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DEVELOPMENT AGREEMENT

by and between

CITY OF MENIFEE

and

CIMARRON RIDGE, LLC

REGARDING THE CIMARRON RIDGE SPECIFIC PLAN PROJECT

Effective Date:

June 7, 2017

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DEVELOPMENT AGREEMENT
Cimarron Ridge Specific Plan Project

This DEVELOPMENT AGREEMENT REGARDING THE CIMARRON RIDGE SPECIFIC PLAN PROJECT (the "**Agreement**") is entered into this _____ day of _____, 2016, by and between the CITY OF MENIFEE, a municipal corporation of the State of California ("**City**") and CIMARRON RIDGE, LLC, a California limited liability company ("**Developer**"). **City** and **Developer** are collectively referred to herein as the "**Parties**" and individually as a "**Party**" (as defined herein).

RECITALS

A. **Authorization.** In order to encourage investment in, and commitment to comprehensive planning and public facilities financing, strengthen the public planning process and encourage private implementation of the City's General Plan, provide certainty in the approval of projects and assure efficient use of public resources, and reduce the economic costs of development by providing assurance that projects can proceed consistent with existing land use policies, rules and regulations, the California Legislature adopted Government Code Sections 65864-65869.5 ("**Development Agreement Statute**"). The Development Agreement Statute authorizes cities and counties to enter into development agreements with persons or entities having a legal or equitable interest in real property located within their jurisdiction. In accordance with the Development Agreement Statute, the City has established procedures and requirements for processing and approval of development agreements pursuant to Municipal Code Section 9.75 ("**Development Agreement Ordinance**"). The Development Agreement Statute and Development Agreement Ordinance are collectively referred to herein as the "**Development Agreement Law**." This Agreement is consistent with the Development Agreement Law.

B. **Property.** Developer is the owner in fee of that certain real property consisting of approximately two hundred forty and three tenths (240.3) acres of land area located in the City of Menifee, County of Riverside, State of California, more particularly described in the legal description attached hereto as **Exhibit A** ("**Property**").

C. **Prior County Approved Project.** Prior to the Effective Date, the County of Riverside approved three separate tentative tract maps ("**TTMs**") for the area encompassing the Property. TTM No. 25316 for 369 lots on 102 acres was approved April 28, 1992; TTM No. 25745 for 428 lots on 118 acres was approved December 14, 1993; and TTM No. 30552 for 38 lots on 20.3 acres was approved May 4, 2004. The total number of lots previously approved by the County was 835 lots on 240.3 acres. Each of the TTMs expired. The Property was previously zoned Residential 2.1-5 du/acre. The City has given the required notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to the Development Agreement Law. As required by Government Code section 65867.5, the City Council has reviewed this Agreement and has found that its provisions and purposes are consistent with the goals, policies, standards, and land use designations specified in the City General Plan and the Property as of this date.

D. **Project Approvals/Development Plan.** The Planning and Zoning approvals for the Project on the Property obtained prior to the Approval Date of this Agreement (collectively, the “**Project Approvals**”) include but are not limited to the following:

1. Cimarron Ridge Specific Plan (No. 2013-247). Establishes a specific land use plan, designation of planning areas, development standards, architectural design guidelines and landscape design guidelines for development of a maximum of 756 dwelling units, with seven (7) Planning Areas, 10.835 acres of park, and additional features and amenities on the Property, adopted by City Council of the City of Menifee (“**City Council**”) on November 4, 2015 and provides the required contents of a Development Plan in compliance with Government Code section 65865.2.
2. General Plan Amendment (No. 2014-006). Changes the General Plan Land Use designation for the Property from 2.1-5 du/ac Residential to Specific Plan, adopted by City Council on November 4, 2015.
3. Change of Zone (No. 2014-007). Changes the zoning classification on the Property from a mix of One-Family Dwellings (R-1), One-Family Dwellings-10,000 square foot lot minimum (R-1-10,000) and Open Area Combining Zone-Residential Developments (R-5) to Specific Plan (SP) to reflect the adopted Specific Plan and its allowed uses and development standards, adopted by City Council on November 4, 2015.
4. Tentative Tract Map (No. 2013-208). Proposes a subdivision of the Property’s 240.3 gross acres into 756 single-family residential lots and 111 lots for park, landscape, monumentation, drainage, and storm drain purposes, including one 10.0 acre park, one 0.64 acre park, and one 0.195 acre park (“**Parks**”) with single-family residential lots with minimum lot sizes (depending on Specific Plan Planning Area) of 5,000 square feet, 5,500 square feet, 6,500 square feet, and 10,000 square feet distributed in seven (7) Planning Areas, approved by City Council on October 21, 2015.
5. Tentative Parcel Map (No. 2013-209). Proposes a subdivision of the Property’s 240.3 gross acres into 7 parcels with a minimum lot size of 26.2 acres for financing purposes, approved by City Council on October 21, 2015.

Development consistent with all of the Project Approvals is hereinafter referred to as the “**Project.**”

E. **Purpose of Development Agreement.** This Agreement is intended to be, and shall be construed as, a statutory development agreement, within the meaning of the Development Agreement Law. For the reasons recited herein, Developer and the City have determined that the Project is a development for which a development agreement is appropriate. This Agreement will eliminate uncertainty in planning for and secure the orderly development of the Project, ensure a desirable and functional community environment, provide effective and efficient development of public facilities, infrastructure, and services appropriate for the development of the Project, provide other significant public benefits to City and the City's residents, and otherwise achieve the goals and purposes of the Development Agreement Law. In exchange for these benefits to

City, Developer desires to receive the assurance that it may proceed with the development of the Project in accordance with the terms and conditions of this Agreement.

F. **Promotion of Development.** The Parties agree that this Agreement will promote and encourage the implementation of the Specific Plan and the development of the Project by providing both the Developer, future owners and/or lenders of some or all of the parcels within the Specific Plan and the City with a greater degree of certainty as to Developer's and/or future owners' ability to expeditiously complete the Project, and that the consideration to be received by the City pursuant to this Agreement and the rights secured to Developer hereunder constitute sufficient consideration to support the respective covenants and agreements of the City and Developer.

G. **Public Benefits; Developer and City Commitments.** City acknowledges that the commitments of the City set forth in this Agreement shall survive beyond the term or terms of the current members of the City Council and that this Agreement will serve to bind City and future City Councils. By approving this Agreement, the City Council has determined that the vested rights to complete the Project provided to Developer in exchange for Developer's commitment to provide the public benefits set forth in Section 3 of this Agreement, justify the City's commitments under this Agreement. The terms and conditions of this Agreement have undergone extensive review by the City staff, City Attorney, City of Menifee Economic Development Ad-Hoc Committee and the City Council and have been found to be fair, just, and reasonable. The City has further concluded that the Project will serve the best interests of its citizens and that the public health, safety, and welfare will be served by entering into this Agreement.

H. **Public Hearings.** On _____, _____, the City's Planning Commission (the "**Planning Commission**"), after duly noticed public hearing, and recommended approval of this Development Agreement pursuant to Resolution No. _____. On _____, the City Council introduced its Ordinance No. _____ approving this Development Agreement and authorizing its execution, and adopted that Ordinance No. on _____, _____. That Ordinance ("**Enacting Ordinance**") became effective on _____, _____. The Enacting Ordinance incorporates this Agreement by reference.

I. **Findings.** The City Council has found and determined that this Development Agreement: (i) is consistent with the City's General Plan and the Specific Plan; (ii) is in the best interests of health, safety and general welfare of the City, its residents and the public; (iii) is entered into pursuant to and constitutes a present exercise of police power by the City; and, (iv) is entered into pursuant to and in compliance with the Development Agreement Law.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other valuable consideration, the Parties hereby agree as follows:

ARTICLE 1. DEFINITIONS

"**Agreement**" shall mean this Development Agreement, including all exhibits.

"**Annual Review**" shall have the meaning given in Section 7.2.1.

"**Applicable City Regulations**" shall mean those regulations set forth in **Exhibit B.**

"Applicable Law," where capitalized, shall mean the Applicable City Regulations, New City Laws, to the extent consistent with the limitations of Section 4.11 of this Agreement, and New Other Laws. If the term "applicable law" is not capitalized, it shall refer to not only Applicable Law, but also to all applicable state and federal law and or regulations.

"Assignment" shall have the meaning given in Section 8.2.

"Benefited Owner" has the meaning set forth in Section 5.1.2.

"CEQA" shall mean the California Environmental Quality Act, California Public Resources Code section 21000, *et seq.*, and the State CEQA Guidelines, (California Code of Regulations, Title 14, section 15000, *et seq.*), as each is amended from time to time.

"City" shall mean the City of Menifee, a municipal corporation, organized and existing under the laws of the State of California.

"City Council" shall mean the City Council of the City of Menifee.

"City Manager" shall mean the City's City Manager, or his or her designee.

"City Parties" shall have the meaning given in Section 4.14.

"Claims" shall have the meaning given in Section 7.4.

"Connection Fees" means those fees charged by City, or other non-City entities, to utility users as a cost for connecting to water, sewer and other applicable utilities.

"County" shall mean the County of Riverside, a political subdivision of the State of California,

"Default" shall have the meaning given in Section 7.1.2.

"Default Hearing" shall have the meaning given in Section 7.1.3.

"Developer" shall mean Cimarron Ridge, LLC, a California limited liability company, and any duly authorized successor or assignee to the rights, powers, and responsibilities provided hereunder, in accordance with Article 8 of this Agreement.

"Development Agreement" shall mean this Agreement and all exhibits attached hereto.

"Development Agreement Law" shall have the meaning given in Recital A.

"Development Agreement Ordinance" shall have the meaning given in Recital A.

"Development Agreement Statute" shall have the meaning given in Recital A.

"Development Project" shall mean a development project consistent with all of the Project Approvals set forth in Recital D herein and consistent with the requirements of Government Code section 65865.2.

"District" shall mean any assessment or financing district(s) established by the City pursuant to the Community Facilities District Act of 1982 (Mello-Roos), Government Code sections 53311 *et seq.* or other similar law to finance all or part of the Public Improvements through the issuance of bonds and the imposition of assessments, fees or taxes on the benefiting land, including, but not limited to, the Property.

"Effective Date" shall have the meaning set forth in Section 2.1.

"EIR" shall mean the Environmental Impact Report (State Clearinghouse No. 2014051029) certified by the Menifee City Council on October 21, 2015.

"Enacting Ordinance" shall mean the Ordinance approving this Agreement as referenced in Recital I.

"Exactions" shall mean exactions that may be imposed by the City as a condition of developing the Project, including but not limited to in-lieu payments, requirements for acquisition, dedication or reservation of land, obligations to construct on-site or off-site public and private infrastructure improvements such as roadways, utilities or other improvements necessary to support the Project as shown in the Specific Plan, whether such exactions constitute subdivision improvements, mitigation measures in connection with environmental review of the Project, measures imposed for the protection of the public health or safety, or impositions made under Applicable Law.

"Excluded Transfers" shall have the meaning set forth in Section 8.8.

