47b. All paseos shall be installed and constructed prior to the issuance of the first residential Certificate of Occupancy, except as otherwise provided in Conditions 47c. through 47d.
- 47c. The north-south pedestrian paseo shall be installed and constructed ~~prior to issuance of the final residential Certificate of Occupancy by December 31, 2016.~~
- 47d. Except as otherwise provided below, the hillside pedestrian paseo connecting the north-south pedestrian paseo with the adjacent property occupied by the Laguna Hills Mall and the pedestrian trail along the north Property line shall be installed and constructed on or before December 28, 2017. Notwithstanding the foregoing sentence, if the proposed entitlements for the "Five Lagunas" project on the adjacent property occupied by the Laguna Hills Mall (identified as SDPM/MSP/CUP/PUP/TTM/PREC NO. 2-15-3114) are approved by the City, then the following provisions shall instead apply to construction of the hillside pedestrian paseo and the other improvements along the north property line adjacent to the Five Lagunas property:
 - (i) The hillside paseo shall be installed and constructed on or before (a) the date that is six (6) months after the date the City issues the first certificate of occupancy for residential "Building B" in the Five Lagunas project, or (b) December 28, 2023, whichever occurs first.

- (ii) The pedestrian trail along the north Property line shall not be constructed. In lieu of construction of the pedestrian trail, the Applicant shall, instead, plan and construct new, enhanced hardscape and landscape improvements and vehicular and pedestrian connections along the north Property line, which create coordinated and compatible linkages between the Property and the Five Lagunas project. The Applicant shall cooperate with, and use best efforts to coordinate with, the owner of the Five Lagunas Property in the planning and construction of said improvements. Construction of these alternative improvements along the north Property line shall be subject to approval of all required land use entitlements, permits and/or approvals by the City. The Applicant shall submit a complete application for all land use entitlements, permits, and/or approvals required to construct such improvements on or before (a) the date that is 90 days after the date on which the City approves land use entitlements for the Five Lagunas project, or (b) March 1, 2017, whichever occurs last. This date may be extended up to an additional 180 days at the discretion of the City Manager. Provided the City approves all land use entitlements, permits, and/or approvals required to construct the new improvements along the north Property line described above, the Applicant shall complete construction of said improvements on or before (a) the date that is six (6) months after the date the City issues the first certificate of occupancy for residential "Building B" in the Five Lagunas project, or (b) December 28, 2023, whichever occurs first.

54. Prior to the issuance of ~~the last residential certificate of occupancy~~building permits for the façade renovations on Buildings A, P, Q, and C, the Applicant shall construct the Secondary Entry Signs depicted by Exhibit G of the Project's proposed Master Sign Program.

SECTION 5. All Conditions of Approval to SDPM/MSP/CUP/PUP/TTM/PREC/DEVA No. 12-11-2137, as modified herein, are set forth for reference purposes only in Exhibit "A" to this Resolution.

SECTION 6. This effectiveness of this Resolution shall be contingent upon the adoption and effectiveness of an Ordinance by the Laguna Hills City Council approving and adopting the proposed Amendment No. 2 to Development Agreement. Should an Ordinance approving and adopting said Amendment No. 2 to Development Agreement not be adopted or take effect, this Resolution shall automatically be deemed null and void.

PASSED, APPROVED, AND ADOPTED this 8th day of March 2016.

BARBARA D. KOGERMAN, CHAIR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. PA2016- adopted by the Planning Agency of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 8th day of March, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

MELISSA AU-YEUNG, CITY CLERK

EXHIBIT "A"

CONDITIONS OF APPROVAL (AS OF FEBRUARY 9, 2016)

General

1. This approval constitutes approval of the proposed Project only to the extent that it complies with the City's Development Code and any other applicable zoning regulations. Approval does not include any action or findings as to compliance or approval of the Project regarding any other applicable ordinance, regulation, or requirement.
2. Failure to abide by and faithfully comply with any and all conditions of approval shall constitute grounds for revocation and/or termination of the Site Development Permit, the Master Sign Program, the Conditional Use Permit, the Parking Use Permit, the Vesting Tentative Tract Map, and/or the Precise Plan approved in conjunction with the Project (collectively, the "Entitlements").
3. All Conditions of Approval set forth herein shall be binding on and enforceable against each of the following, and whenever used herein, the term "Applicant" shall mean and refer to the Project Applicant, the developer of the Project, the subdivider of the property, the owner(s) and tenant(s) of the property, and/or their successors and assigns, as applicable.
4. As a condition of issuance of the Entitlements granted herein, the Applicant hereby agrees, at its sole cost and expense and to the fullest extent permitted by law, to defend (with legal counsel approved or selected by City), indemnify, and hold harmless the City, its officers, employees, agents, and consultants, from any claim, action, or proceeding brought by a third party against the City, its officers, employees, agents, and consultants, which seeks to attack, challenge, set aside, void, or annul an approval of the City Council, Planning Agency, or other decision-making body, or staff action concerning this Project. The City agrees to promptly notify the Applicant of any such claim filed against the City and to fully cooperate in the defense of any such action. The City may, but is not obligated to, at its sole cost and expense, elect to participate in the defense of any such action under this condition.
5. The Applicant shall agree in writing to these conditions of approval within 30 days of the Planning Agency's approval.

6. The Applicant shall reimburse the City for any outstanding staff time spent on processing SDPM/MSP/CUP/PUP/TTM/PREC/DEVA No. 12-11-2137 within 60 days of the Planning Agency's approval.
7. The Entitlements shall become effective only upon the adoption and effective date of an Ordinance approving the Development Agreement for the "Oakbrook Village Shopping Center Mixed Use Project" between the City of Laguna Hills and the Applicant.
8. Within 30 days from the date of approval, the Applicant shall reimburse the City for fees associated with filing the Notice of Determination, including posting fees and Department of Fish and Game fees, if applicable.

Building

9. The Applicant shall obtain applicable building permits, as required by Section 105 of the 2010 California Building Code, prior to commencement of any work for which a permit is required.
10. Any required documents submitted for the purpose of building permit issuance shall be accurately labeled and reflect all work, as required by Section 107 of the 2010 California Building Code.
11. For building permit purposes only, the Applicant shall secure any required approvals from the Orange County Fire Authority, El Toro Water District, and City Planning and Engineering Departments prior to issuance of any required building permit.
12. At time of building permit issuance, the Applicant shall submit Construction and Demolition Waste Recycling Program documentation, if applicable, as required by the City of Laguna Hills Ordinance No. 2003-9 and to comply with mandates of the California Integrated Waste Management Board (CIWMB).
13. The Applicant shall comply with all applicable general construction Water Quality Ordinances, as required by the City of Laguna Hills and Ordinance No. 2003-12.
14. The Applicant shall secure any required approvals from Orange County Health Department as required.
15. The Applicant shall ensure compliance with the California Disabled Accessibility requirements, as required by Chapter 11 of the California Building Code.

16. The Applicant shall comply with all California Energy Code requirements, as required by the California Energy Commission.
17. All construction shall comply with applicable building codes including the 2010 California Building, Plumbing, Mechanical, Electrical, and Green Building Codes in regards to applicable occupancy types.
18. The California Green Building Code shall apply to all newly constructed buildings (from the ground up).
19. The Applicant shall comply with the City of Laguna Hills Water Efficient Landscape Ordinance.

OCFA

20. Prior to issuance of building permits, the Applicant shall submit to Orange County Fire Authority for review and approval a fire master plan (Service Code PR 145). A detailed fire master plan will be required demonstrating access to all rescue windows throughout the project. Fire hydrants and fire lanes shall be indicated on this plan.
21. Prior to issuance of building permits, the Applicant shall submit to Orange County Fire Authority for review and approval architectural plans (Service Code PR 200- PR 285), when required by the OCFA "Plan Submittal Criteria Form."
22. Prior to issuance of building permits, the Applicant shall submit to Orange County Fire Authority for review and approval plans for underground piping for private hydrants and fire sprinkler systems (Service Code PR 470- PR 475).
23. Prior to issuance of building permits, the Applicant shall submit to Orange County Fire Authority for review and approval a fire sprinkler system plan (Service Code PR 400- PR 465).
24. Prior to concealing interior construction, the Applicant shall submit to Orange County Fire Authority for review and approval plans for a sprinkler monitoring system plan (Service Code PR 500).
25. Prior to concealing interior construction, the Applicant shall submit to Orange County Fire Authority for review and approval plans for a fire alarm system plan (Service Code PR 500 – PR 520).

26. Specific submittal requirements to Orange County Fire Authority may vary from conditions numbered 22-27 listed above depending on actual project conditions identified or present during design development, review, construction, inspection, or occupancy. The Applicant shall comply with all submittal requirements of the Orange County Fire Authority.
27. Prior to commencement of construction, the Applicant or its agent shall attend a pre-construction meeting with an Orange County Fire Authority inspector. Call OCFA Inspection Scheduling at 714-573-6150 at least two days in advance to schedule and pay for the pre-construction meeting.
28. After installation of required fire access roadways and hydrants, the Applicant shall receive clearance from the OCFA prior to bringing combustible building materials on-site. Call OCFA Inspection Scheduling at 714-573-6150 with the Service Request number of the approved fire master plan at least two days in advance to schedule the lumber drop inspection.

Planning

29. Outdoor security and other lighting, including illuminated signs, shall be designed and maintained so as not to illuminate beyond the project boundary. All exterior lights shall be focused inward and away from surrounding uses and adjacent residential properties.
30. All noise generated by the Project, including construction noise, delivery noise, and other operational noise shall at all times meet noise requirements pursuant to LPMC section 5-24 (Noise Control).
31. If future activity or expansion at the subject site results in a change of use (switches to a different land use category), the Shared Parking model must be recalculated in its entirety. The resultant parking demand identified from a singular Shared Parking calculation must never be automatically used as a "baseline" value to debit or credit another (or future) project's incremental parking requirements.
32. If at any time in the future the Community Development Director determines, in his or her sole discretion, that a parking and circulation study is necessary to address parking and/or circulation issues relative to any change in any use or any portion of any use (i.e., change in tenant mix) in the shopping center, the Applicant shall, at its sole cost and expense, be responsible for the cost of

parking and circulation study prepared by a licensed consultant selected by the City. The Applicant shall, at its sole cost and expense, be responsible for implementation costs of any reasonable mitigation measures deemed appropriate by the Community Development Director related to such impacts based on the findings of such study.

33. Mechanical equipment, storage, trash areas, and utilities shall be architecturally screened by a solid material from public view to the reasonable satisfaction of the Community Development Director. The method of screening shall be architecturally compatible in terms of materials, color, shape, and size. The screening design shall blend with the building design and include landscaping when on the ground.
34. No building permits for any dwelling unit construction shall be issued until final map approval by the City Council and evidence of final map recordation has been provided to the City, and other applicable conditions have been met. Notwithstanding the foregoing, subject to the authority of the Building Official, building permits may be issued for the construction of dwelling units prior to final map approval upon the following conditions, which the Applicant expressly agrees to in consideration of this accommodation:
 - Issuance of any such building permit(s) does not confer upon Applicant any vested right or entitlement to issuance of Certificates of Occupancy for such dwelling units. In no case, shall any Certificates of Occupancy be issued until and unless all dedications and/or irrevocable offers of dedication shown on the Vesting Tentative Map or otherwise required by these Conditions of Approval have been made, CC&Rs have been approved by the City in accordance with Condition of Approval No. 37, all other applicable Conditions of Approval have been satisfied, the City Council has approved the final map, and evidence of final map recordation has been provided to the City.
35. (Intentionally Omitted)
36. Prior to the commencement of any work, the Applicant shall provide a contact number for the public to call concerning dust or noise complaints. The information shall also be posted on site in a manner approved by the Community Development Director.
37. The Applicant shall prepare Covenants, Conditions, and Restrictions, or another appropriate recordable document(s) or agreement(s) acceptable to the City that runs with the land and

binds future owners (collectively, "CC&Rs") for review and approval by the City Attorney's office and Community Development Department. The approved CC&Rs shall be recorded concurrently with the final subdivision map, and the Applicant shall provide a recorded copy of the CC&Rs prior to the issuance of certificates of occupancy. The CC&Rs shall provide for the establishment of a homeowners association and/or property owners' association, as applicable; shall address, to the satisfaction of the City, responsibilities for all common areas, utilities, drainage devices, ingress and egress, property maintenance, and building architecture; shall require that residents of the residential component of the Project to make their required garage parking available for the parking of automobiles at all times; shall include provisions identifying a property owner's association or other entity responsible for ongoing implementation and funding of the Operations and Maintenance (O&M) Plan associated with the WQMP for the Project and compliance with the City's Stormwater Quality Ordinance and other applicable National Pollutant Discharge Elimination System (NPDES) regulations; shall provide that those provisions of the CC&Rs benefitting the City may not be substantively amended or terminated without City approval; and shall provide that the City may, but shall not be obligated to, enforce the CC&Rs. The CC&Rs shall be submitted to the City Attorney for review and approval and shall be recorded concurrently with the final map. The Applicant shall provide a recorded copy of the CC&Rs prior to the issuance of occupancy. The Applicant shall reimburse the City for all legal costs associated with this condition.

38. A final landscape and irrigation plan for all Project landscaping shall be submitted to the City for review and approval prior to the issuance of a building permit. Trees installed shall be a minimum one-inch caliper. Final landscape and irrigation plans shall include information on minimum spacing between all plant materials except for trees which shall be planted as indicated on the preliminary landscape plan at a minimum. The Community Development Department shall inspect Applicant-installed landscaping to ensure full coverage of all landscaped areas. The Applicant shall provide additional material as required. Approved landscape and irrigation improvements shall be installed prior to the issuance of any occupancy, except for the Village Green area. Village Green landscape and irrigation improvements shall be installed prior to the issuance of the last residential occupancy.
39. Prior to the issuance of any building permit, the Applicant shall provide final details and specifications identifying the amenities of all

outdoor landscaped courtyards and pool courtyard to the Community Development Department for review and approval. The plan shall label the location of jacuzzis, cabanas, barbeques, fire pits, wet bars, and seating areas as depicted on Sheets A1.3a and A1.3b of the project architectural plans submitted to the City in support of the Entitlements.

40. The Applicant shall submit a final project photometric study to the Community Development Department for review and approval prior to the issuance of any building permits. Pedestrian and parking lot lighting poles and fixture types shall be consistent with the types depicted in the Urban Village Specific Plan.
41. Prior to the recordation of the Final Map or the issuance of building permits, whichever occurs first, sewer improvement plans to serve the project shall be designed to the satisfaction of the El Toro Water District.
42. Prior to the issuance of any certificates of occupancy, all sewer improvements shall be constructed to the satisfaction of the El Toro Water District.
43. Prior to the recordation of the Final Map, or the issuance of building permits, whichever occurs first, water improvement plans to serve the Project shall be designed to the satisfaction of the El Toro Water District. At a minimum, water lines shall be sized to accommodate the total domestic requirements and fire-flow requirements of OCFA.
44. Prior to the issuance of any occupancy, all water improvements shall be constructed to the satisfaction of the El Toro Water District.
45. Prior to the recordation of the Final Map, or the issuance of building permits, whichever occurs first, existing water line easements on the site shall be relocated to the satisfaction of the El Toro Water District.
46. No overhead utilities shall be installed.
47. 47a. Prior to their installation and construction, plans for the pedestrian and parking lot paseos shall be reviewed and approved by the Community Development Director. Until the completion of Phase II as defined by the project Development Agreement (as amended), design of the north-south paseo shall be consistent with the layout depicted by the "Landscape Construction Drawings For Oakbrook Village" prepared by FORMA dated September 4, 2012. All other pedestrian and parking lot paseos shall be consistent with

Figures 17 and 18 of the Urban Village Specific Plan.

47b. All paseos shall be installed and constructed prior to the issuance of the first residential Certificate of Occupancy, except as otherwise provided in Conditions 47.c. ad 47.d.

47c. The north-south pedestrian paseo shall be installed and constructed by December 31, 2016.

47d. Except as otherwise provided below, the hillside pedestrian paseo connecting the north-south pedestrian paseo with the adjacent property occupied by the Laguna Hills Mall and the pedestrian trail along the north Property line shall be installed and constructed on or before December 28, 2017. Notwithstanding the foregoing sentence, if the proposed entitlements for the "Five Lagunas" project on the adjacent property occupied by the Laguna Hills Mall (identified as SDPM/MSP/CUP/PUP/VTM/PREC NO. 2-15-3114) are approved by the City, then the following provisions shall instead apply to construction of the hillside pedestrian paseo and the other improvements along the north property line adjacent to the Five Lagunas property:

- (i) The hillside paseo shall be installed and constructed on or before (a) the date that is six (6) months after the date the City issues the first certificate of occupancy for residential "Building B" in the Five Lagunas project, or (b) December 28, 2023, whichever occurs first.
- (ii) The pedestrian trail along the north Property line shall not be constructed. In lieu of construction of the pedestrian trail, the Applicant shall, instead, plan and construct new, enhanced hardscape and landscape improvements and vehicular and pedestrian connections along the north Property line, which create coordinated and compatible linkages between the Property and the Five Lagunas project. The Applicant shall cooperate with, and use best efforts to coordinate with, the owner of the Five Lagunas Property in the planning and construction of said improvements. Construction of these alternative improvements along the north Property line shall be subject to approval of all required land use entitlements, permits and/or approvals by the City. The Applicant shall submit a complete application for

all land use entitlements, permits, and/or approvals required to construct such improvements on or before (a) the date that is 90 days after the date on which the City approves land use entitlements for the Five Lagunas project, or (b) March 1, 2017, whichever occurs last. This date may be extended up to an additional 180 days at the discretion of the City Manager. Provided the City approves all land use entitlements, permits, and/or approvals required to construct the new improvements along the north Property line described above, the Applicant shall complete construction of said improvements on or before (a) the date that is six (6) months after the date the City issues the first certificate of occupancy for residential "Building B" in the Five Lagunas project, or (b) December 28, 2023, whichever occurs first.

48. All vehicle and pedestrian gates shall be reviewed and approved by OCFA and OCSD for conformance with the respective agencies' requirements for limited access devices.
49. Prior to the issuance of grading permits for the Project, the southwest gated parking entrance shall be redesigned to avoid interfering with vehicles backing out of garage spaces.
50. The conditions of Project approval set forth herein include certain development impact fees and other exactions. Pursuant to Government Code §66020(d), these conditions constitute written notice of the amount of such fees. The Applicant is hereby notified that the 90-day protest period, commencing from the date of approval of the Project, has begun.
51. Prior to the issuance of any building permits for the project, the Applicant shall submit plans and specifications for the construction/fabrication and installation of public art required by the Urban Village Specific Plan. The proposed art work and its location shall be reviewed and approved by the Planning Agency along with conformance of the requirements and goals of the City's Public Art Program, which review and approval shall be completed prior to the issuance of any building permits for the project in accordance with the Urban Village Specific Plan. The public art shall be created and installed, or the required public art in lieu fee paid, prior to the issuance of the first residential certificate of occupancy for the project. Sequencing and phasing of the installation of public art within the Village Green area may be considered through an operating memoranda pursuant to the Development Agreement.

52. As indicated on the vesting tentative map, portions of the site required for public improvements shall be irrevocably offered for dedication prior to the recordation of the final map. Dedications shall be in fee or as an easement at the discretion of City. At the City's discretion, all such irrevocable offers of dedication shall either be made on the final map or by separate recorded instrument approved by the City Attorney. The City may accept the Owner's offer of dedication upon Owner's completion and acceptance by City of the associated improvements in compliance with the specifications as approved by City. In no event shall any Certificate of Occupancy be issued until all required public improvements have been constructed and completed and the above-referenced irrevocable offers of dedication and associated improvements have been accepted by the City.
53. Prior to the City Council's approval of the final map, the Applicant shall pay the public park in-lieu fee of Seven Thousand Three Hundred Ninety Two Dollars (\$7,392.00) for each residential unit constructed as part of the Project. Consistent with Development Agreement No. 12-11-2137, if building permits are issued prior to the City Council's approval of the final map, then said fee shall be paid on a per unit basis prior to issuance of a building permit for each residential unit.
54. Prior to the issuance of building permits for the façade renovations on Buildings A, P, Q, and C, the Applicant shall construct the Secondary Entry Signs depicted by Exhibit G of the Project's proposed Master Sign Program.
55. Prior to the issuance of a building permit, the Applicant shall revise the Project's proposed Master Sign Program to the satisfaction of the Community Development Director to include the following:
- a. General Specification No. 28 for Primary and Secondary Signs shall be revised to refer to the City of Laguna Hills Community Development Director.
 - b. Design Specifications for Primary Signs shall be revised to refer to the appropriate exhibit depicting the wood beam detail.
 - c. The height of stacked signs for In-Line Shop Buildings and Multi-Tenant Pads shall not exceed 12 inches.
 - d. (Intentionally omitted)
 - e. Unreadable text pertaining to sign locations on Exhibit A shall be revised.
 - f. Exhibit D shall be revised to show a readable canopy detail.
 - g. The maximum sign area for individual wall signs for In-Line Shop Buildings and Multi-Tenant Pads shall not exceed 150 square feet.

- h. The maximum wall sign area for Major Anchor Retailer tenants shall be 150 square feet.
- i. (Intentionally omitted)
- j. (Intentionally omitted)
- k. The description of the "Center Identification" provisions shall be revised to preclude the installation of a Perimeter Entry Sign facing the Laguna Hills Mall until the installation of an adjoining street between Oakbrook Village and the mall.
- l. Secondary Entry Features shall not exceed a sign area of 15 square feet for the display of the shopping center name.
- m. Directional signage specifications shall be revised to a maximum height of 8 feet and a width of 4 feet and a maximum letter height of 3 inches.

Public Services

- 56. Project improvement plans and related documents shall be reviewed and approved by the City Engineer; said plans shall be prepared by a State of California Registered Civil Engineer and shall conform to City standards.
- 57. No work shall be performed within the public right-of-way, by the Applicant or his or her agents until a public property encroachment permit is issued by the City Engineer and applicable fees have been paid.
- 58. Construction traffic shall not access or depart the site during morning or evening peak periods, which are 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., Monday through Friday. The Applicant shall provide a construction vehicle routing plan for approval by the City Engineer prior to any demolition or construction work. The City Engineer may approve requests for alternative access, routing, and hours of access under special circumstances.
- 59. It shall be the Applicant's responsibility to protect-in-place existing public improvements. Applicant shall repair or replace, to the satisfaction of the City Engineer, any public improvements that are damaged as a result of the proposed construction.
- 60. All public improvements shall be constructed and completed to the satisfaction of the City Engineer prior to the recordation of a Final Map, or the Applicant shall enter into a Subdivision Improvement Agreement to include the posting of securities to guarantee the completion of the public improvements as approved by the City Attorney. In no event shall any Certificate of Occupancy be issued until and unless all required public improvements have been constructed and completed and accepted by the City.

61. The Subdivision Map shall be prepared in accordance with City, County, and State requirements and standards. The Applicant shall submit the Final Map for plan check to both the City Engineer and County Surveyor and pay all applicable plan check fees. The Applicant shall submit a current Title Report, supporting documents, and traverse closure calculations.
62. Any existing monumentation disturbed during construction shall be restored by a California Licensed Land Surveyor, and Corner Records shall be filed with the City Engineer and County Surveyor.
63. The Applicant shall submit a final grading plan and erosion control plan on 24"x 36" sheets to the City Engineer. A separate hydrology report shall also be provided. All plans shall be prepared by a registered Civil Engineer. The grading plan shall show street, sewer, water, storm drain facilities, and all proposed grading. The plans shall show the extent of topography of the grading plan and shall be sufficient to determine drainage impacts to the surrounding area. All grading shall be designed and constructed in accordance with the City's Grading and Excavation Code. The final grading plan shall be approved by the City Engineer prior to the issuance of a building permit. No concentrated drainage shall be allowed onto driveways or sidewalks and shall be conveyed to the street via a storm drain pipeline or culvert, as applicable.
64. A separate Grading Plan with related documents shall be required for each phase of development. Prior to the recordation of a final map, the Grading Plan for Phase One shall be submitted for review and approval by the City Engineer.
65. The Applicant shall submit a geotechnical report prepared by a Registered Engineering Geologist for approval by the City Engineer. The report shall include evaluation of onsite soils and provide recommendations on pavement sections, building foundations, and a discussion of the functionality of the water quality features.
66. All parking lots and drives shall be constructed of asphalt concrete over crushed aggregate base over subgrade, or equal, and compacted to a relative compaction of 95% or equivalent. The structural pavement thickness shall be no less than 4" AC over 6" AB, or more, for drive aisles, and 4" AC over 4" AB for all other areas, or more, as required by the project soils engineer and approved by the City Engineer.

67. Prior to issuance of a grading permit, the Applicant shall pay a traffic impact mitigation fee in accordance with Chapter 9-102 of Laguna Hills Municipal Code in the amount of Three Thousand Nine Hundred Fourteen Dollars (\$3,914.00) per each new PM peak hour trip generated as a result of the Project, as determined by the City Engineer based upon a traffic study.
68. Prior to the issuance of grading, building, encroachment, or other permits, as applicable, the Applicant shall pay, or provide City with evidence of payment of, all fees required by public agencies other than the City, whether or not collected by the City, including, but not limited to, the fees imposed pursuant to the County of Orange's CARITS program, the fees imposed pursuant to the County of Orange's major thoroughfare and bridge fee programs for the Moulton Parkway/Laguna Niguel area, fees imposed by the San Joaquin Hills Transportation Corridor Agency, and school district fees.
69. Prior to issuance of any grading or building permits, the Applicant shall submit for approval by the Community Development Department and Public Services Department a water quality management plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used on-site to control predictable pollutant run-off. This WQMP shall identify Low Impact Development (LID) BMPs and routine structural and non-structural measures specified in the current Orange County Drainage Area Management Plan (DAMP) and the San Diego Regional Water Quality Control Board requirements. This WQMP must also:
 - a. Address site design BMPs (as applicable) such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas, conserving natural areas, preserving trees, and retaining existing site hydrology to the maximum extent practicable;
 - b. Include a design goal to maintain or replicate the pre-development hydrologic functions through site preservation, infiltration, retention, detention, evapotranspiration, and filtration treatment systems.
 - c. Incorporate applicable routine source control BMPs as defined in the DAMP and provide a detailed description of their implementation;

- d. Incorporate applicable treatment control BMPs as defined in the DAMP to the approval of the City Engineer;
 - e. Implement Low Impact Development (LID) BMPs to reduce runoff to the maximum extent practicable.
 - f. Include an Operation and Maintenance (O&M) plan that identifies the mechanism(s) by which long-term O&M of all post construction BMPs will be provided and funded.
70. Prior to issuance of grading permits, the Applicant shall submit a copy of the Notice of Intent (NOI) indicating that coverage has been obtained under the National Pollutant Discharge Elimination System (NPDES) State General Permit for Storm Water Discharges Associated with Construction Activity from the State Water Resources Control Board. Evidence that the NOI has been obtained shall be submitted to the Public Services Department. Projects subject to this requirement shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). A copy of the current SWPPP shall be kept at the project site and be available for City review on request. In addition, the Applicant shall include notes on the grading plans indicating that the project will be implemented in compliance with the Statewide Permit for General Construction Activities.
71. The Applicant shall comply with and/or implement all hydromodification criteria, hydrologic control measures, performance measures, management measures, and other requirements of the Hydromodification Management Plan or Interim Hydromodification Criteria, as applicable, developed in accordance with Section F.1.h of Order No. R9-2009-0002 (NPDES Permit No. CAS0108740), or any subsequent Order adopted by the California Regional Water Quality Control Board, San Diego Region, and shall provide all necessary related calculations in the grading plans.
72. Prior to issuance of the first residential certificate of occupancy, the Applicant shall install, to the reasonable satisfaction of the City Engineer, a traffic signal at the intersection of Avenida de la Carlota and the main entrance to the Property, including interconnection to the existing traffic signal at the intersection of Avenida de la Carlota and Los Alisos Boulevard via conduit and hardwire, and construction on the easterly side of Avenida de la Carlota of a public sidewalk connection to the Oakbrook Plaza office development. Said traffic signal shall be constructed to applicable State and City standards and specifications and shall be equipped with video detection and controller equipment as approved by City. The sidewalks and ramps

at all corners of the newly signalized intersection and the sidewalk connection to the Oakbrook Plaza office development on the easterly side of Avenida De La Carlota shall be constructed and/or modified to conform to City and Americans With Disabilities Act ("ADA") standards. Prior to construction of said improvements, the Applicant shall prepare, and the City Engineer shall approve, a Traffic Signal Improvement Plan and a Striping Plan for the proposed traffic signal, including a traffic signal interconnection plan to interconnect the new traffic signal with the existing traffic signal at the intersection of Avenida de la Carlota at Los Alisos Boulevard.

73. The Applicant shall design and construct, to the satisfaction of the City Engineer, storm drain connections, inlets, and/or other improvements necessary to eliminate all cross-gutter drainage across both the main and the northerly entrance driveway intersections with Avenida De La Carlota. No cross-gutters shall be used at the above-described intersections.
74. Debris gates of the type specified by the City Engineer shall be installed at all catch basin inlets along the Property frontage to Avenida De La Carlota.
75. The northerly entrance intersection with Avenida De La Carlota shall be realigned to intersect Avenida De La Carlota at 90 degrees to the reasonable satisfaction of the City Engineer and as shown on the Vesting Tentative Map.
76. Prior to issuance of the first residential certificate of occupancy, the Applicant shall dedicate and transfer to City the public right-of-way necessary for, and shall construct and create, a new curb line along the entire Property frontage of Avenida de la Carlota, including a six (6) foot wide landscaped parkway space and a minimum six (6) foot wide sidewalk to City standards and specifications. Such improvements shall not interfere with existing vehicular lane configurations or result in modifications that have the effect of reducing any on-site parking for the Project. Required parkway improvements shall be as shown on the approved landscape plans, shall be consistent with the Urban Village Specific Plan, and shall include all irrigation and drainage facilities and improvements deemed necessary by the City Engineer.
77. All of the curb ramps on Avenida De La Carlota at each entrance to Oakbrook Village shall be reconstructed to current ADA standards to the satisfaction of the City Engineer with detectable warning surface by Armor Tile, cast in place, and blue in color.

78. The Applicant shall provide an Americans with Disabilities Act (ADA) site review of existing pathways, sidewalks and access ramps for both on-site access and adjacent to the site access along the accessible pathways. The accessible pathway shall not include a path within any drive aisle, except as necessary to cross a drive aisle at 90° to the drive aisle. The report shall be prepared by a professional whose expertise lies in the field and shall include an implementation plan to correct all deficiencies noted as approved by the City Engineer. Any sidewalk or pathway not in compliance with ADA standards shall be reconstructed.
79. The Applicant shall demonstrate that all on-site access routes are capable to accommodate truck access and truck turning radii.
80. Prior to the grading permit close out (which may occur after the issuance of building permits) or the issuance of a certificate of use and occupancy, the Applicant shall demonstrate compliance with the WQMP in a manner meeting the satisfaction of the City Engineer, including:
 - a. Demonstrates that all structural BMPs described in the Project WQMP have been implemented, constructed, and installed in conformance with approved plans and specifications;
 - b. Demonstrates that the Applicant has complied with and/or is prepared to implement all non-structural BMPs described in the Project WQMP;
 - c. Demonstrates that an adequate number of copies of the project's approved Project WQMP are available for the future occupants;
 - d. Demonstrates that the Applicant has agreed to and recorded CC&R's, an agreement, or another legal instrument approved by the City Attorney that shall require the property owner, successors, tenants (if applicable), and assigns to fund, operate and maintain in perpetuity the post-construction BMPs described in the Project WQMP.
 - e. The Community Development Department and Public Services Department shall determine whether any proposed change in use requires an amendment to an approved Project WQMP and/or recorded document or agreement.
81. Trash/recycling enclosures shall be provided on-site and shall be constructed per the City of Laguna Hills Covered Trash Enclosure

Detail and City standards, including a solid roof and sewer drain connection.

82. The Applicant shall install "Smart" landscape irrigation controllers, low precipitation-rate sprinkler heads, and water efficient landscaping throughout the property in conformance with Municipal Code Chapter 9-47.

Additional Mitigation Measures / Conditions

The following mitigation measures/conditions relate to air quality impacts:

83. During grading activities, all rubber-tired dozers and scrapers (≥ 50 horsepower) shall be CARB Tier 3 Certified or better. Additionally, the maximum (actively graded) disturbance area shall not exceed four acres per day.
84. The Applicant shall apply the following measures, as applicable, during construction of the Project to reduce the amount of fugitive dust in accordance with SCAQMD Rule 403:
 - Dust suppression at construction sites using vegetation, surfactants, and other chemical stabilizers
 - Wheel washers for construction equipment
 - Watering down of all construction areas
 - Limit speeds at construction sites to 15 miles per hour
 - Covering of aggregate or similar material during transportation of material
85. The Applicant shall implement the following measures, as applicable, during construction of the Project to reduce exhaust emissions from construction equipment:
 - On-site equipment shall not be left idling when not in use.
 - The hours of operation of heavy-duty equipment and/or the amount of equipment in use at any one time shall be limited.
 - Staging areas for heavy-duty construction equipment shall be located as far as possible from sensitive receptors.

- Before construction contracts are issued, the project Applicant shall perform a review of new technology, in consultation with the SCAQMD, as it relates to heavy-duty equipment, to determine what (if any) advances in emissions reductions are available for use and are economically feasible. Construction contract and bid specifications shall require contractors to utilize the best available and economically feasible technology on an established percentage of the equipment fleet. It is anticipated that in the near future, both NOx and PM10 control equipment will be available.

86. Activities involving idling trucks shall be oriented as far away from and downwind of existing or proposed sensitive receptors as feasible. Strategies shall be incorporated to reduce the idling time of main propulsion engines through alternative technologies such as IdleAire, electrification of truck parking, and alternative energy sources for transport refrigeration units (TRUs) to allow diesel engines to be completely turned off.
87. The Applicant shall develop a Construction Traffic Emission Management Plan for the proposed project. The Plan shall include measures to minimize emissions from vehicles including: scheduling truck deliveries to avoid peak hour traffic, consolidating truck deliveries, and prohibiting truck idling in excess of five minutes. Other measures include: use electricity or alternate fuels for on-site mobile equipment instead of diesel equipment to the extent feasible; maintain construction equipment by conducting regular tune ups and retard diesel engine timing; use electric welders where electricity is available; use on-site electricity rather than temporary power generators where electricity is available; evaluate the feasibility of retrofitting the large off-road construction equipment; use alternative diesel fuels, if commercially available; and suspend the use of all construction activities during first stage smog alerts.