"Excused Delay" shall mean delay due to war; insurrection; terrorism; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; unusually severe weather which prevents, limits, retards or hinders the ability to perform; environmental conditions, if such condition is unknown after the exercise of reasonable environmental due diligence and delays are due to necessary regulatory agency approvals; initiatives, referenda, litigation or administrative proceedings challenging the Existing Approvals, Subsequent Project Approvals, the Project or this Agreement; acts or failure to act of the other party.

"Existing Approvals" shall mean, collectively, the Project Approvals, as set forth in Recital E.

"General Plan" as set forth in Recital D and elsewhere shall mean the current, updated General Plan in effect as of the date of this Agreement.

"Impact Fees" shall mean the monetary consideration charged by City, County, or other agency in connection with a Development Project for the purpose of defraying all or a portion of the cost of mitigating the impacts of the Development Project and development of the public facilities related to development of the Development Project, including, without limitation, any "Fee" as that term is defined by Government Code section 66000(b), special taxes or assessments, but not including "Connection Fees."

"Light Infrastructure" shall have the meaning given in Section 4.15.1(b).

"Local Agency" shall mean a governmental agency whose legislative and administrative actions the City has the legal ability to control. Any entity not within the exclusive control of the City, including a joint powers authority, shall not be deemed a Local Agency for the purposes of this Agreement.

"Mortgage" shall have the meaning given in Section 9.2.1.

"Mortgagee" shall have the meaning given in Section 9.2.1.

"New City Laws" shall mean any ordinances, resolutions, orders, rules, official policies, standards, specifications, guidelines or other regulations, which are promulgated or adopted by the City (including but not limited to any City agency, body, department, officer or employee) or its electorate (through their power of initiative or otherwise) after the Effective Date. New City Laws include amendments to Applicable City Regulations.

"New Other Laws" shall mean New City Laws enacted after the Effective Date that are required to be applied to the Project pursuant to applicable State or Federal laws or regulations. For purposes of this definition: (i) State or Federal laws include not only enactments but also the decisional law applicable within California as determined and declared from time to time by the courts of California and of the United States; (ii) "enactments" means constitutional provisions, statutes, charter provisions, ordinances, and regulations; (iii) "regulations" means rules, regulations, orders, executive mandates, and standards, having the force of law, adopted by an employee or agency of the State of California or of the United States; (iv) "statute" means an act adopted by the California Legislature or by the Congress of the United States, or a state-wide initiative act; and (v) State or Federal laws include enactments and regulations of applicable regional and local (other than City) governmental entities acting pursuant to State or Federal laws as described in (i) through (iv) of this definition.

"Notice of Breach" shall mean the notice provided to a defaulting party specifying the nature of the alleged Default and the manner in which such Default may be satisfactorily cured.

"Notice of Subsequent Project Approval" shall mean a notice recorded in the Official Records that identifies the existence a specific Subsequent Project Approval(s) approved pursuant to Section 6.3.

"Official Records" means the official records of the City.

"Park Obligation" shall have the meaning set forth in Section 4.15.

"Parties" shall mean, collectively, the City and Developer.

"Permitted Uses" shall mean those permissible uses described in the Project Approvals,

"Planning Commission" shall have the meaning given in Recital I.

"Prevailing Wage Action" shall mean any of the following: (a) any determination by the State Department of Industrial Relations or its successor for enforcement of State prevailing wage laws that prevailing wage rates should have been paid, but were not; (b) any determination by the

State Department of Industrial Relations or its successor for enforcement of State prevailing wage laws that higher prevailing wage rates than those paid should have been paid; (c) any administrative or legal action or proceeding arising from any failure to comply with any of California Labor Code Sections 1720 through 1781; (d) any administrative or legal action or proceeding to recover wage amounts, at law or in equity, including pursuant to California Labor Code Section 1781; (e) the noncompliance by Developer or its contractor with any applicable Laws (including, without limitation, if applicable, the requirement to pay State and/or Federal prevailing wages and hire apprentices); (f) the implementation of Section 1781 of the Labor Code and/or the Davis-Bacon Act, 40 U.S.C. Section 3141, et seq., and the regulations promulgated thereunder set forth at 29 CFR Part 1 (collectively, "**Davis-Bacon**"), as the same may be amended from time to time, or any other similar Laws; and/or (g) failure by Developer to provide any required disclosure or identification as required by Labor Code Section 1781 and/or Davis Bacon, as the same may be amended from time to time, or any other similar Laws.

"Private Improvements" shall have the meaning set forth in Section 5.1.1.

"Processing Fees" shall have the meaning given in Section 4.11.1.

"Project" shall have the meaning given in Recital D.

"Project Approvals" means the Existing Approvals granted by the City Council as set forth in Recital D of this Agreement and all Subsequent Project Approvals.

"Property" shall have the meaning given in Recital B.

"Public Improvements" shall have the meaning set forth in Section 5.1.2.

"RCFCD" shall mean Riverside County Flood Control District.

"Reimbursement Agreement" shall have the meaning given in Section 5.1.2.

"ROW" shall have the meaning as set forth in Section 5.3.

"School Fees" shall mean school fees imposed under state law on Developer by the Menifee Union School District, Romoland Union School District, and/or the Perris Unified High School District, or their successors in interest.

"Specific Plan" shall have the meaning given in Recital D.

"Sports Field;" "Sports Field Uses" shall mean that minimum 10-acre multipurpose park within Planning Area 5B of the Specific Plan with irrigated grass playing fields and/or artificial turf fields of a size and quality appropriate to meet the standards promulgated by the California State Soccer Association - South (Cal South), or equivalent standards for youth soccer for general practice and local games (not including tournaments), as well as flag football and similar youth sports field uses. The term "Sports Field Uses" shall not include any permanent structures, other than baseball field fencing and stands, restroom and concession facilities, Light Infrastructure, a picnic pavilion, benches and tot lots, and such other facilities as are depicted in as per Specific Plan section 3.1.5.

"Subsequent Project Approvals" shall mean additional future land use and construction approvals and permits from City in connection with development of Property in a manner consistent and compliant with the Project Approvals, which, upon approval, shall be deemed part of the Project Approvals as of the date that they are approved.

"Subdivision Map Act" means California Government Code, title 7, division 2, sections 66410 *et seq.*, as may be amended from time to time.

"Tentative Map" means a map created pursuant to the Subdivision Map Act and corresponding provisions of the Municipal Code.

"Term" shall mean the period of time during which this Agreement shall be in effect and bind the Parties and their respective successors and assigns, as set forth in Section 2.2 of this Agreement and as may be extended pursuant to the provisions of this Agreement.

"Traffic Signalization Improvements" shall mean the following three traffic signalization projects required by the EIR as a condition of implementation of the Project: Goetz/Valley, Murrieta/Ethanac, Murrieta/Thornton.

"TUMF Program" shall mean the Transportation Uniform Mitigation Fee Program of Western Riverside County as implemented pursuant to City Ordinance No. 2009-62.

"WRCOG" shall mean the Western Riverside Council of Governments, as the administrator of the TUMF Program.

ARTICLE 2. EFFECTIVE DATE, TERM & REPRESENTATIONS AND WARRANTIES

2.1 Effective Date. This Agreement shall be effective on the latter of the dates upon which both the Enacting Ordinance has become effective (as specified in Recital I) and full execution of this Agreement has occurred ("**Effective Date**"). The Effective Date is inserted on the title page of this Agreement. The Parties acknowledge that section 65868.5 of the Development Agreement Statute requires that this Agreement be recorded with the County Recorder no later than ten (10) days after the Effective Date, and that the burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all duly authorized successors in interest to the Parties to this Agreement. Further, within five working days of the date of the Enacting Ordinance, the City shall pursuant to CEQA file with the County clerk a Notice of Determination regarding the Existing Approvals and this Agreement.

2.2 Term. The Term of this Agreement shall commence on the Effective Date and shall continue for a period of fifteen (15) years from and after the Effective Date, unless this Agreement is otherwise terminated or extended in accordance with the provisions of this Agreement. The Term has been established by the Parties as a reasonable estimate of the time required to develop the Project and obtain the public benefits of the Project. The Term may be extended by the City Council for one period of five (5) years if the Developer is not in material default of any of its obligations herein and the City Council determines in its reasonable discretion that prior to the expiration of the initial Term the Developer has made diligent efforts to (i) develop, market and sell the Property, (ii) apply for all required Subsequent Project Approvals for the Project

improvements, and (iii) construct the Project improvements, but despite such diligent efforts, the Developer has not been reasonably able to commence or complete construction to of the Project.

2.3 Developer's Representations and Warranties. Developer represents and warrants to City that, as of the Effective Date:

2.3.1 Developer is duly organized and validly existing under the laws of the State of California, and is in good standing and has all necessary powers under the laws of the State of California to own property interests and in all other respects to enter into and perform its respective undertakings and obligations under this Agreement.

2.3.2 No approvals or consents of any persons or entities are necessary for the execution, delivery or performance of this Agreement by Developer, except as has been obtained.

2.3.3 The execution and delivery of this Agreement and the performance of the obligations of Developer hereunder have been duly authorized by all necessary corporate, partnership or company action and all necessary shareholder, partner and/or member approvals have been obtained.

2.3.4 This Agreement is a valid obligation of Developer and is enforceable in accordance with its terms.

2.3.5 Developer has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by the Developer's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Developer's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Developer's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

2.3.6 Developer owns the Property in fee simple.

During the Term of this Agreement, the Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.3 not to be true, give written notice of such fact or condition to City within 10 (ten) days of learning such fact or condition.

2.4 Provisions Required by Statute. California Government Code §§65865.1 and 65865.2 provide, among other things, that a development agreement shall specify the following:

2.4.1 Duration of the agreement. See Section 2.2 (Terms) of this Agreement

2.4.2 Permitted Uses of the Property. See Section Recital D (Project Approvals) and 3.1 (Uses and Development Standards) of this Agreement.

2.4.3 Density or intensity of such use. See Section Recital D (Project Approvals) and Section 4.2 (Density and Intensity of Development) of this Agreement.

2.4.4 Maximum height and size of proposed buildings. See Section Recital D (Project Approvals) of this Agreement. Height and size is not specifically noted in the development agreement since it varies across the development; however, the Specific Plan as noted in Recital D includes such regulations for maximum height and size of proposed buildings.

2.4.5 Reservation or dedication of land for public purposes. See Section Recital D (Project Approvals) and 4.18 (Park Obligation) of this Agreement.

2.4.6 Periodic Review at least annually to demonstrate good faith compliance with the Development Agreement. See Section 7.2 of this Agreement.

ARTICLE 3. PUBLIC BENEFITS

3.1 Public Benefits. Developer has previously agreed in connection with the Project Approvals to provide the following community and area-wide infrastructure and park/trail benefits. The City and Developer agree that this Agreement serves as a further contractual mechanism through which the City can assure timely and quality construction of such facilities, and, in addition, through Developer's installation of the Light Infrastructure and funding of Missing Link design documents, provide enhancements to such benefits.