The following mitigation measures/conditions relate to both air quality and greenhouse gas emissions impacts:

88. Prior to building permit final, the Applicant shall provide bike support facilities (e.g., bicycle racks) to encourage bicycle riding as a transportation mode. Prior to installation, a plan for such amenities shall be submitted to the Community Development Director for his or her review and approval.
89. At a minimum, the Applicant shall implement the following "green" building practices:

- The apartment units shall feature dual pane low E vinyl windows, low flow toilets, low flow showerheads, low flow faucets, Energy Star appliances, energy efficient lighting, reflective white PVC "cool" roof membrane, programmable thermostats, and high efficiency HVAC condensing units.
- Project irrigation shall utilize Smart irrigation technology.
- The "green" 2010 Cal Green Building Code shall be implemented into building design.
- Individual identification of gas, electricity, and water consumption shall be available to give resident awareness of consumption.

The following mitigation measures/conditions relate to hazardous building materials impacts:

90. All demolition activities shall comply with the SCAQMD's Rule 1403, which requires that buildings undergoing demolition or renovation be surveyed for asbestos-containing materials (ACM) prior to any demolition or renovation activities.

The following mitigation measures/conditions relate to noise impacts:

91. Delivery or service hours for stores and businesses with loading areas, docks, or trash bins that gain access on driveways next to residential and other noise sensitive areas shall take place between the hours of 7:00 a.m. and 10:00 p.m. No use that is immediately adjacent to a residential use shall produce loading or unloading of materials, products, and or supplies at the site between the hours of 8:00 p.m. and 7:00 a.m. The City shall only approve exceptions if full compliance with the nighttime limits of the noise regulations is achieved.
92. Trucks associated with construction activities shall follow designated truck routes, where appropriate.
93. Noise sources associated with construction, repair, remodeling, or grading of any real property, shall not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, 8:00 p.m. and 8:00 a.m. on Saturday, or at any time on Sunday or a federal holiday.
94. Heating ventilation and air conditioning (HVAC) units shall be installed in compliance with the provisions of Chapter 5-24 (Noise Control) of the City's Municipal Code.

95. Prior to the issuance of building permits, the Applicant shall submit a final acoustical report prepared to the Satisfaction of the Community Development Director indicating compliance with the state's interior noise standard of 45 dB CNEL for multiple-family residential land use. The Applicant shall increase the recommended STC ratings of windows/ doors, exterior wall and/or roof assemblies for the project as recommended by the final acoustic report and include any such requirements in project building plans.

The following mitigation measures/conditions relate to utilities and service systems impacts:

96. The project shall comply with all federal, state, and local statutes and regulations related to solid waste. The project shall comply with the City's established reduction, reuse, and recycling programs.
97. The project shall be connected to the public sewer.

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Attachment #5
Proposed Ordinance &
Amendment No. 2

ORDINANCE NO. 2016-x

AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, APPROVING AND ADOPTING
AMENDMENT NO. 2 TO THE DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF LAGUNA HILLS
AND LAGUNA HILLS INVESTMENT COMPANY AND
OAKBROOK URBAN VILLAGE I, LLC, FOR THE
OAKBROOK VILLAGE SHOPPING CENTER
REDEVELOPMENT PROJECT

WHEREAS, the City of Laguna Hills (the "City") and Laguna Hills Investment Company previously entered into that certain Development Agreement, which was approved pursuant to City Council Ordinance No. 2012-4 on November 27, 2012, became effective December 28, 2012, and was recorded in the Official Records, Orange County Clerk-Recorder's Office on January 2, 2013, as Document No. 2013000002329 (the "Development Agreement"), pertaining to the redevelopment of the Oakbrook Village Shopping Center property (the "Property"), located at 24231-24391 Avenida de la Carlota in the Urban Village Specific Plan area with a multi-phase, mixed-use project consisting of multi-family residential units, renovated and expanded retail uses, public open space, pedestrian pathways, and private and public infrastructure improvements within the Village Commercial District of the Urban Village Specific Plan area, generally located south of the Laguna Hills Mall along Avenida de la Carlota to the East, north of Los Alisos Boulevard (the "Project"). A copy of the Development Agreement is on file in the office of the City Clerk of the City of Laguna Hills; and

WHEREAS, on November 27, 2012, pursuant to the California Environmental Quality Act ("CEQA"), the City Council and Planning Agency determined that the Project is within the scope of the "City of Laguna Hills General Plan Program Environmental Impact Report, June 2009, State Clearinghouse No. 20080811100" ("PEIR"), and that the Project would not result in any new significant effects that were not examined in the PEIR, a substantial increase in the severity of significant effects examined in the PEIR, or require any new mitigation measures or alternatives. The City therefore adopted Addendum to the PEIR for the Project pursuant to Public Resources Code Sections 21166, 21083.3, and CEQA Guidelines Sections 15168, 15162, 15164, and 15183. The City filed a Notice of Determination on November 28, 2012; and

WHEREAS, following the approval and execution of the Development Agreement, Laguna Hills Investment Company subsequently assigned an interest in the Development Agreement to Oakbrook Urban Village I, LLC, as described and as set forth in that certain Assignment of Development Agreement dated April 24, 2014, as recorded in the Official Records, Orange County, Clerk Recorder, on April 24, 2014, bearing document number 2014000157001; and

WHEREAS, Laguna Hills Investment Company and Oakbrook Urban Village I, LLC are collectively referred to herein as the "Owner"; and

WHEREAS, on February 24, 2015, the City Council of the City of Laguna Hills adopted Ordinance No. 2015-3 approving Amendment No. 1 to Development Agreement between the City and the Owner, which Amendment No. 1 to Development Agreement became effective March 27, 2015, and was recorded in the Official Records, Orange County Clerk-Recorder's Office on March 31, 2015, as Document No. 2015000163595; and

WHEREAS, the Development Agreement establishes specified time periods by which the Owner is required to commence and complete the various components of Phase 1 of the Project, including, without limitation, the renovation of the façades of all remaining retail structures located on the Property and various pedestrian paseos and trails; and

WHEREAS, in accordance with Section 13 of the Development Agreement, the Owner has proposed that the Development Agreement be amended again to modify the timing, location, and scope of development of certain on-site pedestrian, landscaping, and building façade improvements; and

WHEREAS, the City Council serves as, and is, the Planning Agency of the City pursuant to Government Code Section 65100; and

WHEREAS, on January 29, 2016 as required by Government Code Section 65867, the City caused public notice to be given of the City Council's intention to consider adoption of the Amendment No. 2 to Development Agreement for the Project (the "Amendment No. 2"), and on February 9, 2016, and March 8, 2016, as required by Government Code Section 65867, the City Council held a public hearing on adoption of the Amendment No. 2, and introduction and first reading of this ordinance; and

WHEREAS, on March 22, 2016, the City Council considered the adoption of this ordinance approving and authorizing the execution of the Amendment No. 2; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City hereby determines that no further environmental review is required. The Amendment No. 2 will merely make minor modifications to the scope and timing of development of façade renovations and pedestrian, vehicular and landscaping improvements on the Property, and will not affect the size, scope, or timing of development of any structures on the Property. Accordingly, the City hereby determines that the Amendment No. 2 is within the scope of the Addendum adopted on November 27, 2012, and that none of the circumstances triggering further environmental review have occurred since the adoption of the Addendum: (i) there are

no substantial changes in the Project requiring major revisions of the PEIR or Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (ii) there are no substantial changes with respect to the circumstances under which the Project is being undertaken which will require major revisions of the PEIR or Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects; and (iii) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the PEIR or Addendum was adopted showing that: (a) the Project will have one or more significant effects not discussed in the PEIR or Addendum; (b) significant effects previously examined will be substantially more severe than shown in the PEIR or Addendum; (c) mitigation measures or alternatives previously found not feasible would in fact be feasible, and would substantially reduce one or more significant effects of the Project, but the mitigation measures or alternatives have not been adopted; or (d) mitigation measures or alternatives considerably different from those analyzed in the PEIR or Addendum would substantially reduce one or more significant effects on the environment, but the mitigation measures or alternatives have not been adopted. (Public Resources Code Section 21166 and CEQA Guidelines Sections 15162.)

SECTION 2. The Amendment No. 2 to Development Agreement with the Owner for the Project attached hereto as Exhibit "A" is hereby APPROVED based on the following statement of findings:

- A. The findings set forth in City Council Ordinance No. 2012-4, adopted on November 27, 2012, supporting the adoption and approval of the Development Agreement, are hereby incorporated by reference as if set forth in full herein.
- B. The Amendment No. 2 has been properly requested pursuant to Section 13 of the Development Agreement.
- C. The Development Agreement, as amended by the Amendment No. 2, and the Project remain consistent with the objectives, policies, general land uses, and programs of the Laguna Hills General Plan and the Urban Village Specific Plan encouraging an urban village identity to include a variety of high quality public, regional commercial, recreational, and high density residential uses working in concert to create an "urban village" with enhanced pedestrian areas conveniently linking commercial, residential, and civic areas. The Amendment No. 2 merely modifies the timing of development of façade renovations and the scope and timing of the development of on-site pedestrian, vehicular and landscaping improvements required by the Development Agreement in order to enhance linkages with future adjacent residential and commercial uses, but will not affect the size, scope, or timing of development of any structures or village greens on the Property.
- D. The Development Agreement, as amended by the Amendment No. 2, and the Project remain consistent with the densities and uses authorized for the Project site

specified in the Laguna Hills General Plan, the Urban Village Specific Plan, and the Zoning and Development Code of the City.

- E. The Development Agreement, as amended by the Amendment No. 2, continues to provide for the orderly development of the Project property. The Development Agreement, as amended by the Amendment No. 2, continues to identify the different phases and timing for construction of the Project and public improvements.
- F. The Development Agreement, as amended by this Amendment No. 2, and the Project remain consistent with the Zoning and Development Code of the City, compatible with the present and future logical growth of the proposed project area (as envisioned in the Laguna Hills General Plan and Urban Village Specific Plan), and designed to protect and promote the public health, safety and welfare.

SECTION 3. The City Council finds that the above recitations are true and correct and constitute the findings of the City Council and Planning Agency in this case.

SECTION 4. The City Manager is hereby directed and authorized to take all necessary actions to implement this ordinance, including but not limited to, updating the legal description of the Property described in the Amendment No. 2 to Development Agreement attached hereto as Exhibit "A", if necessary, and executing the Amendment No. 2 and other related documents.

SECTION 5. A fully executed copy of the Amendment No. 2 to Development Agreement attached hereto as Exhibit "A" between the City and the Owner shall be filed and maintained in the office of the City Clerk.

SECTION 6. The City Clerk shall record a copy of the Amendment No. 2 to Development Agreement within 10 days of the effective date of this ordinance, on or before May 2, 2016.

SECTION 7. This ordinance shall become effective 30 days after its adoption, on April 22, 2016.

SECTION 8. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 9. The City Clerk shall certify to the adoption of this ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in

the alternative, the City Clerk may cause to be published a summary of this ordinance and a certified copy of the text of this ordinance shall be posted in the office of the City Clerk five days prior to the date of adoption of this ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post a certified copy of this ordinance, together with the vote for and against the same, in the office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2016.

BARBARA D. KOGERMAN, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the ____ day of _____, 2016, and that thereafter, said ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the ____ day of _____, 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Ordinance No. _____

EXHIBIT A

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Laguna Hills
c/o City Clerk
24035 El Toro Road
Laguna Hills, California 92653

(Space Above Line for Recorder's Use)
Exempt from Recorder's Fees Pursuant to
Government Code §§ 6103 and 27383

**AMENDMENT NO. 2 TO DEVELOPMENT AGREEMENT
(Oakbrook Village Shopping Center Mixed Use Project)**

BY AND BETWEEN

**THE CITY OF LAGUNA HILLS, a municipal corporation, duly organized and existing
under the Constitution and laws of the State of California**

AND

LAGUNA HILLS INVESTMENT COMPANY, a Delaware limited partnership

AND

OAKBROOK URBAN VILLAGE I, LLC, a Delaware limited liability company

THIS AMENDMENT NO. 2 TO DEVELOPMENT AGREEMENT SHALL BE RECORDED WITHIN TEN DAYS OF ITS EFFECTIVE
DATE PURSUANT TO THE REQUIREMENTS OF GOVERNMENT CODE §65868.5

**AMENDMENT NO. 2 TO DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF LAGUNA HILLS
AND
LAGUNA HILLS INVESTMENT COMPANY
AND
OAKBROOK URBAN VILLAGE I, LLC**

This Amendment No. 2 to Development Agreement ("Amendment No. 2") is made and entered into this 22nd day of April, 2016 ("Effective Date"), by and between the City of Laguna Hills, a municipal corporation, duly organized and existing under the Constitution and laws of the State of California ("City"), on the one hand, and Laguna Hills Investment Company, a Delaware limited partnership, and Oakbrook Urban Village I, LLC, a Delaware limited liability company (collectively "Owner"), on the other hand, pursuant to the authority set forth in Article 2.5 of Chapter 4 of Division I of Title 7, Sections 65864 through 65869.5 of the California Government Code (the "Development Agreement Statute").

RECITALS

A. City is authorized, pursuant to California Government Code §§65864 through 65869.5 (the "Development Agreement Statute") and Chapter 9-84 of the Laguna Hills Municipal Code (the "Development Agreement Ordinance") to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property.

B. City and Laguna Hills Investment Company previously entered into to that certain Development Agreement, which was approved pursuant to City Council Ordinance No. 2012-4 on November 27, 2012, became effective December 28, 2012, and was recorded in the Official Records, Orange County Clerk-Recorder's Office on January 2, 2013, as Document No. 2013000002329 (the "Original Development Agreement"), pertaining to the redevelopment of the Oakbrook Village Shopping Center property (the "Property"), located at 24231-24391 Avenida de la Carlota in the Urban Village Specific Plan area, which is more particularly described in **Exhibit A-1 and Exhibit A-2** attached hereto, with a multi-phase, mixed-use project consisting of multi-family residential units, renovated and expanded retail uses, public open space, pedestrian pathways, and private and public infrastructure improvements (the "Project").

C. The Project consists of two phases. Phase 1 of the Project ("Phase 1") generally includes, without limitation: (i) the demolition of approximately 82,730 square feet of the approximately 190,956 square feet of existing retail space on the Property; (ii) the construction of the "Deferred Retail Pads" (as defined in Section 1.4 of the Development Agreement) and approximately 9,000 square feet of additional new retail space, resulting in approximately 132,200 square feet, and no less than a minimum of 124,000 square feet of retail space on the Property; (iii) the renovation of the façades of all remaining retail structures located on the Property other than restaurant Buildings D and E (Lone Star and El Torito); (iv) the construction of a maximum of 289 multi-family residential units; and (v) the construction of the "Phase 1

Public Improvements" (as defined in Section 1.25 of the Development Agreement). Phase 2 of the Project ("Phase 2") generally includes, without limitation, the Development or Redevelopment of the Property in accordance with the Subsequent Development Approvals and in a manner that shall result in: (i) the construction of a maximum of 200 additional multi-family residential units; (ii) the required construction of additional new retail space; and (iii) the required construction of an approximately 7,000 square foot secondary Village Green area. The Owner may, but is not required, to pursue the Development of Phase 2.

D. On November 27, 2012, pursuant to the California Environmental Quality Act ("CEQA"), the City Council and Planning Agency determined that the Project is within the scope of the "City of Laguna Hills General Plan Program Environmental Impact Report, June 2009, State Clearinghouse No. 20080811100" ("PEIR"), and that the Project would not result in any new significant effects that were not examined in the PEIR, a substantial increase in the severity of significant effects examined in the PEIR, or require any new mitigation measures or alternatives. The City therefore adopted Addendum to the PEIR for the Project pursuant to Public Resources Code Sections 21166, 21083.3, and CEQA Guidelines Sections 15168, 15162, 15164, and 15183. The City filed a Notice of Determination on November 28, 2012.

E. Following the approval and execution of the Development Agreement, Laguna Hills Investment Company subsequently assigned an interest in the Development Agreement to Oakbrook Urban Village I, LLC, as described and as set forth in that certain Assignment of Development Agreement dated April 24, 2014, as recorded in the Official Records, Orange County, Clerk Recorder, on April 24, 2014, bearing document number 2014000157001.

F. City and Owner also previously entered into that certain Amendment No. 1 to Development Agreement ("Amendment No. 1"), which was approved by City Council Ordinance No. 2015-3 on February 24, 2015, became effective March 27, 2015, and was recorded in the Official Records, Orange County Clerk-Recorder's Office on March 31, 2015, as Document No. 2015000163595. Amendment No. 1 extended the time periods by which Owner (i) is required to commence renovation of the façades of the remaining retail structures located on the Property, and (ii) to complete Development of certain Phase 1 Public Improvements. The Original Development Agreement and Amendment No. 1 are referred to collectively herein as the "Development Agreement."

G. Pursuant to the Development Agreement, Owner is required to make certain façade renovations to the remaining retail structures on the Property in Phase 1 (other than restaurant Buildings D and E, for which façade renovation is not required). The existing remaining retail structures located on the Property are described and depicted on **Exhibit B** attached to this Amendment No. 2. Section 5.4.1 of the Development Agreement and Section 3 of Amendment No. 1 govern the timing for commencement and completion of the required façade renovations to the remaining retail structures on the Property. As of the Effective Date of this Amendment No. 2, all required façade renovations to the existing retail structures on the Property have been completed, with the exception of the façade renovations required for Buildings P, A, Q and C. Pursuant to this Amendment No. 2, the Parties desire to modify the dates by which the façade renovations for Buildings P, A, Q and C must be commenced and completed.

H. Pursuant to the Development Agreement, Owner is required to construct certain Phase 1 Public Improvements that include, in part, various pedestrian paseos and pathways on the Property. The pedestrian paseos and pathways required to be constructed are described in Sections 1.25 and 7.4 of the Development Agreement and described and depicted in Exhibit E to the Development Agreement, as amended pursuant to Exhibit C to Amendment No. 1. For reference, the approximate locations of such pedestrian paseos are also described and depicted on **Exhibit C** attached to this Amendment No. 2. Sections 5.4.1 and 5.4.3 of the Development Agreement and Section 4 of Amendment No. 1 govern the timing of Development of the Phase 1 Public Improvements, including the pedestrian paseos and pathways. Pursuant to this Amendment No. 2, the Parties desire to modify the timing of Development of certain of the pedestrian paseos and pathways (but not other Phase 1 Public Improvements) required to be constructed on the Property pursuant to the Development Agreement.

I. The property currently occupied by the Laguna Hills Mall (the "Five Lagunas Property") is situated adjacent to and immediately north of the Property. It is the Parties' mutual understanding that the owner of the Five Lagunas Property is contemplating a proposed redevelopment project on the Five Lagunas Property in the near future, which may include, in part, the proposed construction of two new buildings near the Property in the approximate locations identified as "Building A" and "Building B" on **Exhibit D** to this Amendment No. 2. The Parties do not anticipate that the proposed redevelopment of the Five Lagunas Property will be completed within five (5) years of the Development Agreement Date (i.e., December 28, 2017). The Parties acknowledge that it is in their mutual interest that the planning and construction of paseos and other improvements on the Property immediately adjacent to, and/or intended to connect with, the Five Lagunas Property be coordinated with the anticipated redevelopment of the Five Lagunas Property. Accordingly, pursuant to this Amendment No. 2, the Parties desire to provide a framework for the Development of such improvements in the event Five Lagunas Property is redeveloped as anticipated.

J. Pursuant to Section 5.4.2 of the Development Agreement, subject to all applicable Subsequent Development Approvals, in lieu of Development of either or both of the Deferred Retail Pads at the locations specified in the Phase 1 Project Approvals, Owner may proceed with Development or Redevelopment of an equivalent or greater amount of new retail space on the Property. Owner has advised City that, in lieu of Development of one of the Deferred Retail Pads, it is contemplating submitting an application for Subsequent Development Approvals for the development of two new retail structures at the locations depicted as Buildings "A1" and "A2" on **Exhibit E** to this Amendment No. 2. Pursuant to this Amendment No. 2, the Parties desire to set forth their mutual understanding regarding the Development of additional and relocated pedestrian paseos on the Property that may be required as a condition of City's approval of any such Subsequent Development Approvals.

K. Phase 2 includes, in part, the construction of additional new retail space on the Property. Section 5.4.4 of the Development Agreement sets forth certain rights and obligations of the Parties pertaining to the Development of Phase 2. Owner has advised City that, as part of Phase 2, it is contemplating the proposed development of two new retail structures to replace existing Buildings B and C at the approximate locations depicted as Buildings "B1" and "B2" on **Exhibit E** to this Amendment No. 2. Pursuant this Amendment No. 2, the Parties desire to set forth their mutual understanding regarding the Development of certain pedestrian paseos and

lighting improvements that may be required as conditions of City's approval of Subsequent Development Approvals for Phase 2.

L. In accordance with Section 13 of the Development Agreement, Owner has proposed that the Development Agreement be further amended as provided herein.

M. On January 29, 2016, as required by Section 65867 of the Development Agreement Statute, the City caused public notice to be given of the City Council's intention to consider adoption of this Amendment No. 2.

N. On February 9, 2016 and March 8, 2016, as required by Section 65867 of the Development Agreement Statute, the City Council held a public hearing on this Amendment No. 2.

O. The City has determined that no further environmental review is required. This Amendment No. 2 will merely make minor modifications to the scope and timing of development of façade renovations and pedestrian, vehicular and landscaping improvements on the Property, and will not affect the size, scope, or timing of development of any structures on the Property. Accordingly, the City has determined that the Amendment No. 1 is within the scope of the Addendum adopted on November 27, 2012, and that none of the circumstances triggering further environmental review have occurred since the adoption of the Addendum: (i) there are no substantial changes in the Project requiring major revisions of the PEIR or Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (ii) there are no substantial changes with respect to the circumstances under which the Project is being undertaken which will require major revisions of the PEIR or Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects; and (iii) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the PEIR or Addendum was adopted showing that: (a) the Project will have one or more significant effects not discussed in the PEIR or Addendum; (b) significant effects previously examined will be substantially more severe than shown in the PEIR or Addendum; (c) mitigation measures or alternatives previously found not feasible would in fact be feasible, and would substantially reduce one or more significant effects of the Project, but the mitigation measures or alternatives have not been adopted; or (d) mitigation measures or alternatives considerably different from those analyzed in the PEIR or Addendum would substantially reduce one or more significant effects on the environment, but the mitigation measures or alternatives have not been adopted. (Public Resources Code Section 21166 and CEQA Guidelines Sections 15162.)

P. The City Council hereby finds and determines that the Development Agreement, as modified pursuant to this Amendment No. 2: (i) is consistent with the objectives, policies, general land uses, and programs contained City's General Plan and Urban Village Specific Plan; (ii) is compatible with the uses authorized in the Village Commercial land use district; (iii) provides for the orderly development of the Property; and (iv) is entered into pursuant to and in compliance with the requirements of Section 65867 of the Development Agreement Statute.

Q. On March 22, 2016, the City Council adopted an Ordinance approving and authorizing the execution of this Amendment No. 2.

NOW, THEREFORE, pursuant to the authority contained in the Development Agreement Statute, and pursuant to the Development Agreement Ordinance, and pursuant to the mutual promises and covenants herein contained, the Parties hereto agree as follows:

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

2. Capitalized Terms. Unless otherwise specified herein, all capitalized terms in this Amendment No. 2 shall have the meaning(s) set forth for the same in the Development Agreement.

3. Amendment Pertaining to Phase 1 Façade Improvements For Buildings P, A, Q and C. The Parties hereby agree that, notwithstanding the deadlines set forth in Section 5.4.1 of the Development Agreement and Section 3 of Amendment No. 1, the following provisions shall apply to the façade renovations required to be made to existing Buildings P, A, Q and C on the Property in Phase 1:

A. Owner shall have obtained all applicable building, demolition, and similar permits for Development of the required façade renovations for each of Buildings P, A, Q, and C on or before August 31, 2016.

B. The design and construction of the façades of Buildings P, A and Q shall be reasonably consistent with the concept elevations depicted in **Exhibit F** attached to this Amendment No. 2, as determined by City in its reasonable discretion.

C. The design and construction of the façade of Building C shall be reasonably consistent with the concept elevations depicted in **Exhibit G** attached to this Amendment No. 2, as determined by City in its reasonable discretion.

D. Owner shall have completed Development of the required façade renovations for each Buildings P, A, Q, and C on or before December 31, 2016.

E. The Parties expressly acknowledge and agree that, pursuant to, as set forth in, and in accordance with, Section 5.4.1 of the Development Agreement, the City Council may unilaterally terminate the Development Agreement if, following notice and a public hearing in accordance with applicable law, the City Council finds that Owner has failed to commence or complete the required façade renovations for Buildings P, A, Q, and/or C in accordance with this Section 3 of Amendment No. 2.

4. Amendments Pertaining to Phase 1 Public Improvements.

A. North-South Pedestrian Paseo. Notwithstanding anything to the contrary in Sections 5.4.1 and 5.4.3 of the Development Agreement, the following provisions shall apply to Owner's construction of the improved north-south pedestrian paseo adjacent to Buildings P, A and Q:

(i) Owner's completion of the north-south pedestrian paseo shall not be a condition precedent to City's issuance of any residential certificates of occupancy for Phase 1.

(ii) Owner shall complete Development of the improved north-south pedestrian paseo on or before December 31, 2016. The design and construction of the improved north-south pedestrian paseo shall be reasonably consistent with the concept plans depicted in **Exhibit H**, as determined by the City's City Manager or designee, in his or her reasonable discretion.

B. Hillside Pedestrian Paseo. Notwithstanding anything to the contrary in Sections 5.4.1 and 5.4.3 of the Development Agreement, the following provisions shall apply to Owner's construction of the hillside pedestrian paseo connecting the north-south pedestrian paseo with the Five Lagunas Property:

(i) Owner shall complete Development of the hillside pedestrian paseo on or before (a) the date that is six (6) months after the date the City issues the first certificate of occupancy for a new building on the Five Lagunas Property in the approximate location identified as "Building B" on **Exhibit D** to this Amendment No. 2, or (b) December 28, 2023, whichever occurs first. If the City issues a certificate of occupancy for "Building B" on the Five Lagunas Property as contemplated in the preceding sentence, City agrees to notify Owner within ten (10) days of its issuance.

C. Improvements Along North Property Line Other than Hillside Pedestrian Paseo. Notwithstanding anything to the contrary in the Development Agreement, the following provisions shall apply to Owner's construction of improvements (other than the hillside paseo) along the north Property line adjacent to the Five Lagunas Property:

(i) Owner shall not construct the pedestrian trail along the north Property line. In lieu of construction of the pedestrian trail, subject to approval of required Subsequent Development Approvals by the City, Owner shall, instead, plan and construct new, enhanced landscape improvements and vehicular and pedestrian connections at the north Property line, which create coordinated and compatible linkages at the north Property boundary line between the Property and the Five Lagunas Property. Owner agrees to cooperate with, and use commercially reasonable efforts to coordinate with, the owner of the Five Lagunas Property in the planning and construction of said improvements.

(ii) Owner shall submit a complete application for all Subsequent Development Approvals required to construct the new improvements along the north Property line described in subsection 4.C(i), above, on or before (a) the date that is 180 days after the date on which the City approves entitlements for redevelopment of the Five Lagunas Property that includes proposed construction of a new building near the Property in the approximate location

identified as "Building A" on **Exhibit D** to this Amendment No. 2, or (b) March 1, 2017, whichever occurs last. This date may be extended up to an additional 90 days at the discretion of the City Manager of the City. If the City approves entitlements for a redevelopment of the Five Lagunas Property that includes proposed construction of a "Building A" on the Five Lagunas Property as contemplated in this subsection, City agrees to notify Owner within ten (10) days of its approval.

(iii) Provided the City approves all Subsequent Development Approvals required to construct the new improvements along the north Property line described in subsection C(i), above, Owner shall complete construction of said improvements on or before (a) the date that is six (6) months after the date the City issues the first certificate of occupancy for a new building on the Five Lagunas Property in the approximate location identified as "Building A" on **Exhibit D** to this Amendment No. 2, or (b) December 28, 2023, whichever occurs first. If the City issues a certificate of occupancy for "Building A" on the Five Lagunas Property as contemplated in the preceding sentence, City agrees to notify Owner within ten (10) days of its issuance.

D. Parking Lot Paseo #2. Notwithstanding anything to the contrary in Sections 5.4.1 and 5.4.3 of the Development Agreement, the following provisions shall apply to Owner's construction of the parking lot paseo identified as "Parking Lot Paseo #2" on **Exhibit C** to this Amendment No. 2:

(i) Owner's completion of Parking Lot Paseo #2 shall not be a condition precedent to City's issuance of any residential certificates of occupancy for Phase 1.

(ii) Except as otherwise provided in Section 5 below, Owner shall complete Development of Parking Lot Paseo #2 at the location depicted on **Exhibit C** to this Amendment No. 2 on or before December 28, 2018.

E. The Parties expressly acknowledge and agree that, pursuant to, as set forth in, and in accordance with, Section 5.4.1 of the Development Agreement, the City Council may unilaterally terminate the Development Agreement if, following notice and a public hearing in accordance with applicable law, the City Council finds that Owner has failed to commence or complete the required Phase 1 Improvements in accordance with this Section 4 of Amendment No. 2.

F. Owner acknowledges and agrees that the north-south pedestrian paseo described in subsections 4.A, the hillside pedestrian paseo described in subsection 4.B, the vehicular, pedestrian and landscaping improvements described in subsection 4.C, and the parking lot paseo described in subsection 4.D shall, upon completion, constitute "Public Improvements" within the meaning of Section 1 of that certain Covenant and Agreement executed on or about February 3, 2016 by Laguna Hills Investment Company, L.P. in favor of the City, which was recorded in the Official Records, Orange County Clerk-Recorder's Office on February 8, 2016, as Document No. 2016000053060 (the "Covenant and Agreement").

5. Amendment Pertaining to Owner's Construction of Additional Retail Space in Lieu of Deferred Retail Pads. If, in lieu of Development of one of the Deferred Retail Pads as a stand-alone building, Owner applies for, and City approves, Subsequent Development Approvals for the development of the two new retail structures at the approximate locations depicted as Buildings "A1" and "A2" on **Exhibit E** to this Amendment No. 2, the following provisions shall apply:

A. Owner shall apply simultaneously for all Subsequent Development Approvals required for Development of new retail structures at the approximate locations depicted as Buildings "A1" and "A2" on **Exhibit E** to this Amendment No. 2.

B. Relocated Parking Lot Paseo #2. In lieu of constructing Parking Lot Paseo #2 at the location depicted on **Exhibit C** to this Amendment No. 2, Owner shall, instead, construct a parking lot paseo at the approximate location identified as "Parking Lot Paseo #2" on **Exhibit E** to this Amendment No. 2, which results in a direct connection between the retail structures identified on **Exhibit E** as Buildings "H" and "A2." Such relocated Parking Lot Paseo #2 shall conform to the requirements and development standards for parking lot paseos set forth in the Specific Plan (including, without limitation, those depicted in Figure 18 of the Specific Plan). Owner shall have completed construction of such relocated Parking Lot Paseo #2 prior to issuance of a certificate of occupancy for any portion of Building "A2," and City shall not be obligated to issue a certificate of occupancy for any portion of Building "A2" if Owner has not completed construction of relocated Parking Lot Paseo #2. Owner understands and agrees that its Development of the relocated Parking Lot Paseo #2 in accordance with this paragraph will be a condition of City's approval of any Subsequent Development Approvals for the Development of Buildings "A1" and/or "A2" and hereby waives any and all rights Owner may have to challenge such a condition of approval.

C. New East-West Pedestrian Paseo 2A. Owner shall construct a new east-west pedestrian paseo that is situated immediately south of new Buildings "A1" and "A2" at the approximate location depicted on **Exhibit E** to this Amendment No. 2 as "Paseo 2A" and that connects with relocated Parking Lot Paseo #2. Such new East-West Pedestrian Paseo 2A shall conform to the requirements and development standards for pedestrian paseos set forth in the Specific Plan (including, without limitation, those depicted in Figure 17 of the Specific Plan). Owner shall have completed construction of such new East-West Pedestrian Paseo 2A prior to issuance of a certificate of occupancy for any portion of either of Buildings "A1" or "A2," and City shall not be obligated to issue a certificate of occupancy for any portion of either of Buildings "A1" or "A2" if Owner has not completed construction of such new East-West Pedestrian Paseo 2A. Owner understands and agrees that Owner's Development of the new East-West Pedestrian Paseo 2A in accordance with this paragraph will be a condition of City's approval of any Subsequent Development Approvals for the Development of Buildings "A1" and/or "A2" and hereby waives any and all rights Owner may have to challenge such a condition of approval.

D. Owner acknowledges and agrees that the relocated Parking Lot Paseo #2 described in subsection 5.B and new east-west pedestrian paseo described in subsection 5.C, if constructed, shall, upon completion, constitute "Public Improvements" within the meaning of Section 1 of the Covenant and Agreement.

6. Amendments Pertaining to Phase 2.

A. Reconstructed North-South Pedestrian Paseo. Owner understands and agrees that, in the event Owner proceeds with Development of Phase 2, as a condition of City's approval of the Phase 2 Project Approvals, City may require Owner to demolish the existing north-south pedestrian paseo constructed and improved pursuant to subsection 4.A, above, and to construct a new north-south pedestrian paseo conforming to the requirements and development standards for pedestrian paseos set forth in the Specific Plan (including, without limitation, those depicted in Figure 17 of the Specific Plan). Owner hereby waives any and all rights Owner may have to challenge such a condition of approval. In the event Owner does not proceed with Phase 2, the existing north-south pedestrian paseo constructed and improved pursuant to subsection 4.A. shall not be required to be modified or demolished and rebuilt as described in this Subsection 6.A.

B. New East-West Pedestrian Paseo 2B. Owner understands and agrees that, in the event Owner proceeds with Development of Phase 2 and proposes as a part thereof the development of a retail structure or structures at the approximate locations depicted as Buildings "B1" and "B2" on **Exhibit E** to this Amendment No. 2, as a condition of City's approval of the Phase 2 Project Approvals, City may require Owner to construct a new east-west pedestrian paseo that is situated immediately south of such retail structures at the approximate location depicted on **Exhibit E** to this Amendment No. 2 as "Paseo 2B" and that forms a connection between the north-south pedestrian paseo and the new East-West Pedestrian Paseo 2A (if it is constructed). The approximate location of this new east-west pedestrian paseo is depicted on **Exhibit E** to this Amendment No. 2 as "Paseo 2B." Such new East-West Pedestrian Paseo 2B shall conform to the requirements and development standards for pedestrian paseos set forth in the Specific Plan (including, without limitation, those depicted in Figure 17 of the Specific Plan) and shall be completed prior to the issuance of certificates of occupancy for any new retail structures at the approximate locations depicted as Buildings "B1" and "B2" on **Exhibit E** to this Amendment No. 2. Owner understands and agrees that its Development of the new East-West Pedestrian Paseo B2 in accordance with this paragraph will be a condition of City's approval of any Phase 2 Project Approvals and hereby waives any and all rights Owner may have to challenge such a condition of approval.