- **New traffic signal system at Valley Boulevard and Goetz Road:** Developer shall provide 100% Direct Cost and Design funding even though not warranted or required by the Specific Plan traffic study, at an estimated cost of \$283,000.
- **Advanced completion of Valley Boulevard/Goetz Road improvements:** Developer shall complete, prior to the issuance of the 62nd building permit, even though not required by the traffic study or other applicable City public facility requirements, until Phase 5 of the Project.
- **Provision of a multipurpose trail network as requested by the City:** Developer shall complete a multipurpose trail network as depicted in the Specific Plan.
- **Missing Link:** Developer shall provide, prior to first building permit, \$40,000 in fees for complete design documents for the Valley Road "missing" link, which will assist City in accelerating the completion of this portion of Valley.
- **Provision of fully improved neighborhood parks totaling 10.9 acres:** Developer shall privately construct (and, with regard to the parks in Planning Area 4B and Planning Area 1B maintain through the formation of a homeowners' association that shall have the obligation to maintain the parks in perpetuity and that shall be formed, with covenants conditions and restrictions acceptable to the City, prior to the completion and opening for public use of such parks), the parks in Planning Areas 5B, 1B and 4B, all of which will be fully available to the public.
 - o All improvements to the 10.0 acre neighborhood park in Planning Area 5B will be funded by Developer for which Developer shall receive a credit as

set forth in Section 4.15, thus avoiding City financing of such improvements and assuring timely completion of the park.

- The 0.64 acre park in Planning Area 4B will be publicly accessible and fully improved at Developer's cost, with no fee credit under Section 4.19 or otherwise.
- The 0.195 acre park in Planning Area 1B will be publicly accessible and provided by Developer.
- **Community Facilities District for Public Safety:** If and to the extent the City requires that development projects in the City, at the same stage of development approval as the Project, participate in one or more Community Facilities Districts (CFDs) for Public Safety, Developer shall also cooperate in the formation of or annexation into, such CFD for Public Safety. If formation of a CFD for Public Safety is required, Developer shall be responsible for its pro rata share of costs associated with the formation and/or annexation into the CFD for Public Safety. If the timing of Developer's implementation of the Project prevents the Developer from annexing the Project into the CFD for Public Safety prior to or concurrent with recordation of the final subdivision map for the Project, the Developer shall enter into a City-approved CFD annexation agreement to require the annexation to occur after the recordation of a final map but prior to issuance of any Certificates of Occupancy for the development so long as a CFD for Public Safety is formed prior to the issuance of the first Certificate of Occupancy for the Project. No Certificates of Occupancy will be withheld due to failure of the City to review and approve the annexation agreement or the annexation.

ARTICLE 4. DEVELOPMENT OF THE PROJECT/PROPERTY

4.1 Applicable City Regulations; Developer's Vested Rights. Subject to the terms and conditions of this Agreement and the obligations and conditions required by the Applicable Law, the City hereby grants to the Developer for the Term of this Agreement the present vested right to develop and construct on the Property, the Project, which consists of all of the improvements authorized by and subject to the requirements (including the requirement to obtain and comply with any Subsequent Project Approvals) of the Project Approvals and this Agreement. To the extent permitted by applicable law and/or this Agreement, and except as otherwise provided herein, no future amendment, modification or repeal of the Applicable City Regulations and Specific Plan shall apply to the Property that (i) limits the Permitted Uses of the Property, the density and intensity of use (including but not limited to maximum number of dwelling units) of the Property, the maximum height and size of proposed buildings on the Property, (ii) imposes new or modifies existing requirements for reservation or dedication of land for public purposes, public infrastructure and utilities, or public improvements, except as necessary to comply with Applicable City Regulations and/or to provide services under the Subdivision Map Act and corresponding provisions of the Municipal Code with respect to the future subdivision of land contemplated in the Project Approvals and this Agreement, (iii) imposes conditions upon development of the Property other than as permitted by the Applicable Law, the Project Approvals and this Agreement, or (iv) limits the rate of development of the Property; provided, however, that

nothing in this Agreement shall prevent or preclude City from adopting any land use plans, ordinances, policies, regulations or amendments permitted herein.

4.2 Density and Intensity of Development. For avoidance of doubt, Developer shall, subject to compliance with this Agreement and other Applicable Laws, have the right to develop the project at the maximum densities set forth in the Specific Plan (subject further to the minimum lot size, maximum gross lot coverage, maximum floor area, setbacks, authorized density transfers, and other development and design standards as specified in Specific Plan).

4.3 No Conflicting Enactments. Except to the extent City reserves its discretion as expressly set forth in this Agreement, during the Term of this Agreement City shall not apply to the Project or the Property any ordinance, policy, rule, regulation, or other measure relating to Development of the Project that is enacted or becomes effective after the Effective Date to the extent it conflicts with the Project Approvals. This Section 4.3 shall not restrict City's ability to enact an ordinance, policy, rule, regulation, or other measure applicable to the Project pursuant to California Government Code Section 65866 consistent with the procedures specified in Section 4.4 of this Agreement. In *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465, the California Supreme Court held that a construction company was not exempt from a city's growth control ordinance even though the city and construction company had entered into a consent judgment (tantamount to a contract under California law) establishing the company's vested rights to develop its property consistent with the zoning. The California Supreme Court reached this result because the consent judgment failed to address the timing of development. The Parties intend to avoid the result of the *Pardee* case by acknowledging and providing in this Agreement that Developer shall have the vested right to Develop the Project on and with respect to the Property at the rate, timing, and sequencing that Developer deems appropriate within the exercise of Developer's sole subjective business judgment, provided that such Development occurs in accordance with this Agreement and Applicable Law, notwithstanding adoption by City's electorate of an initiative to the contrary after the Effective Date. No City moratorium or other similar limitation relating to the rate, timing, or sequencing of the development of all or any part of the Project and whether enacted by initiative or another method, affecting subdivision maps, building permits, occupancy certificates, or other entitlement to use, shall apply to the Project to the extent such moratorium or other similar limitation restricts Developer's vested rights in this Agreement or otherwise conflicts with the express provisions of this Agreement.

4.4 Tentative Subdivision Maps. When the Developer submits an application for approval of a Tentative Map, (i) any such Tentative Map shall comply with the requirements of Government Code section 66473.7, and (ii) the City shall not require that the Developer include any land or perform any off-site condition prior to final map approval, but may require that the Developer enter into an agreement as authorized by Government Code section 66462.5(c). City further agrees that Developer may file and process new tentative maps for the Property consistent with California Government Code sections 66498.1-66498.9. Pursuant to the Government Code section 66452.6(a), the life of any tentative subdivision map approved for the Property, whether designated a "vesting tentative map" or otherwise, shall be extended for the term of this Agreement and unless otherwise stated shall be a maximum of 15 years.

4.5 Development Impact Fees, Exactions, and Processing Fees To Be Paid When Due. Except as otherwise provided herein, the Developer agrees to pay when due any required

Development Impact Fees (“DIF”) assessments, taxes, and/or exactions which may be levied or assessed against the Project in accordance with this Agreement, as and to the extent provided below. Unless an alternative time for payment of any fees is stated herein, or are statutorily or by ordinance due at a different time, all fees shall be due prior to the issuance of building permits. Processing fees shall be paid in full at the time applications are submitted.

4.6 Development Impact Fees. The current DIF applicable to the project are in the amount set forth in Exhibit E, which shall be based on the schedule required to be prepared pursuant to Section 4.12. Developer agrees that all Project Approvals shall be subject to the DIF. Developer and City further agree that the DIF (shown on and subject to adjustments as allowed in Exhibit E) shall remain fixed for a period of five (5) years from the effective date of this Development Agreement, other than a one-time adjustment of such fees that may occur prior to or during such period (i.e., the City’s Comprehensive DIF update for fiscal year 2016-2017). If the City incorporates automatic periodic increases of the DIF applicable to all City development projects, following the five (5) year fixed period, the Project will be subject to 50% of such periodic increases for a two (2) year period whether the periodic increase occurred within the initial five (5) year fixed period or after. Any DIF that are due seven (7) or more years following the Effective Date shall be subject to the full DIF in effect at that time.

City may impose and the Developer shall comply with those Exactions required by the Existing Approvals, Applicable Law and/or this Agreement; provided, however, the City will not impose and the Developer shall not be required to comply with and/or pay for any Exactions other than as provided in or contemplated by the Existing Approvals, Applicable Law and/or this Agreement. As used in this Section, the City is not deemed to have imposed an Exaction or Impact Fee in circumstances wherein the City serves merely as a depositary or fiscal agent to facilitate another entity's collection of such Exactions or DIF, or similar charges that the other entity may independently impose, and as set forth further below in Section 4.7 and/or 4.8.

4.7 Federal/State Compliance Fees. Notwithstanding anything to the contrary in this Agreement, City may charge and the Developer, individually, on its sole behalf, and only with respect to its real property, agrees to pay any new, increased or modified taxes, assessments, DIF or Exactions, whether imposed as a condition of or in connection with any Subsequent Project Approvals or otherwise, if such fees are uniformly imposed and are reasonably necessary to comply with the requirements of any Federal or State statute, regulation, or legal requirement.

4.8 Non-Local Agency Compliance Fees. City may collect and the Developer agrees to pay any new, increased or modified taxes, assessments, DIF or Exactions, whether imposed as a condition of or in connection with any Subsequent Project Approvals or otherwise, which are uniformly imposed and reasonably necessary to comply with the requirements of local governmental agencies other than a Local Agency and which (i) such local governmental agency has the independent legal authority to impose such tax, assessment, Impact Fee, or Exaction without the permission or consent of the City and (ii) the City has agreed or is required to collect on behalf of such governmental agencies for administration purposes. If Developer fails or refuses to pay a fee imposed by another local government agency on the basis that such fee does not fall within the criteria set forth in Section 4.8(i), then Developer shall defend and indemnify City and its officers, agents, and employees from and against all costs (including attorneys’ fees) incurred by the City that arise from and/or relate to such failure or refusal.

4.9 Copies of Applicable City Regulations. The Applicable City Regulations shall be those regulations set forth in Exhibit B.

4.10 [RESERVED]

4.11 New City Laws; Reservations of Authority. New City Laws shall not be applicable to the Property except as otherwise provided in this Section. The Parties acknowledge and agree that City is restricted in its authority to limit its police power by Development Agreement and that the limitations, reservations and exceptions contained in this Section are intended to reserve to City all of its police power which cannot be so limited by Development Agreement. This Agreement shall be construed to reserve to City all such power and authority which cannot be restricted by Development Agreement. Notwithstanding any other provision of this Agreement to the contrary, the following regulations and provisions shall apply to the development of the Property, consistent with Government Code section 65866.

4.11.1 Processing Fees and charges of every kind and nature imposed by City, including, without limitation, planning processing deposits, to cover the actual costs to City of processing applications for Project Approvals, or for monitoring compliance with any Project Approvals granted or issued, as such fees and charges are adjusted from time to time.