C. New Light Poles. Owner understands and agrees that, in the event Owner proceeds with Development of Phase 2, as a condition of City's approval of the Phase 2 Project Approvals, Owner will be required to replace all existing light poles located on that portion of the Property described in **Exhibit A-1** to this Amendment No. 2, which have not previously been replaced during the term of the Development Agreement, with new light poles of a type and design approved by the City.

D. Owner acknowledges and agrees that the relocated north-south pedestrian paseo described in subsection 6.A, new east-west pedestrian paseo B2 described in subsection 6.B, and the new light poles described in subsection 6.C., if constructed, shall, upon completion, constitute "Public Improvements" within the meaning of Section 1 of the Covenant and Agreement.

7. Amendment Pertaining to Drive-Thru Restaurant Uses. No drive-thru restaurants shall be constructed on the Property during the term of the Development Agreement.

8. Full Force and Effect. This modifying Amendment No. 2 is supplemental to the Development Agreement and is by reference made a part of said Development Agreement. All of the terms, conditions, and provisions, thereof, unless specifically modified herein, shall continue in full force and effect. In the event of any conflict or inconsistency between the provisions of this Amendment No. 2 and any provisions of the Agreement, the provision of this Amendment No. 2 shall in all respects govern and control.

9. Binding Effect. This Amendment No. 2 shall be binding on the parties hereto and their respective successors and assigns.

10. Authority to Execute. The person(s) executing this Amendment No. 2 on behalf of Owners represent and warrant that he/she/they has/have the authority to execute this Amendment No. 2 on behalf of his/her/their corporate entity/partnership and represent(s) and warrant(s) that he/she/they has/have the authority to bind Owners to the performance of Owners' obligations hereunder.

11. Counterparts. This Amendment No. 2 may be executed in one or more counterparts, all counterparts shall be valid and binding on the party executing them, and all counterparts shall together constitute one and the same document for all purposes.

12. Recording. The City Clerk shall cause a copy of this Amendment No. 2 to be executed by City and recorded in the Official Records of Orange County no later than ten (10) days after the Effective Date.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, City and Owners have executed this Amendment No. 2 as of the date and year first above written.

"CITY"

CITY OF LAGUNA HILLS, a California
municipal corporation

By: _____
Bruce E. Channing
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

"OWNERS"

LAGUNA HILLS INVESTMENT
COMPANY, a Delaware limited partnership

By: FRITZ DUDA COMPANY, a Texas
Corporation

Its General Partner

By: _____
Fritz L. Duda
President

By: _____
Name: _____
Title: _____

OAKBROOK URBAN VILLAGE I, LLC,
a Delaware limited liability company

By: Shea Properties Management Company,
Inc., a Delaware corporation,
Its Development Manager

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

All signatures to be acknowledged by a Public Notary

STATE OF CALIFORNIA

COUNTY OF ORANGE

)
) ss
)

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	

STATE OF CALIFORNIA

COUNTY OF ORANGE

)
) ss
)

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.

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Notary Public	

STATE OF CALIFORNIA

COUNTY OF ORANGE

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) ss
)

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WITNESS my hand and official seal.

Notary Public	

STATE OF CALIFORNIA

COUNTY OF ORANGE

)
) ss
)

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WITNESS my hand and official seal.

Notary Public	

STATE OF CALIFORNIA

COUNTY OF ORANGE

)
) ss
)

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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	

STATE OF CALIFORNIA

COUNTY OF ORANGE

)
) ss
)

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-1

**PROPERTY DESCRIPTION
LAGUNA HILLS INVESTMENT COMPANY PROPERTY**

That certain real property in Laguna Hills, California described as follows:

LOT 4 DEPICTED ON EXHIBIT B OF CITY OF LAGUNA HILLS LOT LINE ADJUSTMENT APPLICATION LLA 2013-01, RECORDED ON APRIL 24, 2014, AS INSTRUMENT NO. 2014000156992 IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA, AND DESCRIBED AS LOT 4 ON CERTIFICATE OF COMPLAINE LLA-2013-01 RECORDED ON APRIL 24, 2014, AS INSTRUMENT NO. 2014000156993 IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA, TOGETHER WITH PARCELS 5-15 AS SHOWN ON PARCEL MAP 80-120 FILED IN BOOK 187, PAGES 42-44 OF PARCEL MAPS IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

EXHIBIT A-2

**PROPERTY DESCRIPTION
OAKBROOK URBAN VILLAGE I, LLC PROPERTY**

That certain real property in Laguna Hills, California described as follows:

LOTS 1, 2 AND 3 DEPICTED ON EXHIBIT B OF CITY OF LAGUNA HILLS LOT LINE ADJUSTMENT APPLICATION LLA 2013-01, RECORDED ON APRIL 24, 2014, AS INSTRUMENT NO. 2014000156992 IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA, AND DESCRIBED AS LOTS 1, 2 AND 3 ON CERTIFICATE OF COMPLAINT LLA-2013-01 RECORDED ON APRIL 24, 2014, AS INSTRUMENT NO. 2014000156993 IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

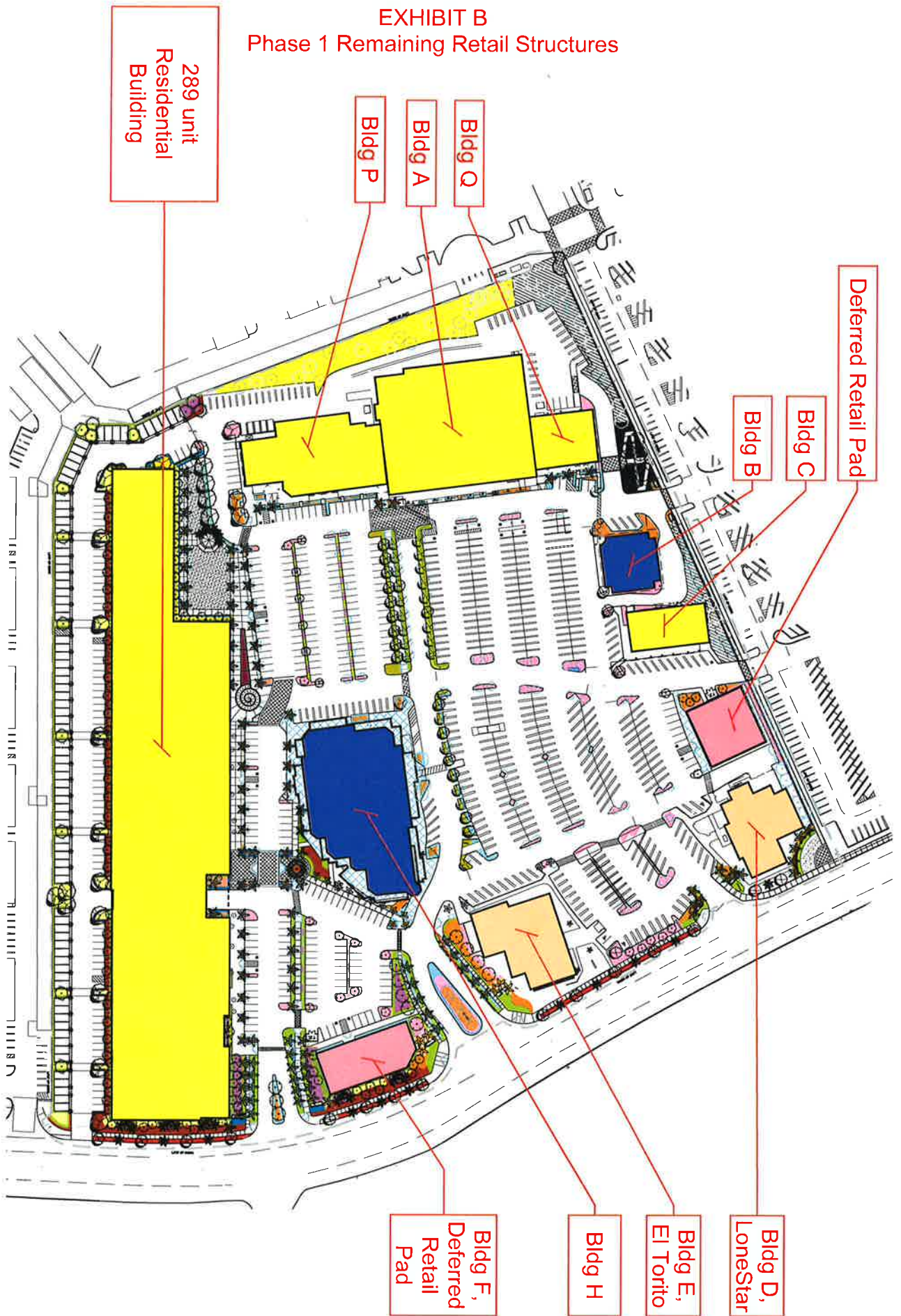
[NOTE: EXHIBITS A-1 AND A-2 MAY BE REVISED AND REPLACED ADMINISTRATIVELY BY THE PARTIES, AS NEEDED, TO REFLECT ANY CHANGES TO CURRENT THE LEGAL DESCRIPTION OF THE PROPERTY OCCURRING PRIOR TO THE EFFECTIVE DATE.]

EXHIBIT B

PHASE 1 REMAINING RETAIL STRUCTURES

OAKBROOK VILLAGE
LAGUNA HILLS, CALIFORNIA

EXHIBIT B
Phase 1 Remaining Retail Structures



FRITZ DUDA COMPANY
5425 Via Lido Suite 250
Newport Beach, California 92663
(949) 723-7100

FORVM
© 2017
SCALE: 1" = 50' - 0"
NORTH

EXHIBIT C

PEDESTRIAN PASEOS DEPICTION

1136060.5

3/8/2016 ITEM NO.

EXHIBIT C

OAKBROOK VILLAGE
LAGUNA HILLS, CALIFORNIA



FRITZ DUDA COMPANY
3421 Via Lido Suite 210
Newport Beach, California 92663
(949) 723-7100



EXHIBIT D

DEPICTION OF PROPOSED NEW BUILDINGS ON FIVE LAGUNAS PROPERTY

1136060.5

3/8/2016 ITEM NO.

Exhibit D— Proposed New Buildings on Five Lagunas Property

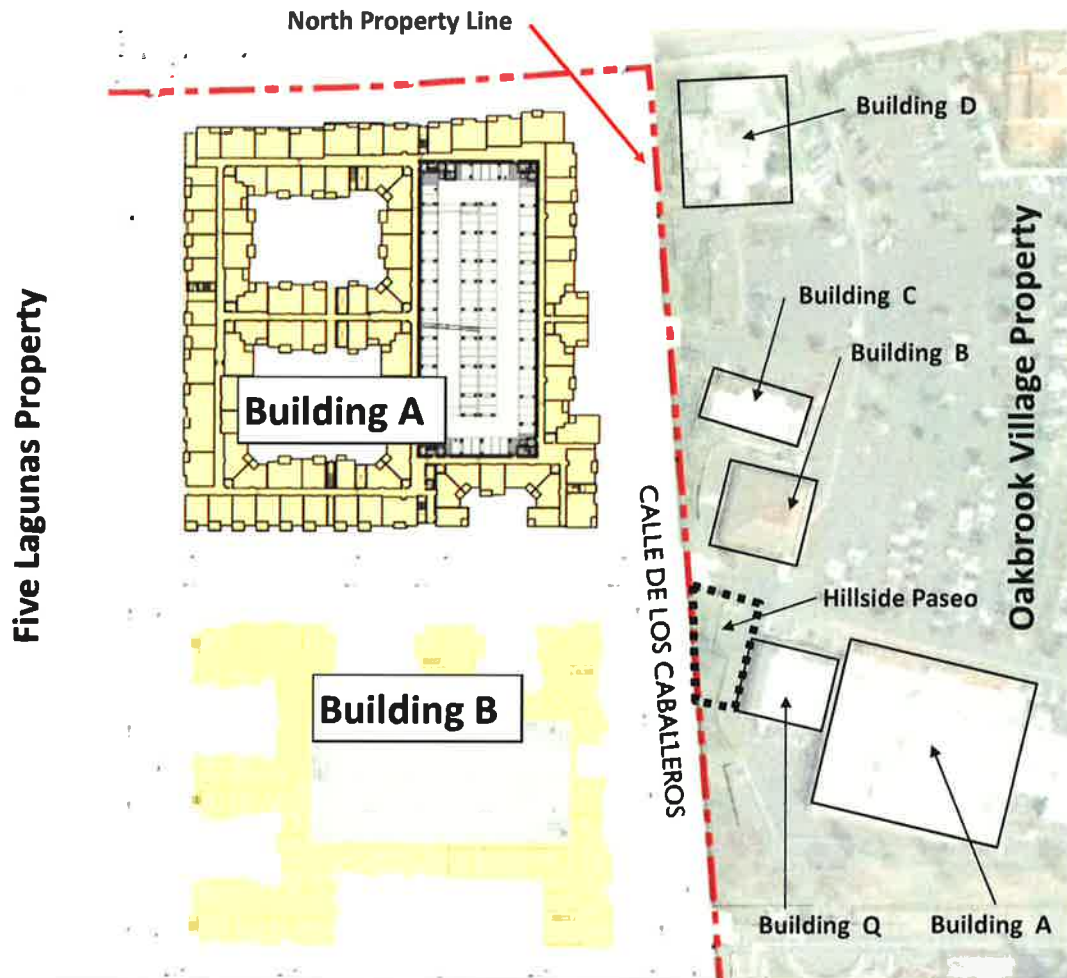
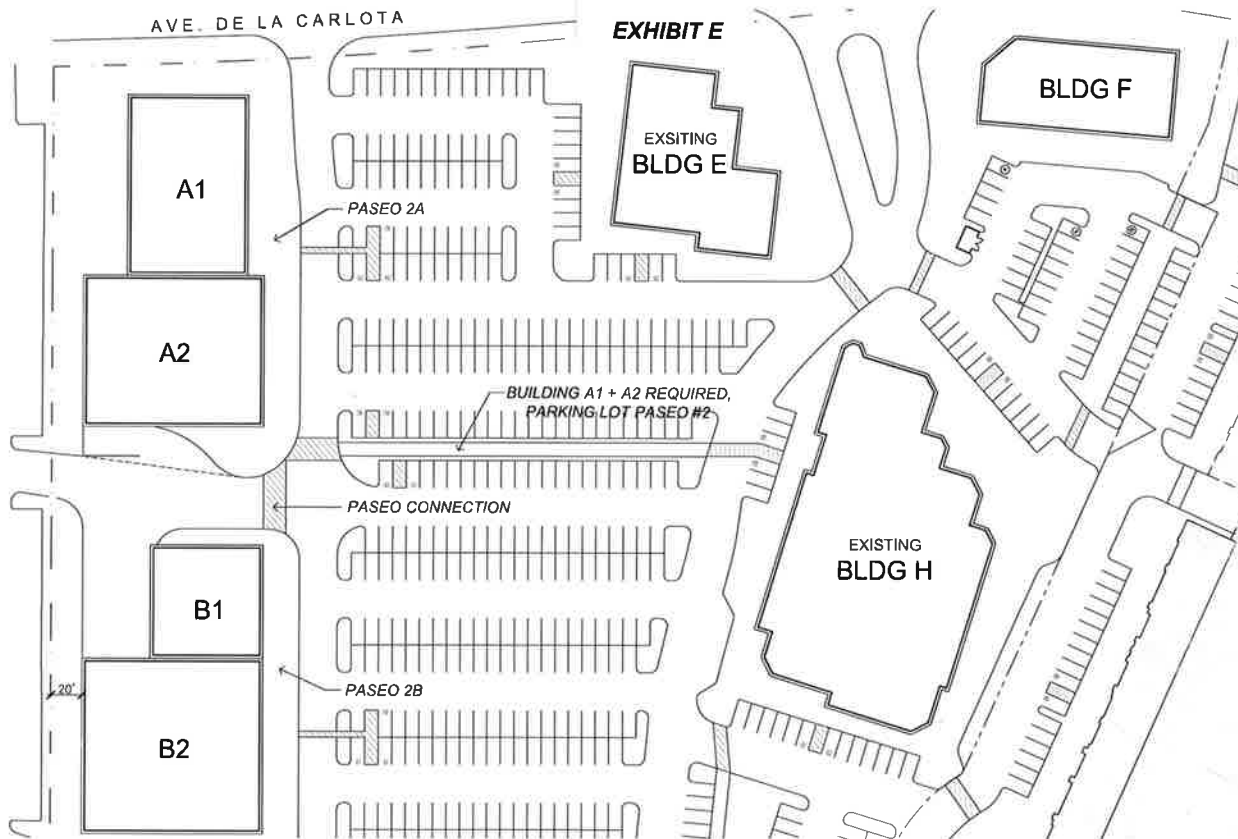


EXHIBIT E

POTENTIAL NEW ADDITIONAL RETAIL STRUCTURES AND PASEOS DEPICTION



OAKBROOK VILLAGE LAGUNA HILLS, CA

PARTIAL SITE PLAN

FRITZ DUDA CO.

ARCHITECTS ORANGE

144 NORTH ORANGE ST., ORANGE, CALIFORNIA 92666 (714) 639-9860

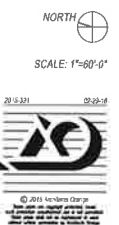
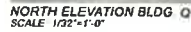


EXHIBIT F

CONCEPT ELEVATIONS FOR BUILDINGS P, A AND Q

EXHIBIT F



OAKBROOK VILLAGE LAGUNA HILLS, CA
FRITZ DUDA CO.

EXHIBIT G

CONCEPT ELEVATIONS FOR BUILDING C

1136060.5

3/8/2016 ITEM NO.