4.11.2 Ordinances, resolutions, orders, rules, official policies, standards, specifications, guidelines, procedures or other laws or regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure, provided that such ordinances, resolutions, orders, rules, official policies, standards, specifications, guidelines, procedures or other laws or regulations are uniformly applied on a City-wide basis to Development Projects.

4.11.3 Regulations governing construction standards and specifications for the physical construction of buildings and related improvements and infrastructure, including City's building code, plumbing code, mechanical code, electrical code, fire code and grading code, and all other uniform construction codes applicable in City at the time of permit application.

4.11.4 New City Laws which may be in conflict with this Agreement or the Project Approvals but which are necessary to protect persons or property from dangerous or hazardous conditions which create a threat to the public health or safety or create a physical risk, based on findings by the City Council identifying the dangerous or hazardous conditions requiring such changes in the law, why there are no reasonably feasible alternatives to the imposition of such changes, how such changes would alleviate the dangerous or hazardous condition, and how the changes are narrowly tailored to address the dangerous or hazardous condition.

4.11.5 New City Laws applicable to the Property, which do not conflict with this Agreement and/or the Applicable City Regulations.

4.12 Developer's Contest of Applicability of New City Laws. If the Developer contests the application of any New City Laws to the Project(i) prevents or precludes compliance with one or more provisions of the Project Approvals or this Agreement, or (ii) has the effect of materially impeding or preventing development of the Project in accordance with the Project Approvals or this Agreement, the Developer shall give written notice to the City of such issue, including stating

the basis upon which the Developer believes a New City Law is not applicable to the Property or to a portion of it. Developer's written notice shall explain the factual and legal reasons how the application of New City Law would materially and adversely affect the Developer's rights under this Agreement. The City shall respond in writing to the Developer's notice within thirty (30) days of receipt of such notice.

If the City does not provide a written response that resolves the issue, at the Developer's request, the Parties shall meet and confer within thirty (30) days of Developer's request for such a meeting. The Parties shall meet and confer, as necessary and appropriate, during a period not to exceed sixty (60) days.

If after meeting and conferring, the Parties fail to find a mutually agreeable solution then Developer shall have the right, at its sole election, to either: (i) pursue litigation pursuant to Section 7.3, or (ii) to request that City cancel this Agreement by giving a written request for cancellation to the City and Developer not earlier than sixty (60) days, nor more than one hundred eighty (180) days, after the last day of the period within which the Parties are to meet and confer; provided, however, that before the Developer shall submit such request for cancellation, the requesting Developer shall give at least sixty (60) days written notice of its intent to request cancellation to the City. Nothing in this Agreement shall be deemed a waiver of Developer's right to challenge or contest the validity or applicability of any New Other Laws. Developer agrees and understands that City does not have authority or jurisdiction over any other public agency's ability to grant governmental approvals or permits or to impose a moratorium or other limitations that may affect the Project.

4.13 Regulation by Other Public Agencies. Developer acknowledges and agrees that other public agencies not within the control of City may possess authority to regulate aspects of the development of the Property separately from or jointly with City, and this Agreement does not limit the authority of such other public agencies. Developer shall, at the time required by Developer in accordance with Developer's construction schedule, apply for and obtain all such other permits and approvals as may be legally required by any other applicable governmental or quasi-governmental entities with jurisdiction over the Project in connection with the development of, or the provision of services to, the Project. Developer shall also pay all required fees to such public agencies when due. To the extent required by the City to confirm compliance with Project Approvals, the Developer shall provide proof of such permits/approvals and/or payment of such fees to City prior to or concurrently with issuance of building permits for any portion of the Project for which such permits or approvals are required and/or fees are due. Developer acknowledges that City does not control the issuance of permits or approvals or the amount of any such fees. City shall reasonably cooperate with Developer in Developer's effort to obtain such permits and approvals; provided, however, City shall have no obligation to incur any costs, without compensation or reimbursement, or to amend any City policy, regulation or ordinance in connection therewith. In the event that School Fees are imposed upon the Developer that the Developer believes in good faith are in excess of, or not otherwise required by state law and the Developer wishes to object to such School Fees, the Developer may pay such fees under protest; if the Developer objects and pays School Fees under protest, the City agrees not to delay issuance of permits under these circumstances, unless such delay is otherwise required by law.

4.14 Insurance Requirements. During any period of construction of Project Public Improvements on the Property, the Developer shall procure and maintain, or cause its contractor(s) to procure and maintain for the duration of this Agreement a commercial general liability, workers compensation, and other types of insurance in limit amounts and on such forms that may be required by the City in its commercially reasonable discretion from those available in the commercial insurance marketplace. Developer's insurance shall be placed with insurers with a current A.M. Best's rating of no less than A-:VII or a rating otherwise approved by the City Manager in his or her sole discretion. Developer shall furnish at City's request appropriate certificate(s) of insurance evidencing the insurance coverage required by the Developer hereunder, and the City of Menifee and its elected and appointed officials, officers, agents, employees, contractors and representatives (collectively, "**City Parties**") shall be named as additional insured Parties under the policies required hereunder. The certificate of insurance shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination (ten (10) days advance notice in the case of cancellation for nonpayment of premiums) where the insurance carrier provides such notice to the Developer. Coverage provided hereunder by the Developer shall be primary insurance and shall not be contributing with any insurance, self-insurance or joint self-insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of City and its insurers, if such waiver is available in the commercial insurance marketplace.

4.15 Developer Park Improvement Credits. Notwithstanding anything in Section 4.13 or the Applicable Law to the contrary, this Section 4.17 shall set forth the full and complete satisfaction of the Developer's obligation related to provision of neighborhood and/or community parks pursuant to the Municipal Code, Government Code section 66477 (the "**Quimby Act**") and this Agreement, and no further park dedications, in-lieu fees or other facility requirements of any type related to local park obligations ("**Public Park Obligation**") shall apply to the Project. Developer is obligated, based on the City's formula for local park dedication, to provide 11.96 acres of unimproved neighborhood parks. Developer will be providing 10.0 acres of dedicated land for Sports Field Uses and 0.835 acres of Homeowners' Association park land that will be publicly accessible. Developer will be subject to additional in-lieu fees for the approximate 1.96 acres of obligated parkland the project is short of the 11.96 acres required to fully satisfy Quimby Act requirements. Developer improvements to the 10.0 acre Sports Field, that are over and above Developer's park obligations and the verified cost of such improvements, will be credited towards Park DIF obligations of the Project for park construction. The credit granted shall not exceed the portion of Park DIF otherwise due for park construction within the City. Any credit granted shall be given in stated dollar amounts only. Any credit applied to the project or transferred can only be applied to the DIF due for park construction and not for other categories of DIF. The specific details and formula for Developer's park code obligation, and proposed project park dedications/estimated improvement costs are as follows:

- Developers Quimby Act/City Code Obligation = **11.96 acres** (756 DUs (or final maximum lot count per the approved Specific Plan) x 3.164 persons per DU = 2,392 persons; @ 5 acres/1000 persons = 11.96 acres)

- Specific Plan Proposed Park Total = **10.84 acres** (0.195 acre Homeowners' association maintained neighborhood park in Planning Area 1B; 0.64 acre Homeowners' association maintained neighborhood park in Planning Area 4B and 10.0 acre City owned and maintained community park in Planning Area 5B)
- Current Estimated Park Improvement Costs:
 - 10.0 acre fully improved, dedicated multipurpose community park with Sports Field Uses in Planning Area 5B = \$4,445,720*
 - .90 acre improved and Homeowners' Association maintained neighborhood parks in Planning Area 1B (0.195 acres) and Planning Area 4B (0.64 acres) = \$0 credit

The above calculated improvement costs are estimates only and shall not be used as any basis for limitations of park improvements. Based on the above formula and obligation, and Developer's advance funding of the installation of park improvements, Developer shall be entitled to credits for the 10.0 acre park in Planning Area 5B from City-wide Park DIF, payable at the time of collection for the final verified costs of the that park. As noted in the conditions of approval for the TTM, and as stated herein a Quimby Act credit/fee agreement based on the established fees and rates at that time, and Park DIF credit agreement based on the established fees at that time, shall each be entered into to formalize the amount of credits and fees due.

In full and complete satisfaction of Developer's Park Obligation, the Project shall do all of the following:

4.15.1 Timing and Scope of Sports Park Improvements.

(a) Phase 1 Park. Prior to issuance of building permits for the first residential unit in Phase 1, pursuant to Specific Plan Section 3.5 Phasing Plan, conceptual plans for the 0.195 acre neighborhood park designated in Phase 1 (Planning Area 1B) consistent with the design and improvements set forth in the Specific Plan and shall be submitted by Developer to the City for review and approval, and shall be constructed in accordance with the conditions of approval for the Specific Plan and Tentative Tract Map.

(b) Phases 4 and 5 Park Conceptual Plans. Prior to issuance of building permits for the first residential unit in Phase 4, pursuant to Specific Plan Section 3.5 Phasing Plan, conceptual plans for the 0.64 acre park designated in Phase 4 (Planning Area 4B) and 10.0 acre park designated in Phase 5 (Planning Area 5B) consistent with the design and improvements set forth in the Specific Plan shall be submitted by Developer to the City for review and approval, and shall be constructed prior to completion of Phase 5. Further, notwithstanding anything to the contrary in this Agreement, the Specific Plan, or Tentative Tract Map, the conceptual plans for the 10.0 acre park designated in Phase 5 and the corresponding improvements to be constructed by Developer shall include the installation of fully functional athletic field lighting including 3 inch conduit, two power sources, pull boxes (located every 100 feet to 200 feet and out of all fields of play, two controller panels (7 zones each), up to 18 light poles with fixtures that shall meet specifications for Musco's Light Structure Green, with 1500 watt metal halide light sources,

* Estimated construction costs; credit to be based on final, verified improvement costs.

for all planned park lighting (collectively, the “**Light Infrastructure**”), all as generally consistent with the materials included as **Exhibit F**; provided, however, that the cost estimates provided in **Exhibit F** shall serve as neither a floor nor a ceiling on Developer’s obligations with regard to the Light Infrastructure. Construction documents for the park, including the Light Infrastructure, must be submitted, reviewed and approved by the City prior to park construction.

(c) City Timely Review. The City shall, within its reasonable discretion and subject to the requirements of this Agreement, approve, conditionally approve or reject such park conceptual plans, described in 4.17.1(a) and (b) above, in a timely manner. The City shall not unreasonably withhold or delay its review of such conceptual park plans.

(d) CFD For Park Maintenance. The City shall, and Developer agrees, to and hereby requests that the City create or annex into a valid and enforceable park facilities maintenance mechanism, and have same in place and operational prior to, and before Developers’ obligation commences to implement the construction of the park 10.0 acre park in Planning Area 5B. The public maintenance mechanism is anticipated to be the Citywide Community Facilities District, which the project is required to annex into prior to recordation of the Final Map. The Developer shall establish a Homeowners Association, with conditions, covenants, and restrictions approved by the City, for the maintenance of the Planning Area 1B and Planning Area 4B parks. Developer shall provide an updated schedule showing a best estimate, but not a commitment, for completion of the 10.0 acre park in Planning Area 5B, by a fixed date as part of the annual review and shall post an appropriate bond for completion of the required improvements, which bond shall be posted prior to issuance of first building permit within the Project. The cost estimate for such bond shall, if final improvement costs are not otherwise available, be based on an estimated cost of \$4,445,720.

ARTICLE 5. UTILITIES

5.1 Project Improvements.

5.1.1 Construction of Private Improvements. Developer shall, at its own expense, in accordance with the Applicable City Regulations, construct, and maintain any and all improvements on the Property, including all infrastructure that is necessary to serve the Project, that are not and will not be offered and accepted for dedication to the City for ownership, operation and maintenance (“**Private Improvements**”).

5.1.2 Construction of Public Improvements. Developer shall, in accordance with the Applicable City Regulations, construct the water, sewer or street improvements necessary to serve the portion of the Project being developed as shown in the Specific Plan. These street improvements are to be offered for dedication to the City for ownership, operation and maintenance consistent with the Applicable City Regulations (“**Public Improvements**”). To the extent any Public Improvements will provide a material benefit to another landowner, the City shall establish the Developer's share of such improvements and identify any potential benefited owners and pursuant to Section 5.1.4 of this Agreement, shall work in good faith with Developer to enter into a Reimbursement Agreement with such other landowner(s), through which such other landowner(s) shall, if the City’s good faith efforts result in a Reimbursement Agreement, pay their fair share of the costs of the applicable Public Improvements.

5.1.3 Southern California Edison ("SCE") Easements. City agrees to utilize reasonable efforts to timely request and secure, at no cost to City, any easements, encroachment permits and/or other licenses for any public improvements necessary for the Project from SCE.

5.1.4 Districts. The City and the Developer agree that the construction of the Public Improvements may be financed by a District or Districts which could encompass the Property and, to the extent other owners outside the Specific Plan are interested or benefit therefrom and are made part of such District in accordance with all applicable law, such other lands. The City agrees, at any Developer's request and subject to all applicable law and prudent underwriting standards, to in good faith consider the formation of a District(s), in accordance with the procedures governing the creation of a District, to finance some or all of the Public Improvements. If the Developer requests formation of a District, the Developer will be deemed to have consented to formation of such District(s), to the assessments or taxes ratably allocated to the Property by the District(s), and to having the Property included within the District(s). The Developer agrees to cooperate and to pay the City's reasonable costs, in the City's formation of the District or Districts and in the performance by the District(s) of its responsibilities. The City and Developer agrees that, unless the City and the Developer agree otherwise, the assessments or special taxes for any District formed will be collected from any parcels only after such parcel has received approval of Final Maps, and then only to the extent of the number of residential or commercial lots included in such Map.

5.2 Acceptance of Public Improvements and Certificate of Satisfaction. Developer's obligations with respect to construction of all Public Improvements, including performance and labor and materials security and warranty obligations, and City's obligations with respect to acceptance thereof, shall be set forth in a Public Improvements agreement in a form reasonably acceptable to the City Attorney. Within sixty (60) days after the Developer's written request, which may be made at any time following acceptance of a Public Improvement by the City pursuant to such public improvements agreement, the City shall issue a certificate of satisfaction evidencing the satisfaction of the applicable Public Improvement obligation.

5.3 Infrastructure Easements and Rights of Way. The City and Developer shall cooperate in connection with any arrangements for granting, abandoning or relocating existing, or creating any new, utility or other easements, facilities, property rights or rights of way (collectively, "**ROW**"), necessary to effectuate the development of Public Improvements to implement the Specific Plan; and if any such ROW is owned by the Developer, the City, or an agency of the City, then the Developer, the City or such agency of the City shall, at the request of the Developer, subject to the rights of any third Person with respect thereto, take such actions and execute such documents as may be necessary to grant, abandon, relocate and/or revest such ROW, as necessary in connection with the development Public Improvements to implement the Specific Plan. The Developer requesting such cooperation from the City shall reimburse the City for all costs and expenses incurred by the City in connection with this Section 5.3. Any requested abandonment or relocation of a ROW pursuant to this Section 5.3 shall provide that any rights and/or benefits under such existing ROW shall be substantially and adequately replaced by any new ROW and/or the resulting Public Infrastructure (including, if necessary, any interim rights pending completion of the resulting Public Infrastructure).

ARTICLE 6. AMENDMENTS & SUBSEQUENT PROJECT APPROVALS

6.1 Amendment. Except as expressly provided in Section 6.2 below, this Agreement may be amended only by mutual written consent of all of the Parties hereto or their successors-in-interest or assignees. Any amendment to this Agreement shall comply with the process requirements of the Development Agreement Law and shall be recorded in the Official Records.

6.2 Modifications Delegated to the City Manager. The City Manager is delegated the authority to make the modifications to this Agreement expressly provided in Sections 6.2.1, 6.2.2 and 6.2.3 below.

6.2.1 Clerical and Conforming Revisions. The City Manager is authorized to correct typographical errors, references to draft documents, statutes, ordinances, page numbers, maps, and make similar clerical and conforming changes to this Agreement, the Specific Plan, or to any of the documents contemplated herein. If the City Manager elects to record any revised version of a previously-recorded document contemplated by this Agreement in order to reflect any clerical and conforming changes: (i) City Manager shall provide Developer with thirty (30) days written notice of intent to record the revised document; (ii) the Parties agree that after thirty (30) days' notice City Manager may record the revised document; and (iii) the Parties agree that the date upon which the original version of the document was recorded shall remain and be deemed to be that document's date of recordation.

6.2.2 Incorporation and Identification of Subsequent Project Approvals. The City Manager is authorized to, upon request by Developer or at his or her discretion, execute and record in the Official Records a Notice of Subsequent Project Approval.

6.2.3 Administrative Adjustments. The City Manager is authorized, in his or her discretion, to enter into Administrative Adjustments as defined herein. Any administrative amendment to this Agreement which in the context of the overall Project contemplated by this Agreement does not in the determination of the City Manager substantially affect (i) the Term of this Agreement; (ii) Permitted Uses of the Property; (iii) provisions for the reservation, dedication or conveyance of land; (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions; (v) the density or intensity of the use of the Property or the maximum height or size of proposed buildings; (vi) and "Minor Amendments" (defined below), which shall not, except to the extent otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. The following modifications to the Project will constitute Minor Amendments: (a) minor changes in landscaping; (b) variations in the location of structures that do not substantially alter the design concepts of the Specific Plan; (c) variations in the location of utilities or other infrastructure connections or facilities not materially affecting design concepts; (d) similar modifications as approved by the City Manager, and (e) monetary contributions by Developer. The City Manager shall have the authority to execute a Minor Amendment or, in his or her discretion, seek approval of a Minor Amendment by City resolution.

6.3 City Processing of Subsequent Project Approvals. The City and Developer agree that Developer must be able to proceed efficiently with the development of the Property and that, accordingly, an efficient City review and land development and construction inspection process is necessary. Accordingly, the City agrees that upon submission by Developer of all appropriate,

complete, and sufficient, applications and submittal of all required applications and processing fees, City shall, to the full extent allowed by law, promptly and diligently, subject to Applicable Law, use good faith efforts to commence and complete all steps necessary to act on such applications for Subsequent Project Approvals, including: (i) if legally required, at Developer's request and expense provide notice and holding public hearings; and (ii) acting on any such pending application. All Subsequent Project Approvals shall, upon written consent of the Developer and the City (acting through the City Manager) be deemed incorporated herein and vested as of the effective date of such approvals and shall be governed by the terms and conditions of this Agreement,

6.4 CEQA. The Parties acknowledge and agree that the mitigation measures identified in the EIR, as applicable, will be applied to the appropriate Project Approval, as enforceable conditions of approval. The Parties understand that the EIR is intended to be used in connection with the Existing Approvals, and may also be used in connection with Subsequent Project Approvals. However, the Parties acknowledge that, depending on the scope of the project described in any Developer's application(s), certain discretionary Subsequent Project Approvals may legally require additional analysis under CEQA. Nothing contained in this Agreement is intended to limit or restrict the discretion of the City to comply with CEQA. However, the City shall not undertake additional environmental review nor impose new or additional mitigation measures on the Project except as required by applicable law. To the extent supplemental or additional review is required in connection with Subsequent Project Approvals, Developer acknowledges that City may require additional mitigation measures necessary to mitigate significant impacts identified through that additional environmental review.

ARTICLE 7. DISPUTES, DEFAULT, REMEDIES

7.1 Default.

7.1.1 Remedies In General. City and Developer agree that, following notice and expiration of any applicable cure periods, in the event of Default by City, the Parties intend that the sole and exclusive remedy for Developer shall be specific performance of this Agreement. In no event shall any Developer or any other Party be entitled to any monetary damages (or recovery of money through a claim of specific performance) from the City for any matter that arises from or relates to the City's performance under this Agreement.

In the event of any Default by the Developer hereunder, City, following notice and expiration of any applicable cure periods, shall be entitled, in addition to its other rights and remedies specified herein, to pursue (1) any remedies available at law or in equity, including recovery of actual damages from the defaulting Developer; provided, however, that City shall not be entitled to any consequential, punitive, or special damages, and (2) recovery of any and all costs and fees incurred by City if the City elects, in its sole and absolute discretion, to perform obligations that Developer has failed to timely perform hereunder.

7.1.2 Cure Period. Subject to extensions of time by mutual consent in writing of the Parties and the provisions of Section 2.2.1 herein, breach of, failure, or delay by the City or Developer to perform any term or condition of this Agreement shall constitute a Default ("Default"). In the event of any alleged Default of any term, condition, or obligation of this

Agreement, the party alleging such Default shall give the defaulting party notice in writing specifying the nature of the alleged Default and the manner in which such Default may be satisfactorily cured ("**Notice of Breach**"). The defaulting party (City or Developer) shall cure the Default within forty-five (45) days following receipt of the Notice of Breach, provided, however, if the nature of the alleged Default is such that it cannot reasonably be cured within such forty-five (45) day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure, provided that if the cure is not diligently prosecuted to completion, then no additional cure period shall be provided. If the alleged failure is cured within the time provided above, then no Default shall exist and the noticing party shall take no further action to exercise any remedies available hereunder. If the alleged failure is not cured, then a Default shall exist under this Agreement and the non-defaulting party having alleged Default may exercise any of the remedies available under Section 7.1.3 or Section 7.1.4.

7.1.3 Procedure for Default by Developer. If Developer is alleged to be in Default hereunder, then after notice and expiration of the cure period specified in Section 7.1.2 above, the City may institute legal proceedings against the Developer pursuant to this Agreement, and/or give notice of intent to terminate or modify this Agreement as to the Developer pursuant to California Government Code section 65868. Following notice of intent to terminate or modify this Agreement as provided above, the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867 and 65868 by the City Council within thirty (30) calendar days following the date of delivery of such notice (the "**Default Hearing**"). Following the consideration of the evidence presented in such review before the City Council and a determination, based on substantial evidence, by a majority vote of the City Council that a Default by Developer has occurred, the City may give written notice of termination of this Agreement to Defaulting Developer, and this Agreement shall be deemed modified or terminated as to the Defaulting Developer and the Defaulting Developer's portion of the Property only as of the date of delivery of such notice; provided, however, that, if such termination or modification occurs because of a Default of Defaulting Developer hereunder after this Agreement has been assigned so that it applies to more than one entity as "Developer" then such termination or modification shall relate only to that specific portion of the Property as may then be owned by the Defaulting Developer that committed a Default hereunder and not to any other portion of the Property owned by a different entity. This Section 7.1.3 shall not be interpreted to constitute a waiver of section 65865.1 of the Government Code, but merely to provide an element of the procedure by which the Parties may take the actions set forth in section 65865.1.