EXHIBIT G



SOUTH ELEVATION BLDG. C
SCALE 1/16"=1'-0"



EAST ELEVATION BLDG. C
SCALE 1/16"=1'-0"

OAKBROOK VILLAGE LAGUNA HILLS, CA
FRITZ DUDA CO.

BLDG. C - CONCEPT ELEVATIONS
ARCHITECTS ORANGE



EXHIBIT H

CONCEPT PLANS FOR NORTH-SOUTH PEDESTRIAN PASEO



City of Laguna Hills City Council Meeting Agenda Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

**FROM: BRUCE E. CHANNING
CITY MANAGER**

**ISSUE: SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS GENERAL
ASSEMBLY DELEGATE**

**RECOMMENDATION: THAT THE CITY COUNCIL APPOINT A DELEGATE TO
ATTEND THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
GENERAL ASSEMBLY MEETING.**

SUMMARY:

Mayor Kogerman currently serves as the District 13 Representative to the Orange County Council of Governments/Southern California Association of Governments (OCCOG/SCAG) Regional Council representing the cities of Laguna Hills, Laguna Woods, Lake Forest, Mission Viejo, and Rancho Santa Margarita. The annual SCAG General Assembly Meeting is scheduled to be held on May 5-6, 2016, in La Quinta. Because Mayor Kogerman will be attending the upcoming SCAG General Assembly meeting in the capacity of the representative for District 13, the City is eligible to appoint a delegate to attend the General Assembly Meeting as the City's representative. Therefore, should the City Council desire to do so, it is appropriate at this time for the City Council to appoint a delegate for the upcoming SCAG General Assembly Meeting.



City of Laguna Hills

City Council Meeting Agenda

Staff Report

DATE: MARCH 8, 2016

TO: MAYOR AND COUNCIL MEMBERS

FROM: DONALD J. WHITE
ASSISTANT CITY MANAGER

ISSUE: AMENDED AND RESTATED PURCHASING ORDINANCE

RECOMMENDATION: THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 3-08 OF THE LAGUNA HILLS MUNICIPAL CODE REGARDING THE PURCHASING OF GOODS AND SUPPLIES, EQUIPMENT, MATERIALS, AND SERVICES."

SUMMARY:

In February 2011, the City Council adopted an Ordinance amending and restating Chapter 3-08 of the Laguna Hills Municipal Code, which was a complete overhaul of the City's purchasing policies and procedures. This Purchasing Ordinance is five years old and minor adjustments are necessary to ensure that the code requirements properly address its practical application in the procurement process. Staff has prepared an initial amended and restated Purchasing Ordinance intended to clarify, consolidate, correct, and further streamline the procurement process. Staff is recommending approval of the amended and restated Purchasing Ordinance.

BACKGROUND:

A work program to revise and update the City's purchasing policies and procedures was included as part of the 2009-2011 Biennial Budget. At the February 22, 2011, City Council meeting, the City Council adopted an Ordinance amending and restating in its entirety Chapter 3-08 of the Laguna Hills Municipal Code, which was a complete overhaul of the City's purchasing policies and procedures. As is common in major code revisions, minor adjustments become apparent to ensure that the code requirements are properly addressing its practical application.

In conjunction with the City Attorney's Office, staff has prepared an initial amended and restated Purchasing Ordinance, provided herewith as attached. The overall intent of the recommended changes is to clarify, consolidate, correct, and further streamline the procurement process.

Also attached to this report is a draft of the restated Purchasing Ordinance showing track changes. The following are the more notable changes to the Purchasing Ordinance:

- Establish the scope of authority and responsibility of the Purchasing Officer (Section 3-08.020).
- Increase the upper limit that may be purchased using open market procurement. An item that may be obtained through open market procedures with an estimated value of up to and including \$15,000 has been increased to up to and including \$25,000 (Section 3-08.070).
- Bring up-to-date the manner of notice inviting formal bids (Section 3-08.090, Paragraph A & B).
- Allow the requesting City department to receive, store, and tabulate formal bids. (Section 3-08.090, Paragraph C).
- Allow the Purchasing Officer the discretion to reject formal bids or proposals (Section 3-08.090, Paragraph D).
- Specify that City Council may authorize signatory authority to execute contracts awarded by City Council to the Mayor, City Manager, or otherwise. (Section 3-08.090, Paragraph F).
- Provide a more comprehensive list that further specifies particular procurements that are not applicable to the purchasing requirements set forth in this chapter and integrate many of those previously classified as exempt under Section 3-08.170 (Section 3-08.110).
- Designate procurements exempt to provisions of this chapter as only: contracts for banking and/or investment services; franchise agreements; and contracts for procuring and maintaining insurance policies for the benefit of the City (Section 3-08-170).

Staff is recommending approval of the amended and restated Purchasing Ordinance.

FISCAL IMPACT:

There is no fiscal impact associated with the adoption of this Ordinance.

ATTACHMENTS:

- Amended and Restated Purchasing Ordinance
- Draft of the Restated Purchasing Ordinance showing track changes

ORDINANCE NO. 2016-X

AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, AMENDING AND RESTATING IN ITS
ENTIRETY CHAPTER 3-08 OF THE LAGUNA HILLS
MUNICIPAL CODE REGARDING THE PURCHASING OF
GOODS AND SUPPLIES, EQUIPMENT, MATERIALS, AND
SERVICES

WHEREAS, the City's Purchasing System, set forth in Chapter 3-08 of the Laguna Hills Municipal Code, establishes regulations concerning the process and procedures for the purchase of materials, supplies, and equipment; and,

WHEREAS, Section 2-08.160 of the Laguna Hills Municipal Code delegates the authority to contract on behalf of the City for materials, supplies, equipment, and services (excluding construction services) up to and including fifty thousand dollars to the City Manager; and,

WHEREAS, State law requires general law cities to adopt policies and procedures for the acquisition of supplies and equipment, and it is considered a best practice to require competitive bids for goods and supplies, equipment, materials, and non-professional services contracts in excess of certain designated dollar amounts; and,

WHEREAS, pursuant to Government Code sections 54202 and 54203 (contracting for supplies and equipment) and Government Code section 4526 (contracting with private architects, engineering, land surveying, and construction management firms), the City now desires to update and consolidate its regulations, policies, and procedures concerning the procurement of goods and supplies, equipment, materials, and services on behalf of the City through the adoption of an amended and restated purchasing ordinance.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA,
DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3-08 of the Laguna Hills Municipal Code, entitled "Purchasing," is hereby amended and restated in its entirety to read as follows:

**Chapter 3-08
PURCHASING**

Sections:

3-08.010 Adoption of purchasing system.

3-08.020 Scope of purchasing policies and procedures; authority and responsibility.

- 3-08.030** Definitions.
- 3-08.040** Purchasing Officer.
- 3-08.050** Inspection and testing.
- 3-08.060** Appropriation of purchasing funds.
- 3-08.070** Procurement of goods and supplies, equipment, materials, and nonprofessional services – Up to and including twenty-five thousand dollars (\$25,000.00) – Open market.
- 3-08.080** Procurement of goods and supplies, equipment, materials, and nonprofessional services – Greater than twenty-five thousand dollars (>\$25,000.00) up to and including fifty thousand dollars (\$50,000.00) – Informal procedures.
- 3-08.090** Procurement of goods and supplies, equipment, materials, and nonprofessional services – Greater than fifty thousand dollars (>\$50,000.00) – Formal procedures.
- 3-08.100** Best qualified vendor.
- 3-08.110** Exceptions to purchasing requirements.
- 3-08.120** Amendments and change orders.
- 3-08.130** Vehicle purchases.
- 3-08.140** Trade-ins.
- 3-08.150** Professional services contracts.
- 3-08.160** Amendments to professional services contracts.
- 3-08.170** Exemptions to provisions of this chapter.

3-08.010 Adoption of purchasing system.

This purchasing system is adopted in order to:

- A. Establish efficient regulations, policies, and procedures for the purchase of goods and supplies, equipment, materials, and services;
- B. Secure on behalf of the city goods and supplies, equipment, materials, and services at the lowest possible cost commensurate with quality needed;
- C. Exercise positive financial control over purchases;
- D. Clearly define authority for the purchasing function;

E. Assure the quality, suitability, and fitness of purchases;

F. Ensure that the city obtains the highest quality of supplies and equipment and level of service at a fair and reasonable cost.

3-08.020 Scope of purchasing policies and procedures; authority and responsibility

Except as otherwise provided herein, the procurement regulations, policies, and procedures set forth in this chapter shall apply only to the purchase of goods and supplies, equipment, materials, and professional and nonprofessional services, and shall not apply to public works construction projects. Procedures and processes for the procurement of public works construction contracts are subject to the California Public Contract Code. The authority and responsibility for the purchase of goods and supplies, equipment, materials, and professional and nonprofessional services is vested in the City Manager and City Council. The Purchasing Officer shall be the City Manager or the City Manager's designee. The Purchasing Officer may promulgate additional administrative rules, procedures and orders necessary to implement the policies and procedures established by this chapter with regard to the purchase of goods and supplies, equipment, materials, and professional and nonprofessional services on behalf of the City. Each City department head is responsible for administering and implementing for that department the purchasing policies and procedures set forth in this chapter.

3-08.030 Definitions.

As used in this chapter, the following terms shall have the meanings indicated, which are applicable to both the singular and plural thereof:

"City department head" means the person who is designated by the City Manager as being responsible for each particular city department, including, but not limited to, Administration, Community Development, City Attorney, City Clerk, Community Services, Finance, Police Services, and Public Services, Public Works, and City Engineering.

"Estimated value" means the estimated total value as determined by the Purchasing Officer at the beginning of the procurement process for the proposed acquisition of goods and supplies, equipment, materials, and nonprofessional services. When making this initial threshold determination, the Purchasing Officer shall make reasonable use of all available market data and pricing information to estimate the total cost to the city, inclusive of taxes, licenses, freight charges, installation charges, fees, and other consideration, for the proposed procurement. The Purchasing Officer shall not

use the value of any anticipated exchange or trade-in amount to reduce the estimated value of the proposed procurement.

“Goods and supplies, equipment, and materials” means fixed, movable, disposable, and/or reusable products, commodities, or items used by the city, including but not limited to office supplies, program supplies, subscriptions, vehicles, fuel and vehicle supplies, tools, computers, computer hardware and software, computer-related equipment and copiers, office furniture, and fixtures.

“Nonprofessional services” means those services not constituting professional services or public works projects.

“Professional services” means those services provided by any specially trained and experienced person, company, corporation, or firm in areas including but not limited to private architectural, landscape architectural, engineering, environmental, land surveying, construction project management, management and administration, financial, accounting, auditing, actuarial, economic and/or development and planning, which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise, training, or unique skills gained by formal studies or experience.

3-08.040 Purchasing Officer.

There is hereby created the position of Purchasing Officer. The Purchasing Officer shall be responsible for, and have general supervision of, the following purchasing functions as implemented by various departments throughout the city pursuant to this chapter and any implementing administrative orders established by the Purchasing Officer. The Purchasing Officer shall be the City Manager or the City Manager's designee. Pursuant to the regulations, policies, and procedures established in this chapter, the Purchasing Officer shall have the authority to:

- A. Purchase or contract for goods and supplies, equipment, materials, and professional and nonprofessional services;
- B. Negotiate, approve, and execute, as well as recommend approval and execution of, orders and contracts for the purchase of goods and supplies, equipment, materials, and professional and nonprofessional services;
- C. Act to procure on behalf of the city the needed quality in goods and supplies, equipment, materials, and services at the least expense to the city;

- D. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;
- E. Prepare administrative rules, procedures, and orders necessary to implement the policies and procedures established by this chapter with regard to the purchase of goods and supplies, equipment, materials, and services on behalf of the city;
- F. Keep informed of current developments in the field of municipal purchasing, pricing, market conditions, new technologies, and new products and services;
- G. Prescribe and maintain such forms and other rules and regulations as reasonably necessary for the proper implementation of the policies and procedures established in this chapter;
- H. Coordinate the inspection of all goods and supplies, equipment, materials, and services purchased on behalf of the city to ensure conformance with specifications;
- I. Recommend the transfer of underutilized, surplus, or unused goods and supplies, equipment, and materials between departments as needed and the sale of such goods and supplies, equipment, and materials which cannot reasonably be used by any department or which become unsuitable or obsolete for city use;
- J. Maintain and update periodically a vendor master file or list necessary for the efficient operation of purchasing functions;
- K. Consider and encourage the purchase of recycled and recyclable materials and environmentally friendly products, whenever practicable and cost effective or efficient; and
- L. Except as otherwise required by law, where other factors are equal, consider the procurement of goods and supplies, equipment, and materials from businesses located within the city.

3-08.050 Inspection and testing.

The Purchasing Officer or requesting department shall inspect goods and supplies, equipment, and materials delivered, as well as contract services performed, to determine their conformance with the specifications set forth in the order or contract. The Purchasing Officer or requesting department shall have the right to waive any defect, irregularity, or informality. The Purchasing Officer or requesting department shall have the authority to require demonstrative testing of samples submitted with bids and

samples of deliverables which are necessary to determine their quality, fitness for a particular use, and conformance with specifications.

3-08.060 Appropriation of purchasing funds.

The City Council is responsible for and shall appropriate such funds as are necessary to carry out the provisions of this chapter. Except in cases of emergency, or as otherwise provided in this chapter, the City Manager shall not issue any purchase order or contract for goods and supplies, equipment, materials or services unless there exists an unencumbered appropriation in adopted budget against which such purchase may be charged. The City Manager has the authority to transfer unencumbered funds between and among City departments as necessary for the procurement of goods and supplies, equipment, materials, and services as necessary to implement the provisions of this chapter.

3-08.070 Procurement of goods and supplies, equipment, materials, and nonprofessional services – Up to and including twenty-five thousand dollars (\$25,000.00) – Open market.

The procurement of goods and supplies, equipment, materials, and nonprofessional services with an estimated value of up to and including twenty-five thousand dollars (\$25,000.00), inclusive of taxes, licenses, freight charges, installation charges, fees, and other considerations, may be made by the Purchasing Officer in the open market without observing the procedures set forth in Section 3-08.080 and Section 3-08.090. At least three informal quotes should be obtained, when practicable.

3-08.080 Procurement of goods and supplies, equipment, materials, and nonprofessional services – Greater than twenty-five thousand dollars (>\$25,000.00) up to and including fifty thousand dollars (\$50,000.00) – Informal procedures.

The procurement of goods and supplies, equipment, materials, and nonprofessional services with an estimated value of greater than twenty-five thousand dollars (>\$25,000.00) up to and including fifty thousand dollars (\$50,000.00), inclusive of taxes, licenses, freight charges, installation charges, fees, and other considerations, shall be made by the informal procedures set forth in this section.

- A. The requesting department shall solicit informal proposals by telephone or written request to prospective vendors.
- B. Except as otherwise provided in this chapter, purchases shall be based on at least three informal proposals.

- C. Informal proposals shall be submitted by prospective vendors to the requesting department. The City Clerk shall retain a record of all informal proposals for a period of two years following completion of the informal procedures established in this section, which shall be made available for public review and inspection upon request.
- D. The order or contract shall be awarded by the Purchasing Officer to the lowest proposer consistent with the best qualified vendor selection criteria set forth in Section 3-08.100.

3-08.090 Procurement of goods and supplies, equipment, materials, and nonprofessional services – Greater than fifty thousand dollars (\$50,000.00) – Formal procedures.

The procurement of goods and supplies, equipment, materials, and nonprofessional services with an estimated value of greater than fifty thousand dollars (\$50,000.00), inclusive of taxes, licenses, freight charges, installation charges, fees, and other considerations, shall be made by the formal procedures set forth in this section.

- A. Notice Inviting Bids. Notices inviting formal bids or proposals from prospective vendors shall be publicly noticed no later than ten calendar days before the submission date for formal bids. The notices shall describe the requested goods or supplies, equipment, materials, or nonprofessional services in general terms, how to obtain more detailed information concerning the procurement, and state the time, place, and deadline for submission of sealed bids or proposals.
- B. Public Notice. The notice inviting formal bids or proposals shall be publicly noticed in any generally accepted manner, which includes on the city's official website. In addition, such notice may also include trade publications when practicable.
- C. Bid Opening Procedure. Sealed bids or proposals shall be submitted to the office of the City Clerk or requesting city department and shall be identified as formal competitive bids or proposals on the outside of the sealed envelope. The City Clerk or requesting city department head shall store all sealed bids in a secure location until opening. The City Clerk or requesting city department head shall open all bids or proposals in public at the time and place stated in the notice inviting bids. A tabulation of all bids or proposals received shall be open for public review and inspection in the office of the City Clerk or requesting city department during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

- D. Rejection of Bids. The City Council or the Purchasing Officer shall have the discretion to reject any and all bids or proposals for any reason or for no reason, and may suspend, delay, or otherwise cancel the procurement, or may order the re-advertisement of the request for bids. If all formal bids or proposals are rejected and the City Council resolves by a recorded majority vote of the total membership of the City Council that the procurement can be performed more economically by force account, by informal procedures, or through open market purchases, then it may dispense with further formal competitive public bidding.
- E. Tie Bids. If two or more formal bids or proposals received are the same and are the lowest, the City Council may accept the one it chooses.
- F. Award of Contracts. Contracts or purchase orders shall be awarded by the City Council to the lowest bidder or proposer consistent with the best qualified vendor selection criteria set forth in Section 3-08.100, except as otherwise provided herein. The decision of the City Council shall be final. The City Council may authorize that such purchase orders or contracts be executed by either the Mayor or the City Manager, or the City Council may otherwise delegate such signature authority.
- G. No Bids Received. If no bids or proposals are received, the purchase may be let in the open market or by the informal procedures set forth in Section 3-08.080, subject to City Council approval.
- H. Performance Bonds. The Purchasing Officer shall have authority to recommend that a performance bond or other form of security or guarantee be required before entering into a contract in such amount as may be reasonably necessary to protect the best interests of the city. If a performance bond or other form of security or guarantee is required, the form and amount of the bond, security or guarantee shall be described in the notice inviting bids, and the performance bond, security or guarantee shall be in a form approved by the City Attorney.
- I. Defects, Irregularities, and Informalities. The City Council may, in its sole discretion, waive any defect, irregularity, or informality in the formal bids or proposals or in the competitive procedures established in this section, and no such defect, irregularity, or informality shall void any contract entered into by the city.

3-08.100 Best qualified vendor.

In determining the best qualified vendor, consideration is to be given to price, quality, and performance of the goods and supplies, equipment, or materials to be

purchased or nonprofessional services to be provided by the vendor. Criteria for determining the best qualified vendor shall include but not be limited to the following:

- A. The cost and quality of the goods and supplies, equipment, materials, or nonprofessional services;
- B. The ability, capacity, and skill of the vendor to perform the contract and to provide the goods and supplies, equipment, materials, or nonprofessional services requested;
- C. The ability of the vendor to provide the goods and supplies, equipment, materials, or nonprofessional services requested promptly or within the time specified, without delay, interference, or service interruption;
- D. The ability of the vendor to demonstrate the attributes of trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform;
- E. The character, integrity, reputation, judgment, references, experience, and efficiency of the vendor;
- F. The quality of vendor's performance history and record on previous purchases or contracts with the city;
- G. The ability of the vendor to provide future maintenance, repair parts, and services for the use of the goods and supplies, equipment, or materials purchased; and,
- H. The ability of the vendor to demonstrate its prior, current, and continued compliance during the contract term with all applicable federal, state, and local laws, statutes, ordinances and all lawful orders, rules, and regulations promulgated thereunder.

3-08.110 Exceptions to purchasing requirements.

The procurement policies and procedures set forth in 3-08.070, 3-08.080, 3-08.090 and 3-08.150 need not be followed, may be dispensed with, and are not applicable, irrespective of their estimated value, when the City Council or Purchasing Officer find and determine that the following situations, purchases, procurements or contracts apply, but are otherwise subject to the purchasing limitations set forth in this code:

- A. When goods and supplies, equipment, materials, or contract services are of a unique, sole source nature because of their quality, durability, availability, or fitness for a particular use and are available only from one source. A sole source

procurement is a procurement where only one source is practicably available for the type of procurement required;

- B. When the goods and supplies, equipment, materials, or nonprofessional services are proprietary. A proprietary procurement is a procurement where the desired good or service must be restricted to one manufacturer because the good or service is compatible with or is an integral component of existing equipment or products, is necessary to support a specific need of a program, is covered by patent or copyright, must yield absolute continuity of results, or is one with which a user has extensive experience and the use of any other similar good or service would require considerable reorientation and training. Under such circumstances, an equitable evaluation of comparable goods or services should be made showing that rejection of other goods or services is based solely on their failure to meet that need;
- C. When after a reasonable attempt has been made to obtain informal bids or proposals, and it has been determined by the Purchasing Officer that three bids or proposals cannot be obtained;
- D. When emergency conditions require the immediate purchase of goods and supplies, equipment, materials, or services. For purposes of this section, emergency purchases are those procurements that are required to prevent immediate interruption or cessation of necessary city services or to safeguard life, property, or the public health and welfare. The Purchasing Officer shall file promptly with the City Council a report showing such conditions and the necessity for such action, together with an itemized account of all expenditures;
- E. When formal bidding is not likely to result in the lowest price. However, under such circumstances compliance with the informal procedures set forth in Section 3-08.080 should be considered;
- F. When a specific make, model, or brand is necessary to match existing city equipment or to facilitate the continuity of effective maintenance and support;
- G. When the goods and supplies, equipment, materials, or nonprofessional services are available from a vendor who has been selected as the lowest bidder through a procurement with another local public agency or government entity using competitive bidding procedures substantially the same as or similar to those normally utilized by the city for the acquisition of such goods and supplies, equipment, materials, or services, and when the price offered to the city is substantially equivalent to that offered to the other public agency or government entity;

- H. When the goods and supplies, equipment, materials, or nonprofessional services are available from suppliers who have been awarded contracts by the State of California for the purchase of goods and supplies, information technology, and services where State procurement is made in the form of master agreements, price schedules, or multiple award schedules that allow the State to take advantage of leveraged pricing that can be obtained through the State's buying power and where the State has determined that such vendor pricing is deemed to be reasonable, fair, and competitive. Pursuant to such State multiple award programs, the Purchasing Officer or City Council may make these purchases directly from the vendors without competitive bidding, or the State may provide assistance to the City in making such purchases;
- I. When an unusual or unique situation exists, in that due to experience, specialized qualifications, particular expertise, performance history, and/or reputation, a particular company, vendor, consultant, or contractor is uniquely qualified for a particular task or project, which makes application of the requirements for competitive solicitation under this chapter contrary to either the intended purpose of the project or the public interest;
- J. When in the opinion of the City Council, it is determined that compliance with the procurement policies, procedures and/or requirements is not in the best interest of the City.
- K. When goods and supplies, equipment, or nonprofessional services are for information technology or computer hardware, software, programming, or related equipment and devices, such procurements shall be subject to the informal procedures set forth in Section 3-08.080.
- L. When goods and supplies, equipment, materials, and nonprofessional or professional services are for any of the following:
 - (1) Contracts for professional or other expert witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which the city is or may become a party, including contracts for special investigative services;
 - (2) Contracts to commission original works of art, and for fine art or any form of public art;
 - (3) The purchase of miscellaneous books, magazines, newspapers, subscriptions, on-line library reference services, film, videos, and assorted materials;

- (4) Intergovernmental payments, purchases, and agreements, including but not limited to contracts for the procurement of law enforcement or other public safety services;
- (5) Contracts for government affairs, public relations, and legislative advocacy or affairs;
- (6) Contracts for economic development services;
- (7) Specialized seminar, training, and educational classes;
- (8) Contracts for election services;
- (9) Contracts for appraisal services;
- (10) Contracts for entertainment services;
- (11) Contracts for community support and/or recreation services;
- (12) Contracts for printing and/or graphical design services.

3-08.120 Amendments and change orders.

Following the award of a procurement contract for goods and supplies, equipment, materials, or nonprofessional services pursuant to Sections [3-08.070](#), [3-08.080](#), and [3-08.090](#), the contract may be amended by the issuance of a change order or amendment, provided the change which is the subject of the change order or amendment is reasonably related to the scope of the original contract. The requesting department will maintain control relative to the scoping, estimating, and negotiating of the proposed change(s) and the Finance Director will confirm the availability of funds for the proposed change in the event that the change order increases the contract cost. Any change order or amendment which results in a total contract amount of fifty thousand dollars (\$50,000.00) or less may be approved by the Purchasing Officer. Any change order or amendment which results in a total contract amount of greater than fifty thousand dollars (\$50,000.00) shall be approved by the City Council.

3-08.130 Vehicle purchases.

Any vehicle(s) with an estimated value greater than twenty thousand dollars (\$20,000.00) to be purchased or leased by the city shall be approved in advance by the City Council prior to commencement of the procurement process.

3-08.140 Trade-ins.

The Purchasing Officer is authorized to exchange for or trade in goods and supplies, equipment, and materials for the purpose of exchanging or trading in such supplies and equipment for like-kind replacement, for other commodities, products, equipment, or property, or for rebate, down payment, or credit toward the purchase of other similar goods and supplies, equipment, or materials. The Purchasing Officer shall not consider the trade-in value amount in calculating the procurement authority dollar thresholds established in Sections [3-08.070](#), [3-08.080](#), and [3-08.090](#).

3-08.150 Professional services contracts.

- A. The informal and formal bidding procedures contained in this chapter shall not apply to contracts for professional services. Rather, to secure professional services, the city shall utilize a request for proposals procedure, the method and details of which shall be promulgated by the City Manager in the form of administrative regulations. The City Manager may award any contract for professional services when the total not to exceed contract amount of such services is fifty thousand dollars (\$50,000.00) or less. Any contract for professional services having a total contract amount of greater than fifty thousand dollars (>\$50,000.00) shall be awarded by the City Council.
- B. In the event of a vacant city employee position previously approved by the City Council, the City Manager shall have the authority to award any and all contracts for the same or substantially similar services to independent contractors or consultants when the cost of such contract does not exceed the salary, benefits, and other related costs of the vacant position.
- C. Notwithstanding any provision in this chapter to the contrary, selection by the city for professional services in areas including but not limited to private architectural, landscape architectural, engineering, environmental, land surveying, construction project management, management and administration, financial, accounting, auditing, actuarial, economics, and/or development and planning, which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise, training, or unique skills gained by formal studies or experience, shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required, and shall not be awarded solely on the basis of cost. In order to implement this method of selection, the City Manager shall promulgate administrative regulations concerning contracting for professional services to ensure that such services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the city. In accordance with state law, the city shall

consider price after the city is satisfied that the would-be person, company, corporation, contractor, consultant, or firm has demonstrated the competence and professional qualifications necessary for the satisfactory performance of the services required.

3-08.160 Amendments to professional services contracts.

Contracts for professional services pursuant to Section 3-08.150 may be amended by the issuance of a written amendment provided the change which is the subject of the amendment is reasonably related to the scope of the original contract. The requesting department will maintain control relative to the scoping, estimating, and negotiating of the proposed change(s), and the Finance Director will confirm the availability of funds for the proposed change in the event that the amendment increases the contract cost. Any amendment which results in a total contract amount of fifty thousand dollars (\$50,000.00) or less may be approved by the City Manager. Any amendment which results in a total contract amount of greater than fifty thousand dollars (\$50,000.00) shall be approved by the City Council.

3-08.170 Exemptions to provisions of this chapter.

The provisions of this chapter are not applicable to the following procurements, which may be approved by the City Council and are otherwise subject to the requirements of this code: contracts for banking and/or investment services; franchise agreements; and contracts for procuring and maintaining insurance policies for the benefit of the city.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2016.

BARBARA KOGERMAN, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the _____ day of _____ 2016, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the _____ day of _____ 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)

COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

MELISSA AU-YEUNG, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. _____, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, X

on the _____ day of _____ 2016, was published in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the _____ day of _____ 2016, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
Courtyard at La Paz Center

MELISSA AU-YEUNG, CITY CLERK
Laguna Hills, California

DRAFT ~~MINOR~~ AMENDMENTS TO LHMC CHAPTER 3-08 PURCHASING CODE

(Proposed Modifications Shown in Track-Change Format)

Chapter 3-08 PURCHASING

Sections:

- 3-08.010** Adoption of purchasing system.
- 3-08.020** Scope of purchasing policies and procedures ~~;~~ authority and responsibility.
- 3-08.030** Definitions.
- 3-08.040** Purchasing Officer.
- 3-08.050** Inspection and testing.
- 3-08.060** Appropriation of purchasing funds.
- 3-08.070** Procurement of goods and supplies, equipment, materials, and nonprofessional services – Up to and including ~~fifteen~~ twenty-five thousand dollars (~~\$1525~~,000.00) – Open market.
- 3-08.080** Procurement of goods and supplies, equipment, materials, and nonprofessional services – Greater than ~~fifteen~~ twenty-five thousand dollars (~~>\$1525~~,000.00) up to and including fifty thousand dollars (\$50,000.00) – Informal procedures.
- 3-08.090** Procurement of goods and supplies, equipment, materials, and nonprofessional services – Greater than fifty thousand dollars (~~>\$50,000.00~~) – Formal procedures.
- 3-08.100** Best qualified vendor.
- 3-08.110** Exceptions to purchasing requirements.
- 3-08.120** Amendments and change orders.
- 3-08.130** Vehicle purchases.
- 3-08.140** Trade-ins.
- 3-08.150** Professional services contracts.
- 3-08.160** Amendments to professional services contracts.
- 3-08.170** Exemptions to provisions of this chapter.

3-08.010 Adoption of purchasing system.

This purchasing system is adopted in order to:

A. ~~Establish~~ to Establish efficient regulations, policies, and procedures for the purchase of goods and supplies, equipment, materials, and services;

B. ~~to~~ Secure on behalf of the city goods and supplies, equipment, materials, and services at the lowest possible cost commensurate with quality needed; ~~to~~

C. ~~e~~E Exercise positive financial control over purchases; ~~to~~

D. ~~e~~C Clearly define authority for the purchasing function; ~~to~~

E. ~~a~~A Assure the quality, suitability, and fitness of purchases; ~~and to~~

F. ~~e~~E Ensure that the city obtains the highest quality of supplies and equipment and level of service at a fair and reasonable cost.

3-08.020 ~~Scope of purchasing policies and procedures; authority and responsibility~~

Except as otherwise provided herein, the procurement regulations, policies, and procedures set forth in this chapter shall apply only to the purchase of goods and supplies, equipment, materials, and professional and nonprofessional services, and shall not apply to public works construction projects. Procedures and processes for the procurement of public works construction contracts are subject to the California Public Contract Code. The authority and responsibility for the purchase of goods and supplies, equipment, materials, and professional and nonprofessional services is vested in the City Manager and City Council. The Purchasing Officer shall be the City Manager or the City Manager's designee. The Purchasing Officer may promulgate additional administrative rules, procedures and orders necessary to implement the policies and procedures established by this chapter with regard to the purchase of goods and supplies, equipment, materials, and professional and nonprofessional services on behalf of the City. Each City department head is responsible for administering and implementing for that department the purchasing policies and procedures set forth in this chapter.

3-08.030 Definitions.

As used in this chapter, the following terms shall have the meanings indicated, which are applicable to both the singular and plural thereof:

"City department head" means the person who is designated by the City Manager as being responsible for each particular city department, including, but not limited to, Administration, Community Development, City Attorney, City Clerk, Community Services, Finance, Police Services, and Public Services, Public Works, and City Engineering.

“Estimated value” means the estimated total value as determined by the Purchasing Officer at the beginning of the procurement process for the proposed acquisition of goods and supplies, equipment, materials, and nonprofessional services. When making this initial threshold determination, the Purchasing Officer shall make reasonable use of all available market data and pricing information to estimate the total cost to the city, inclusive of taxes, licenses, freight charges, installation charges, fees, and other consideration, for the proposed procurement. The Purchasing Officer shall not use the value of any anticipated exchange or trade-in amount to reduce the estimated value of the proposed procurement.

“Goods and supplies, equipment, and materials” means fixed, movable, disposable, and/or reusable products, commodities, or items used by the city, including but not limited to office supplies, program supplies, subscriptions, vehicles, fuel and vehicle supplies, tools, computers, computer hardware and software, computer-related equipment and copiers, office furniture, and fixtures.

“Nonprofessional services” means those services not constituting professional services or public works project~~construction services for public works projects or those services not constituting professional services.~~

“Professional services” means those services provided by any specially trained and experienced person, company, corporation, or firm in areas including but not limited to private architectural, landscape architectural, engineering, environmental, land surveying, construction project management, management and administration, financial, accounting, auditing, actuarial, economic and/or development and planning, which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise, training, or unique skills gained by formal studies or experience,~~other than public works construction services.~~

3-08.040 Purchasing Officer.

There is hereby created the position of Purchasing Officer. The Purchasing Officer shall be responsible for, and have general supervision of, the following purchasing functions as implemented by various departments throughout the city pursuant to this chapter and any implementing administrative orders established by the Purchasing Officer. The Purchasing Officer shall be the City Manager or ~~his or her~~ the City Manager's designee. Pursuant to the regulations, policies, and procedures established in this chapter, the Purchasing Officer shall have the authority to:

- A. Purchase or contract for goods and supplies, equipment, materials, and professional and nonprofessional services;

- B. Negotiate, approve, and execute, as well as recommend approval and execution of, orders and contracts for the purchase of goods and supplies, equipment, materials, and professional and nonprofessional services;
- C. Act to procure on behalf of the city the needed quality in goods and supplies, equipment, materials, and services at the least expense to the city;
- D. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;
- E. Prepare administrative rules, procedures, and orders necessary to implement the policies and procedures established by this chapter with regard to the purchase of goods and supplies, equipment, materials, and services on behalf of the city;
- F. Keep informed of current developments in the field of municipal purchasing, pricing, market conditions, new technologies, and new products and services;
- G. Prescribe and maintain such forms and other rules and regulations as reasonably necessary for the proper implementation of the policies and procedures established in this chapter;
- H. Coordinate the inspection of all goods and supplies, equipment, materials, and services purchased on behalf of the city to ensure conformance with specifications;
- I. Recommend the transfer of underutilized, surplus, or unused goods and supplies, equipment, and materials between departments as needed and the sale of such goods and supplies, equipment, and materials which cannot reasonably be used by any department or which become unsuitable or obsolete for city use;
- J. Maintain and update periodically a vendor master file or list necessary for the efficient operation of purchasing functions;
- K. Consider and encourage the purchase of recycled and recyclable materials and environmentally friendly products, whenever practicable and cost effective or efficient; and
- L. Except as otherwise required by law, Where other factors are equal, consider the procurement of goods and supplies, and materials, and services from local business enterprises businesses located within the city.

3-08.050 Inspection and testing.

The Purchasing Officer or requesting department shall inspect goods and supplies, equipment, and materials delivered, as well as contract services performed, to determine their conformance with the specifications set forth in the order or contract. The Purchasing Officer or requesting department shall have the right to waive any defect, irregularity, or informality. The Purchasing Officer or requesting department shall have the authority to require demonstrative testing of samples submitted with bids and samples of deliverables which are necessary to determine their quality, fitness for a particular use, and conformance with specifications.