7.1.4 Procedure for Default by the City. If the City is alleged by Developer to be in Default under this Agreement, then after notice and expiration of the cure period specified in Section 7.1.2 above, the Developer may enforce the terms of this Agreement by an action at law or in equity, subject to the limitations of Section 7.1.1 and compliance with federal and state law.

7.1.5 Annual Review. Evidence of Default may also arise in the course of the regularly scheduled annual review of this Agreement pursuant to California Government Code section 65865.1 as described in Section 7.2 herein. If any Party alleges that another Party is in Default following the completion of the normally scheduled annual review, such Party may then give the other a written Notice of Breach, in which event the provisions of this Section 7.1 shall apply. In addition, the regularly scheduled annual review of this Agreement may, following

compliance with the requirements of Section 7.1.2, serve as the Default Hearing for any alleged Default by Developer as described in Section 7.1.3 herein.

7.2 Annual Review.

7.2.1 Timing and Scope of Annual Review. At least once every twelve (12) month period from the Effective Date, Developer shall submit a letter to the City that (1) enumerates and demonstrates Developer's compliance with all obligations required of it under the Agreement that have come due within the preceding twelve (12) months, and (2) describes each obligation that is scheduled to come due in the succeeding twelve (12) months and describes Developer's plan to comply with those obligations. Developer's letter shall be accompanied by (1) the Annual Review Form provided in **Exhibit D**, completed by Developer, together with such other information as may be requested by the City Manager (2) a fee deposit of an appropriate amount to cover the costs of the City's conduct of the annual review. Upon receipt of Developer's letter, City shall review the good faith compliance of Developer with the terms of this Agreement (the "**Annual Review**"). The Annual Review shall be conducted by the City Council or its designee in accordance with the Development Agreement Ordinance, as the same may be amended from time to time. The Annual Review shall be limited in scope to the determination of Developer's compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1, and to a review of Developer's plan for compliance with the Agreement over the succeeding twelve (12) months; provided, however, that if the City Council imposes a mitigation monitoring or reporting program pursuant to CEQA which is to be completed simultaneously with the Annual Review of this Agreement, then the scope of the Annual Review may include implementation of mitigation measures pursuant to CEQA, except that compliance with mitigation measures shall not be deemed to be an obligation of any Party pursuant to this Agreement solely or partly because mitigation monitoring is conducted simultaneously with review of this Agreement.

7.2.2 Standards for Annual Review. During the Annual Review, Developer shall be required to demonstrate good faith compliance with the terms of this Agreement. At the conclusion of the Annual Review, the City Council or its designee shall make a written determination, on the basis of substantial evidence, whether or not Developer has complied in good faith with the terms and conditions of this Agreement. The decision of any designee of the City Council shall be appealable to the City Council. If the City finds and determines that Developer has not complied with the terms and conditions of this Agreement, then the City may declare a default by Developer in accordance with Article 7 herein. The costs incurred by the City in connection with the Annual Review process shall be recouped from the deposit paid by Developer (as the same may need to be augmented from time to time).

7.2.3 Evidence for Annual Review. The City, upon request by Developer, and at no cost to City, shall provide Developer a copy of any final public staff reports and documents to be used or relied upon in conducting the Annual Review and, to the extent practical, related exhibits concerning Developer's performance hereunder, prior to any such review. Developer shall be permitted an opportunity to respond to a City's evaluation of its performance, either orally at a public hearing or in a written statement, at Developer's election.

7.2.4 Certificate of Compliance. With respect to each year in which City approves Developer's compliance with this Agreement, the City shall, upon written request by Developer and at no cost to City, provide Developer with a written certificate of good faith compliance within thirty (30) days of the City's receipt of Developer's request for same.

7.2.5 Failure to Conduct Annual Review. Failure of City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement nor shall the Developer have or assert any defense to such enforcement due to any such failure to conduct an annual review. Failure of the City to conduct an annual review shall not cause the Developer to be in Default under this Agreement, but it does not relieve the obligation of the Developer to submit the Annual Review form annually as required by Section 7.2.1.

7.3 Legal Actions.

7.3.1 By a Party. In addition to any other rights or remedies, any Party may institute legal action to cure, correct or remedy any Default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, or to obtain any other remedies consistent with the purpose of this Agreement except as limited herein. Any such legal action shall be brought in the Superior Court for Riverside County, California.

7.3.2 Third Party Claims. City and Developer, at Developer's sole cost and expense, shall cooperate in the event of any court action instituted by a third party or other governmental entity or official challenging, arising from, or related to, the validity of any provision of this Agreement, any Existing Approvals or any Subsequent Project Approvals and City shall, upon Developer's request, appear in the action and defend its decision, except that City shall not be required to be an advocate for the Developer. To the extent the Developer elects to contest or defend such litigation challenges or requests that City cooperate in those defense efforts, the Developer shall reimburse City, within ten (10) business days following City's written demand therefore, which may be made from time to time during the course of such litigation, all costs incurred by City in connection with the litigation challenge, including City's administrative, legal and court costs, provided that City shall either: (a) elect to joint representation by Developer's counsel; or (b) retain an experienced litigation attorney, require such attorney to prepare and comply with a litigation budget, and present such litigation budget to Developer, for information purposes and not as a cap, prior to incurring obligations to pay legal fees in excess of Thirty Thousand Dollars (\$30,000). Developer shall indemnify, defend, and hold harmless City and its officials and employees from and against any claims assessed or awarded against City by way of judgment, settlement, or stipulation. Nothing herein shall authorize Developer to settle such legal challenge on terms that would constitute an amendment or modification of this Agreement, any Existing Approvals or any Subsequent Project Approvals, unless such amendment or modification is approved by City in accordance with applicable legal requirements, and City reserves its full legislative discretion with respect thereto. For avoidance of doubt, City shall have the right, but not the obligation, to contest or defend such litigation challenges with counsel selected by the City in accordance with this Section 7.3.2.

7.4 Indemnification. Developer shall indemnify, defend (with counsel reasonably acceptable to City) and hold harmless City and City Parties from and against any and all actions, suits, claims, costs, liabilities, penalties, and damages (including but not limited to attorneys' fees

and costs) (collectively, "**Claims**"), including Claims for any bodily injury, death, or property damage, arising or resulting directly or indirectly from the approval or implementation of this Agreement, the development or construction of the Project or any portion thereof by or on behalf of the Developer, Developer's failure to maintain insurance as required by this Agreement, and/or from any acts, omissions, negligence or willful misconduct of the Developer, whether such acts, omissions, negligence or willful misconduct are by the Developer or any of the Developer's contractors, subcontractors, agents or employees. The foregoing indemnity shall not apply to any Claims arising or resulting solely from the active negligence or willful misconduct of City or City Parties.

7.5.1 Prevailing Wage Indemnity. In addition to Developer's indemnity obligations in Section 7.5, Developer shall also indemnify the City Parties against any claim in connection with or relating to this Agreement and or the Project (including, without limitation, development or construction (as defined by applicable laws) and/or any and all public works (as defined by applicable Laws)), that relates to, or results or arises in any way from, a Prevailing Wage Action. It is specifically agreed by the Parties that Developer shall bear all risks of payment or non-payment of prevailing wages under all Laws, specifically including California law and/or Federal law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or Davis Bacon and/or any other similar Law. With respect to the foregoing, the Developer shall be solely responsible, expressly or impliedly and legally and financially, for determining and effectuating compliance with all applicable laws relating to public works requirements, prevailing wage laws, and labor laws and standards, and the City makes no representation, either legally and/or financially, as to the applicability or non-applicability of any laws to this Agreement or the Project, including the construction or development of the Project and each portion thereof. Developer expressly, knowingly and voluntarily acknowledges and agrees that the City has not previously represented to the Developer or to any representative, agent or affiliate of Developer, or any contractor(s) or any subcontractor(s) for the construction or development of the Project, in writing or otherwise, in a call for bids or otherwise, that the work and construction of the Project, and each portion thereof, is (or is not) a "public work," as defined in Section 1720 of the Labor Code or under Davis-Bacon.

7.5 Dispute Resolution. As an alternative procedure, in an action by the City against Developer or in an action by the Developer against the City hereunder, the Parties each in its own sole and absolute discretion may mutually agree that the action be heard by a referee pursuant to Code of Civil Procedure section 638 *of seq.* If the Parties do so agree in their sole discretion, they shall use their best efforts to agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon and issue all legal and equitable relief appropriate under the circumstances of the controversy before him or her. If the Developer and City are unable to agree upon a referee within ten (10) days of a written request to do so by either Party, the Parties, each in its sole discretion, may mutually elect to have a referee appointed pursuant to section 640 of the Code of Civil Procedure. The cost of such proceeding (exclusive of the attorney's fees and cost of the Parties) shall be borne equally by the Parties. Any referee selected pursuant to this Section 7.5 shall be considered a temporary judge appointed pursuant to Article 6, section 21 of the California Constitution. In the event that an alternative method of resolving disputes concerning the application, enforcement or interpretation of a development agreement is provided by legislative or judicial action after the Effective Date, the Parties may, by mutual agreement, select such alternative method. Notwithstanding the foregoing, alternative dispute

resolution, as described in this Section 7.5, is an optional remedy under this Agreement and where a Party asserting an action wishes to do so, that Party may bring a legal action as set forth in Section 7.3 without first engaging in alternative dispute resolution. Likewise, the Party against whom the action is asserted shall be under no obligation to have such action heard by a referee or to seek resolution of the action through any other alternative dispute resolution described above.

7.6 Termination of Agreement. This Agreement is terminable: (i) by mutual written consent of the Parties, or (ii) by any Party following an uncured Default by another Party under this Agreement, subject to the procedures and limitations set forth in this Agreement. Any obligations of indemnification and defense relating to matters arising before termination of this Agreement, by expiration of its Term or otherwise, shall survive termination of this Agreement. Except as otherwise set forth in this Agreement, if this Agreement is terminated by mutual written consent of the Parties, no Party shall have any further rights or obligations under this Agreement. Both Parties waive, with respect to termination of this Agreement by mutual written consent of the Parties, any claims for damages arising out of the termination of this Agreement. Nothing herein contained shall release or excuse Developer in the performance of its obligations to indemnify and defend the City as provided in this Agreement. Upon termination of this Development Agreement, a written statement acknowledging such termination shall be recorded by City in the Official Records.

ARTICLE 8. ASSIGNMENTS

8.1 Subsequent Development Agreements. Consistent with all requirements of the Development Agreement Law, a subsequent Development Agreement may be entered into at any time upon the mutual written consent of the parties, including at such time as the Developer's Subsequent Project Approvals have been granted.

8.2 Assignment. This Agreement may be assigned by the Developer to any party or parties purchasing all or any part of the Property, or any interest therein pursuant to the provisions of this Paragraph. Developer's assignment or transfer of any rights, duties or obligations under this Agreement, shall be subject to the prior written approval of the City, which shall not be unreasonably withheld, conditioned or delayed. Prior to any assignment, or transfer of any rights, duties or obligations by Developer under this Agreement, to any party or parties to whom all or any portion of the Property, or interest therein, is conveyed, the Developer shall present such information to the City as shall reasonably be necessary to demonstrate to the City's reasonable satisfaction that the proposed assignee has the financial ability and experience to fulfill those specific rights, duties and obligations under this Agreement that the transferee will assume. Within five (5) business days of receipt of written notice from Developer of its intention to assign rights under this Agreement to a designated third party, City shall provide Developer with a written description of the information the City needs to review. Upon receipt of the required information, City shall have thirty (30) calendar days to respond and approve or disapprove the proposed assignee, provided that the City's approval may not be unreasonably withheld, conditioned or delayed (an assignee so approved by the City is hereinafter referred to as a "Qualified Transferee"). Failure of the City to respond within the 30 calendar day period shall be deemed an approval provided that Developer also provides the City with a written notice in at least 14 point, bold font which contains the following statement:

"FAILURE TO APPROVE OR DISAPPROVE THE REQUESTED MATTER WITHIN THIRTY (30) CALENDAR DAYS AFTER YOUR RECEIPT OF THIS REQUEST SHALL BE DEEMED AN APPROVAL OF THE SAME PURSUANT TO SECTION 8.2 OF THE DEVELOPMENT AGREEMENT."

8.3 [RESERVED]

8.4 Assignment to Master Property Owners' Association. The City and Developer agree that any of the Developer's on-going ownership, operation and maintenance obligations with respect to private streets, common areas, open space, and other onsite public improvements described in the Project Approvals may be assigned to one or more Master Property Owners' Association(s) to be established by the Developer; provided, however, that such on-going obligations shall be documented in recorded conditions, covenants and restrictions in a form that is reasonably acceptable to the City and approved (prior to the formation of the association, by City and further provided that such assignment to a Master Property Owner's Association shall be preceded by a demonstration to the satisfaction of the City that such assignee has the capacity and financial ability to assume and commitment to perform the Developer's obligations hereunder.

8.5 Assignment to Financial Institutions. Notwithstanding any other provisions of this Agreement, the Developer may collaterally assign all or any part of its rights and duties under this Agreement to any financial institution from which any Developer has borrowed funds for use in constructing the improvements contemplated in this Agreement or otherwise developing the Property. The assigning Developer shall provide a complete copy of any such financing assignment to City within fourteen (14) days following execution thereof. Assignments pursuant to this Section 8.5 shall not require the City's consent; provided, however, that the City shall have no obligations to a financial institution that is an assignee under this Paragraph unless and until the financial institution assumes in writing the obligations under this Agreement.

8.6 Assumption of Assigned Obligations; Release of Assignor. Subject to the provisions and conditions of Section 8.5 and this Section 8.6, upon the Assignment of any or all of the rights, duties, obligations or interests under this Agreement or other of the Project Approvals and receipt by City of the fully executed assignment and assumption agreement as provided for herein, the assignor (e.g., Developer) shall be released from those obligations under this Agreement and the Project Approvals that are specified in the assumption agreement as having been assigned to and assumed by the assignee.

Upon providing such assignment and assumption agreement to the City, (i) any Default by an assignee of any rights, duties, obligations or interests so assigned and assumed by the assignee shall not thereby constitute a Default by the assignor with respect to the rights, duties, obligations or interests not assigned and (ii) any Default by the assignor of any rights, duties, obligations or interests not so assigned shall not thereby constitute a Default by the assignee with respect to the rights, duties, obligations or interests so assigned and assumed. The Parties to the assignment and assumption agreement shall address in detail whether and how each obligation and right set forth in this Agreement and in the other Project Approvals shall be divided, allocated, assigned or otherwise assigned, in whole or in part, among the assignor and assignee; if requested by an assignor and assignee, City agrees to assist the assignor and assignee (including attendance at meetings), at assignor's expense, in determining how each obligation and right set forth in this

Agreement and the other Project Approvals can be described and allocated in the assignment and assumption agreement so as to avoid confusion later regarding what obligations and rights have and have not been assigned. The assignment and assumption shall be in the form attached as **Exhibit C** and shall be recorded on the portion of the Property to which the assignment applies.

8.7 Successive Assignment. In the event there is more than one Assignment under the provisions of this Article 8, the provisions of this Article 8 shall apply to each successive Assignment and Assignee.

8.8 Excluded Transfers. Notwithstanding the foregoing, the provisions of this Agreement shall terminate with respect to any individual lot and such lot shall be released from and shall no longer be subject to this Agreement (without the execution or recordation of any further document or the taking of any further action) upon the satisfaction of all of the following conditions ("Excluded Transfers"):

(a) the lot has been finally subdivided and sold or leased (for a period longer than one (1) year) to a member of the public or any other ultimate user; and

(b) a certificate of occupancy has been issued for the building or buildings on the lot or a final inspection of the building(s) has been approved by City.

The City shall cooperate with Developer, at no cost to the City, in executing in recordable form any document that Developer (including any successor to the title of Developer in and to any of the aforescribed lots) may submit to confirm the termination of this Agreement as to any such lot. As to such Excluded Transfers, this Agreement shall not run with the land, but shall be automatically terminated.

ARTICLE 9. GENERAL PROVISIONS

9.1 Compliance With Laws. Developer, at its sole cost and expense, shall comply with the requirements of, and obtain all permits and approvals required by local, State and Federal agencies having jurisdiction over the Project. Furthermore, the Developer shall carry out the Project work in conformity with all Applicable Law and applicable state or federal labor laws and standards; applicable building, plumbing, mechanical and electrical codes; and all applicable disabled and handicapped access requirements, including as applicable the Americans With Disabilities Act, 42 U.S.C. section 12101, *et seq.*, Government Code section 4450, *et seq.*, Government Code section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code section 51, *et seq.*

9.2 Mortgagee Protection.

9.2.1 Mortgagee Protected. This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Agreement, including the lien of any deed of trust or mortgage ("**Mortgage**"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against and shall run to the benefit of any person or entity, including any deed or trust beneficiary or mortgagee ("**Mortgage**"), who acquires title or possession to the

Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise. Developer shall have the right, at any time and from time to time, to grant one or more Mortgages encumbering all or a portion of Developer's interest in the Property or portion thereof as security for one or more loans. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and upon request, from time to time, City shall at no cost to City meet with Developer and representatives of such lenders to consider any such request for interpretation. City shall not unreasonably withhold its consent to any such requested interpretation. Developer shall provide the City with a copy of the deed of trust or mortgage within ten (10) days after its recording in the Official Records; provided, however, that the Developer's failure to provide such document shall not affect any Mortgage, including without limitation, the validity, priority or enforceability of such Mortgage.

9.2.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 9.2.1 above, no Mortgagee (including one who acquires title or possession to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination, eviction or otherwise) shall have any obligation to construct or complete construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any use except in full compliance with this Agreement and the other Project Approvals nor to construct any improvements thereon or institute any uses other than those uses or improvements provided for or authorized by this Agreement, or otherwise under the Project Approvals. Except as otherwise provided in this Section 9.2.2 and Section 8.8, all of the terms and conditions contained in this Agreement and the other Project Approvals shall be binding upon and effective against and shall run to the benefit of any person or entity, including any Mortgagee, who acquires title or possession to the Property, or any portion thereof.

9.2.3 Notice of Default to Mortgagee. If City receives a notice from a Mortgagee requesting a copy of any Notice of Default given to Developer hereunder and specifying the address for service thereof, then City agrees to use its diligent, good faith efforts to deliver to such Mortgagee, concurrently with service thereon to the Developer, any Notice of Default given to Developer. Each Mortgagee shall have the right during the same period available to the Developer to cure or remedy, or to commence to cure or remedy, the event of Default claimed or the areas of noncompliance set forth in City's Notice of Default. If a Mortgagee is required to obtain possession in order to cure any Default, the time to cure shall be tolled so long as the Mortgagee is attempting to obtain possession, including by appointment of a receiver or foreclosure but in no event may this period exceed one hundred twenty (120) days from the City's Notice of Default.

9.2.4 No Supersedure. Nothing in this Section 9.2 shall be deemed to supersede or release a Mortgagee or modify a Mortgagee's obligations under any subdivision or public improvement agreement or other obligation incurred with respect to the Project outside this Agreement, nor shall any provision of this Section 9.2 constitute an obligation of City to such Mortgagee, except as to the notice requirements of Section 9.5.

9.3 Amendments to Agreement. The Parties agree that they will make reasonable amendments to this Agreement, at the expense of the Developer, to meet the reasonable requirements of any lender or mortgagee for the Project. For the purposes of this Section, a reasonable amendment is one that does not relieve the Developer of any of its material obligations

under this Agreement nor impair the ability of the City to enforce and/or obtain the benefits provided to the City under the terms of this Agreement.

9.4 Covenants Binding on Successors and Assigns and Run with Land. Except as otherwise more specifically provided in this Agreement, including but not limited to the exceptions described in Section 8.8, this Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants and obligations, shall be binding upon the Parties and their respective successors (by merger, consolidation, or otherwise) and assigns, and all other persons or entities acquiring the Property, or any interest therein, and shall inure to the benefit of the Parties and their respective successors (by merger, consolidation or otherwise) and assigns, as provided in Government Code section 65868.5.

9.5 Notice. Any notice, demand or request, which may be permitted, required or desired to be given in connection herewith, shall be given in writing and directed to the City and Developer as follows:

If to the City: City of Menifee
29714 Haun Road
Menifee, CA 92586
Attn: City Manager
Telephone: (951) 672-6777
Facsimile: (951) 679-3843

With copies to: City of Menifee
29714 Haun Road
Menifee, CA 92586
Attn: Jeff Melching, Esq., City Attorney
Telephone: (951) 672-6777
Facsimile: (951) 679-3843

If to the Developer: Cimarron Ridge, LLC
2900 Adams Street, Suite C-25
Riverside, CA 92504
Attn: Michael C. Van Daele
Telephone: (951) 354-2121
Facsimile: (951) 354-2996

With copies to: Nossaman LLP
18101 Von Karman Avenue, Suite 1800
Irvine, CA 92612
Attn: John P. Erskine, Esq.
Telephone: (949) 833-7800
Facsimile: (949) 833-7878

Notices to be deemed effective if delivered by certified mail, return receipt requested, commercial courier or by facsimile, with delivery to be effective upon verification of receipt, except as to facsimile if confirmation is after 5:00 p.m., then deemed received the following

business day. Any Party may change its respective address for notices by providing written notice of such change to the other Parties.