3-08.060 Appropriation of purchasing funds.

The City Council is responsible for and shall appropriate such funds as are necessary to carry out the provisions of this chapter. ~~Unless otherwise provided in this chapter, the Purchasing Officer shall not issue any order or contract for goods and supplies, equipment, materials, or services unless there exists an unencumbered appropriation in the adopted budget against which such purchase may be charged.~~ Except in cases of emergency, or as otherwise provided in this chapter, the City Manager shall not issue any purchase order or contract for goods and supplies, equipment, materials or services unless there exists an unencumbered appropriation in adopted budget against which such purchase may be charged. The City Manager has the authority to transfer unencumbered funds between and among City departments as necessary for the procurement of goods and supplies, equipment, materials, and services as necessary to implement the provisions of this chapter.

3-08.070 Procurement of goods and supplies, equipment, materials, and nonprofessional services – Up to and including ~~fifteen~~ twenty-five thousand dollars (~~\$1525,000.00~~) – Open market.

The procurement of goods and supplies, equipment, materials, and nonprofessional services with an estimated value of up to and including ~~fifteen~~ twenty-five thousand dollars (~~\$1525,000.00~~), inclusive of taxes, licenses, freight charges, installation charges, fees, and other considerations, may be made by the Purchasing Officer in the open market without observing the procedures set forth in Section 3-08.080 and Section 3-08.090. ~~At least three informal quotes may~~ should be obtained, when practicable.

3-08.080 Procurement of goods and supplies, equipment, materials, and nonprofessional services – Greater than ~~fifteen~~ twenty-five thousand dollars (~~>\$1525,000.00~~) up to and including fifty thousand dollars (\$50,000.00) – Informal procedures.

The procurement of goods and supplies, equipment, materials, and nonprofessional services with an estimated value of greater than ~~fifteen~~twenty-five thousand dollars (~~>\$1525,000.00~~) up to and including fifty thousand dollars (\$50,000.00), inclusive of taxes, licenses, freight charges, installation charges, fees, and other considerations, shall be made by the informal procedures set forth in this section.

- A. The requesting department shall solicit informal proposals by telephone or written request to prospective vendors.
- B. Except as otherwise provided in this chapter, purchases shall be based on at least three informal proposals.
- C. Informal proposals shall be submitted by prospective vendors to the requesting department. The City Clerk shall retain a record of all informal proposals for a period of two years following completion of the informal procedures established in this section, which shall be made available for public review and inspection upon request.
- D. The order or contract shall be awarded by the Purchasing Officer to the lowest proposer consistent with the best qualified vendor selection criteria set forth in Section 3-08.100.

3-08.090 Procurement of goods and supplies, equipment, materials, and nonprofessional services – Greater than fifty thousand dollars (\$50,000.00) – Formal procedures.

The procurement of goods and supplies, equipment, materials, and nonprofessional services with an estimated value of greater than fifty thousand dollars (\$50,000.00), inclusive of taxes, licenses, freight charges, installation charges, fees, and other considerations, shall be made by the formal procedures set forth in this section.

- A. Notice Inviting Bids. Notices inviting formal bids or proposals from prospective vendors shall be ~~published~~publicly noticed and posted no later than ten calendar days before the submission date for formal bids. The notices shall describe the requested goods or supplies, equipment, materials, or nonprofessional services in general terms, how to obtain more detailed information concerning the procurement, and state the time, place, and deadline for submission of sealed bids or proposals.
- B. ~~Published~~Public Notice. The notice inviting formal bids or proposals shall be ~~published – publicly noticed in any generally accepted manner and posted in at least three public places in the city that have been duly designated by the City Clerk as the official places for the posting of public notices and, which includes~~

on the city's official website. In addition, such notice may also include trade publications when practicable.

- C. Bid Opening Procedure. Sealed bids or proposals shall be submitted to the office of the City Clerk or requesting city department and shall be identified as formal competitive bids or proposals on the outside of the sealed envelope. The City Clerk or requesting city department head shall store all sealed bids in a secure location until opening. The City Clerk or requesting city department head shall open all bids or proposals in public at the time and place stated in the notice inviting bids. A tabulation of all bids or proposals received shall be open for public review and inspection in the office of the City Clerk or requesting city department during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.
- D. Rejection of Bids. ~~In its sole discretion, t~~The City Council or the Purchasing Officer shall have the discretion to ~~may~~ reject any and all bids or proposals for any reason or for no reason, and may suspend, delay, or otherwise cancel the procurement, or may order the re-advertisement of the request for bids. If all formal bids or proposals are rejected and the City Council resolves by a recorded majority vote of the total membership of the City Council that the procurement can be performed more economically by force account, by informal procedures, or through open market purchases, then it may dispense with further formal competitive public bidding.
- E. Tie Bids. If two or more formal bids or proposals received are the same and are the lowest, the City Council may accept the one it chooses, ~~and the City Council may allow for a local vendor preference.~~
- F. Award of Contracts. Contracts or purchase orders shall be awarded by the City Council to the lowest bidder or proposer consistent with the best qualified vendor selection criteria set forth in Section 3-08.100, except as otherwise provided herein. The decision of the City Council shall be final. The City Council may authorize that such purchase orders or contracts be executed by either the Mayor or the City Manager, or the City Council may otherwise delegate such signature authority.
- G. No Bids Received. If no bids or proposals are received, the purchase may be let in the open market or by the informal procedures set forth in Section 3-08.080, subject to City Council approval.
- H. Performance Bonds. The Purchasing Officer shall have authority to recommend that a performance bond or other form of security or guarantee be required

before entering into a contract in such amount as may be reasonably necessary to protect the best interests of the city. If a performance bond or other form of security or guarantee is required, the form and amount of the bond, security or guarantee shall be described in the notice inviting bids, and the performance bond, security or guarantee shall be in a form approved by the City Attorney.

- I. Defects, Irregularities, and Informalities. The City Council may, in its sole discretion, waive any defect, irregularity, or informality in the formal bids or proposals or in the competitive procedures established in this section, and no such defect, irregularity, or informality shall void any contract entered into by the city.

3-08.100 Best qualified vendor.

In determining the best qualified vendor, consideration is to be given to price, quality, and performance of the goods and supplies, equipment, or materials to be purchased or nonprofessional services to be provided by the vendor. Criteria for determining the best qualified vendor shall include but not be limited to the following:

- A. The cost and quality of the goods and supplies, equipment, materials, or nonprofessional services;
- B. The ability, capacity, and skill of the vendor to perform the contract and to provide the goods and supplies, equipment, materials, or nonprofessional services requested;
- C. The ability of the vendor to provide the goods and supplies, equipment, materials, or nonprofessional services requested promptly or within the time specified, without delay, ~~or~~ interference, or service interruption;
- D. The ability of the vendor to demonstrate the attributes of trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform ~~the contract~~;
- E. The character, integrity, reputation, judgment, references, experience, and efficiency of the vendor;
- F. The quality of vendor's performance history and record on previous purchases or contracts with the city;
- G. The ability of the vendor to provide future maintenance, repair parts, and services for the use of the goods and supplies, equipment, or materials purchased; and,
- H. The ability of the vendor to demonstrate its prior, current, and continued compliance during the contract term with all applicable federal, state, and local

laws, statutes, ordinances and all lawful orders, rules, and regulations promulgated thereunder;

~~I. The ability of the vendor to timely produce a complete and accurate IRS Form W9; and~~

~~J. A local business enterprise preference may be given when practicable.~~

3-08.110 Exceptions to purchasing requirements.

~~The procurement policies and procedures set forth above need not be followed, may be dispensed with, and/or are not applicable to the following situations, purchases, or contracts. The procurement policies and procedures set forth in 3-08.070, 3-08.080, 3-08.090 and 3-08.150 need not be followed, may be dispensed with, and are not applicable, irrespective of their estimated value, when the City Council or Purchasing Officer find and determine that the following situations, purchases, procurements or contracts apply, but are otherwise subject to the purchasing limitations set forth in this code:~~

- A. When goods and supplies, equipment, materials, or contract services are of a unique, sole source nature because of their quality, durability, availability, or fitness for a particular use and are available only from one source. A sole source procurement is a procurement where only one source is practicably available for the type of procurement required;
- B. When the goods and supplies, equipment, materials, or nonprofessional services are proprietary. A proprietary procurement is a procurement where the desired good or service must be restricted to one manufacturer because the good or service is compatible with or is an integral component of existing equipment or products, is necessary to support a specific need of a program, is covered by patent or copyright, must yield absolute continuity of results, or is one with which a user has extensive experience and the use of any other similar good or service would require considerable reorientation and training. Under such circumstances, an equitable evaluation of comparable goods or services should be made showing that rejection of other goods or services is based solely on their failure to meet that need;
- C. When after a reasonable attempt has been made to obtain informal bids or proposals, and it has been determined by the Purchasing Officer that three bids or proposals cannot be obtained;
- D. When ~~the Purchasing Officer finds that~~ emergency conditions require the immediate purchase of goods and supplies, equipment, materials, or services.

For purposes of this section, emergency purchases are those procurements that are required to prevent immediate interruption or cessation of necessary city services or to safeguard life, property, or the public health and welfare. The Purchasing Officer shall file promptly with the City Council a certificate report showing such conditions and the necessity for such action, together with an itemized account of all expenditures;

- E. When ~~in the opinion of the Purchasing Officer~~ formal bidding is not likely to result in the lowest price. However, under such circumstances compliance with the informal procedures set forth in Section 3-08.080 ~~shall be required~~ should be considered;
- F. When ~~in the opinion of the Purchasing Officer~~ a specific make, model, or brand is necessary to match existing city equipment or to facilitate the continuity of effective maintenance and support;
- G. When the goods and supplies, equipment, materials, or nonprofessional services are available from a vendor who has been selected as the lowest bidder ~~within the prior six months by~~ through a procurement with another local public agency or government entity using competitive bidding procedures substantially the same as or similar to those normally utilized by the city for the acquisition of such goods and supplies, equipment, materials, or services, and when the price offered to the city is substantially equivalent to that offered to the other public agency or government entity;
- H. ~~When the goods and supplies, equipment, materials, or nonprofessional services are available from a vendor who has been selected as the lowest bidder through a cooperative-type agreement with another government entity using competitive bidding procedures substantially the same as or similar to those normally utilized by the city for the acquisition of such supplies or services, and when the price offered to the city is substantially equivalent to that offered to the other public agency; or~~ When the goods and supplies, equipment, materials, or nonprofessional services are available from suppliers who have been awarded contracts by the State of California for the purchase of goods and supplies, information technology, and services where State procurement is made in the form of master agreements, price schedules, or multiple award schedules that allow the State to take advantage of leveraged pricing that can be obtained through the State's buying power and where the State has determined that such vendor pricing is deemed to be reasonable, fair, and competitive. Pursuant to such State multiple award programs, the Purchasing Officer or City Council may make these purchases directly from the vendors without competitive bidding, or the State may provide assistance to the City in making such purchases;

- I. ~~When in the opinion of the Purchasing Officer it is determined that~~ an unusual or unique situation exists, in that due to experience, specialized qualifications, particular expertise, performance history, and/or reputation, a particular company, vendor, consultant, or contractor is uniquely qualified for a particular task or project, which makes application of the requirements for competitive solicitation under this chapter contrary to either the intended purpose of the project or the public interest;
- J. When in the opinion of the City Council, it is determined that compliance with the procurement policies, procedures and/or requirements is not in the best interest of the City.
- K. When goods and supplies, equipment, or nonprofessional services are for information technology or computer hardware, software, programming, or related equipment and devices, such procurements shall be subject to the informal procedures set forth in Section 3-08.080.
- L. When goods and supplies, equipment, materials, and nonprofessional or professional services are for any of the following:
- (1) Contracts for professional or other expert witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which the city is or may become a party, including contracts for special investigative services;
 - (2) Contracts to commission original works of art, and for fine art or any form of public art;
 - (3) The purchase of miscellaneous books, magazines, newspapers, subscriptions, on-line library reference services, film, videos, and assorted materials;
 - (a) (4) Intergovernmental payments, purchases, and agreements, including but not limited to contracts for the procurement of law enforcement or other public safety services;
 - (5) Contracts for government affairs, public relations, and legislative advocacy or affairs;
 - (6) Contracts for economic development services;
 - (7) Specialized seminar, training, and educational classes;
 - (8) Contracts for election services;

- (9) Contracts for appraisal services;
- (10) Contracts for entertainment services;
- (11) Contracts for community support and/or recreation services;
- (12) Contracts for printing and/or graphical design services.

3-08.120 Amendments and change orders.

Following the award of a procurement contract for goods and supplies, equipment, materials, or nonprofessional services pursuant to Sections 3-08.070, 3-08.080, and 3-08.090, the contract may be amended by the issuance of a change order or amendment, provided the change which is the subject of the change order or amendment is reasonably related to the scope of the original contract. The requesting department will maintain control relative to the scoping, estimating, and negotiating of the proposed change(s) and the Finance Director will confirm the availability of funds for the proposed change in the event that the change order increases the contract cost. Any change order or amendment which results in a total contract amount of fifty thousand dollars (\$50,000.00) or less may be approved by the Purchasing Officer. Any change order or amendment which results in a total contract amount of greater than fifty thousand dollars (\$50,000.00) shall be approved by the City Council.

3-08.130 Vehicle purchases.

Any vehicle(s) with an estimated value greater than twenty thousand dollars (\$20,000.00) to be purchased or leased by the city shall be approved in advance by the City Council prior to commencement of the procurement process.

3-08.140 Trade-ins.

The Purchasing Officer is authorized to exchange for or trade in goods and supplies, equipment, and materials for the purpose of exchanging or trading in such supplies and equipment for like-kind replacement, for other commodities, products, equipment, or property, or for rebate, down payment, or credit toward the purchase of other similar goods and supplies, equipment, or materials. The Purchasing Officer shall not consider the trade-in value amount in calculating the procurement authority dollar thresholds established in Sections 3-08.070, 3-08.080, and 3-08.090.

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3-08.150 Professional services contracts.

- A. The informal and formal bidding procedures contained in this chapter shall not apply to contracts for professional services. Rather, to secure professional services, the city shall utilize a request for proposals procedure, the method and details of which shall be promulgated by the City Manager in the form of administrative regulations. The City Manager may award any contract for professional services when the total not to exceed contract amount of such services is fifty thousand dollars (\$50,000.00) or less. Any contract for professional services having a total contract amount of greater than fifty thousand dollars ($\geq$ \$50,000.00) shall be awarded by the City Council.
- B. In the event of a vacant city employee position previously approved by the City Council, the City Manager shall have the authority to award any and all contracts for the same or substantially similar services to independent contractors or consultants when the cost of such contract does not exceed the salary, benefits, and other related costs of the vacant position.
- C. Notwithstanding any provision in this chapter to the contrary, selection by the city for professional services in areas including but not limited to private architectural, landscape architectural, engineering, environmental, land surveying, construction project management, management and administration, financial, accounting, auditing, actuarial, economics, and/or development and planning, which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise, training, or unique skills gained by formal studies or experience, shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required, and shall not be awarded solely on the basis of cost. In order to implement this method of selection, the City Manager shall promulgate administrative regulations concerning contracting for professional services to ensure that such services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the city. In accordance with state law, the city shall consider price after the city is satisfied that the would-be person, company, corporation, contractor, consultant, or firm has demonstrated the competence and professional qualifications necessary for the satisfactory performance of the services required.

3-08.160 Amendments to professional services contracts.

Contracts for professional services pursuant to Section 3-08.150 may be amended by the issuance of a written amendment provided the change which is the

subject of the amendment is reasonably related to the scope of the original contract. The requesting department will maintain control relative to the scoping, estimating, and negotiating of the proposed change(s), and the Finance Director will confirm the availability of funds for the proposed change in the event that the amendment increases the contract cost. Any amendment which results in a total contract amount of fifty thousand dollars (\$50,000.00) or less may be approved by the City Manager. Any amendment which results in a total contract amount of greater than fifty thousand dollars (\$50,000.00) shall be approved by the City Council.

3-08.170 Exemptions to provisions of this chapter.

~~_____The provisions of this chapter are not applicable to:~~

~~A.—— Contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which the city is or may become a party, including contracts for special investigative services for law enforcement purposes;~~

~~B.—— Agreements negotiated and/or prepared by the city attorney or special counsel in connection with the settlement of a dispute, claim, or matter of litigation or threatened litigation;~~

~~C.—— Contracts to commission original works of art, and for fine art or entertainment;~~

~~D.—— The award of financial participation agreements, owner participation agreements, disposition and development agreements, development agreements, real estate purchase or lease agreements, covenants, easements, encroachment agreements, memoranda of understanding, or other similar agreements or instruments. Such contracts shall be awarded in accordance with applicable legal requirements and/or administrative directives of the city;~~

~~E.—— The purchase of miscellaneous books, magazines, newspapers, subscriptions, online library reference services, film, videos, and assorted materials for which contracts by competitive bid solicitation are not practicable;~~

~~F.—— Intergovernmental payments, purchases, and agreements;~~

~~G.—— Specialized seminar, training, and educational classes;~~

~~H.—— Contracts for election services;~~

~~I.—— Contracts for legal services;~~

~~J.—— Franchise agreements; and~~

~~K. Contracts for procuring and maintaining insurance policies for the benefit of the city, which are approved by the City Council. The provisions of this chapter are not applicable to the following procurements, which may be approved by the City Council and are otherwise subject to the requirements of this code: contracts for banking and/or investment services; franchise agreements; and contracts for procuring and maintaining insurance policies for the benefit of the city.~~