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

9.7 Waivers. Notwithstanding any other provision in this Agreement, any failures or delays by either Party in asserting any of its or their rights and remedies under this Agreement shall not operate as a waiver of any such rights or remedies, or deprive any such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. A Party may specifically and expressly waive in writing any condition or breach of this Agreement by another Party, but no such waiver shall constitute a further or continuing waiver of any preceding or succeeding breach of the same or any other provision. Consent by one Party to any act by another Party shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or similar acts in the future.

9.8 Construction of Agreement. Both Parties have been represented by counsel in the preparation and negotiation of this Agreement, and this Agreement shall be construed according to the fair meaning of its language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. Unless the context clearly requires otherwise, (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine, and neuter genders shall each be deemed to include the others; (c) "shall," "will," or "agrees" are mandatory, and "may" is permissive; (d) "or" is not exclusive; (e) "includes" and "including" are not limiting; and (t) "days" means calendar days unless specifically provided otherwise. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Agreement.

9.9 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found by a court of competent jurisdiction to be invalid, or unenforceable, in whole or in part for any reason, the remaining terms and provisions of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement would be defeated by loss of the invalid or unenforceable provisions, in which case any Party may terminate this Agreement by providing written notice thereof to the other Party.

9.10 Time. Time is of the essence of this Agreement. All references to time in this Agreement shall refer to the time in effect in the State of California.

9.11 Extension of Time Limits. The time limits set forth in this Agreement may be extended by mutual consent in writing of the Parties in accordance with the provisions of this Agreement.

9.12 Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entity of Developer and the City.

9.13 Entire Agreement. This Agreement (including all recitals and exhibits attached hereto, each of which is fully incorporated herein by reference), integrates all of the terms and

conditions mentioned herein or incidental hereto, and constitutes the entire understanding of the Parties with respect to the subject matter hereof, and all prior or contemporaneous oral agreements, understandings, representations and statements, and all prior written agreements, understandings, representations, and statements are terminated and superseded by this Agreement.

9.14 Estoppel Certificate. The Developer may, at any time, and from time to time, deliver written notice to the City requesting the City to certify in writing that: (i) this Agreement is in full force and effect, (ii) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications, and (iii) the Developer requesting such certificate is not in Default of the performance of its obligations, or if in Default, to describe therein the nature and extent of any such Defaults. The City Manager shall be authorized to execute any certificate requested by Developer hereunder. The form of estoppel certificate shall be in a form reasonably acceptable to City Attorney. The City Manager shall, at no cost to the City and upon payment of any such costs by Developer, execute and return such certificate within thirty (30) days following Developer's request therefore. Developer and City acknowledge that a certificate hereunder may be relied upon by tenants, transferees, investors, partners, bond counsel, underwriters, bond holders and Mortgagees. The request shall clearly indicate that failure of the City to respond within the thirty (30) day period will lead to a second and final request. Failure to respond to the second and final request within fifteen (15) days of receipt thereof shall be deemed approval of the estoppel certificate.

9.15 City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by City, the City Manager or his or her designee is authorized to act on behalf of City, unless specifically provided otherwise by this Agreement or Applicable Law, or the context requires otherwise. Notwithstanding the foregoing, the City Manager may in his sole and absolute discretion, or upon the request of the City Council, present any action or approval requested under this Agreement to the City Council for its consideration, action, and direction.

9.16 Negation of Partnership. The Parties specifically acknowledge that the Project is a private development, that no Party to this Agreement is acting as the agent of any other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between the Parties in the business of the Developer, the affairs of the City, or otherwise, or cause them to be considered joint venturers or members of any joint enterprise.

9.17 Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Legal Description

Exhibit B Applicable City Regulations

Exhibit C Form Assignment and Assumption Agreement

Exhibit D Annual Review Form

Exhibit E Development Impact Fees

Exhibit F Depiction and Estimates for Light Infrastructure

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

"CITY"

CITY OF MENIFEE, a municipal corporation

By: _____

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Jeff Melching, Esq.
City Attorney

"DEVELOPER"

CIMARRON RIDGE, LLC, a California limited liability company

By: Van Daele Investment Properties, LLC

Its Managing Member

By: _____

Its: _____

Chief Operating Officer

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 RIVERSIDE) ss.

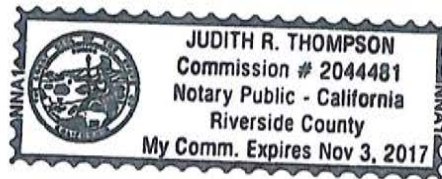
On JUNE 15, 2017 before me, JUDITH R. THOMPSON, Notary Public, personally appeared MICHAEL C. VAN DAELE, who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed 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

Judith R. Thompson
JUDITH R. THOMPSON



(Seal)

Acknowledgement

LEGAL DESCRIPTION

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 4 OF PARCEL MAP NO. 20,285, IN THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY PARCEL MAP ON FILE IN BOOK 132 PAGES 25, 26 AND 27 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL B:

PARCELS 1, 2, AND 3 AND LOTS A, C, D, E, F AND G OF PARCEL MAP NO. 14801, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 81 PAGE 35 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL C:

PARCELS 1, 2 AND 3 AND LOTS A THROUGH G, INCLUSIVE, OF PARCEL MAP NO. 14815, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP ON FILE IN BOOK 82 PAGE 25 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL D:

PARCEL "A" OF LOT LINE ADJUSTMENT NO. 4506, RECORDED SEPTEMBER 12, 2002 AS INSTRUMENT NO. 2002-506724 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, DESCRIBED IN SAID DOCUMENT AS BEING A PORTION OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, BEING A PORTION OF PARCEL 3 AND LOT "E" OF PARCEL MAP NO. 11167, AS PER MAP ON FILE IN BOOK 50 PAGES 98 AND 99 OF PARCEL MAPS, AND A PORTION OF PARCEL 2 AND A PORTION OF LOT "A" OF PARCEL MAP NO. 22482, AS PER MAP ON FILE IN BOOK 152 PAGES 60 AND 61 OF PARCEL MAPS, ALL IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ALL OF RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER 114 CORNER OF SAID SECTION 20 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, BEING THE SOUTHEAST CORNER OF SAID PARCEL 3 OF PARCEL MAP NO. 11167; THENCE SOUTH 89°49' 54" WEST ALONG THE SOUTH LINE OF SAID PARCEL 3, A DISTANCE OF 1290.69 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE NORTH 00°17' 26" WEST ALONG THE WEST LINE OF SAID PARCEL 3, A DISTANCE OF 1314.08 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH 89°39' 46" EAST ALONG THE NORTH LINE OF SAID PARCEL 3, A DISTANCE OF 1301.17 FEET TO THE EAST LINE OF SAID PARCEL 3; THENCE SOUTH 89°41' 06" EAST, A DISTANCE OF 109.49 FEET TO THE CENTERLINE OF THORNTON AVENUE AS SHOWN ON SAID PARCEL 3 AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWEST AND HAVING A RADIUS OF 4000.00 FEET, A LINE RADIAL TO SAID CURVE AT SAID POINT BEARS SOUTH 67°22' 00" WEST, SAID CURVE BEING THE CENTERLINE OF VALLEY BOULEVARD AS SHOWN ON SAID PARCEL MAP NO. 22482 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

LEGAL DESCRIPTION

(continued)

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 109.20 FEET THROUGH A CENTRAL ANGLE OF 01°33' 51", A LINE RADIAL TO SAID CURVE AT SAID POINT BEARS NORTH 68°55' 51" EAST TO A POINT IN THE CENTERLINE OF SAID THORNTON AVENUE HEREINAFTER REFERRED AS POINT "A"; THENCE SOUTH 68°55' 51" WEST, A DISTANCE OF 55.00 FEET; THENCE NORTH 64°09' 28" WEST, A DISTANCE OF 34.23 FEET; THENCE SOUTH 68°03' 15" WEST, A DISTANCE OF 82.81 FEET; THENCE SOUTH 23°34' 58" WEST, A DISTANCE OF 21.02 FEET; THENCE SOUTH 20°53' 19" WEST, A DISTANCE OF 20.83 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWEST AND HAVING A RADIUS OF 3824.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 478.72 FEET THROUGH A CENTRAL ANGLE OF 70 10' 22"; THENCE DEPARTING SAID CURVE SOUTH 76°17' 03" WEST, A DISTANCE OF 60.00 FEET; THENCE SOUTH 76°37' 57" WEST, A DISTANCE OF 122.96 FEET; THENCE SOUTH 11°21' 21" EAST, A DISTANCE OF 217.49 FEET TO A POINT ON THE EAST LINE OF SAID PARCEL 3; THENCE SOUTH 00°10' 01" WEST ALONG THE SAID EAST LINE OF SAID PARCEL 3, A DISTANCE OF 413.49 FEET TO THE POINT OF BEGINNING.

EXCEPTING A 1/2 INTEREST IN ALL OIL AND MINERAL RIGHTS LOCATED ON SAID PROPERTY, WITH THE RIGHT OF ENTRY ON SAID PREMISES FOR MINING AND REMOVING SAME, AS RESERVED IN DEED FROM ALICE O. HANSEN AND A. A. HANSEN, RECORDED NOVEMBER 4, 1920 IN BOOK 537, PAGE 292 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

ALSO EXCEPTING 50% OF ALL OIL, GAS, MINERAL, URANIUM AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND, AS RESERVED BY RANCH DEVELOPMENT CORPORATION, A CORPORATION, IN DEED RECORDED FEBRUARY 9, 1956 IN BOOK 1860, PAGE 508 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL E:

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT THE SOUTH 1/5TH OF THE NORTHEAST QUARTER OF NORTHWEST QUARTER OF NORTHWEST QUARTER OF SOUTHWEST QUARTER OF SAID SECTION.

ALSO EXCEPT THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED SEPTEMBER 27, 1950 IN BOOK 1207 PAGE 293 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL F:

THE SOUTH 1/5 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

LEGAL DESCRIPTION
(continued)

PARCEL G:

THE WEST HALF OF THE SOUTH ONE-FIFTH OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL H:

THE WEST HALF OF THE EAST HALF OF THE NORTH ONE-HALF OF THE SOUTH TWO-FIFTHS OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTH HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 3 WEST, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL I:

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY UNITED STATES GOVERNMENT SURVEY.

EXCEPTING THEREFROM THE WEST HALF OF THE SOUTH ONE-FIFTH OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 17, AND THE WEST ONE-HALF OF THE NORTH ONE-HALF OF THE

SOUTH TWO-FIFTHS OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 17, AND THE EAST HALF OF THE SOUTH HALF OF THE NORTH TWO-FIFTHS OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER.

PARCEL J:

THE EAST ONE HALF OF THE SOUTH ONE HALF OF THE NORTH TWO FIFTHS OF THE NORTHEAST ONE QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE- QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 3 WEST, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL K: (INTENTIONALLY OMITTED.)

(continued)

PARCEL L:

THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 3 WEST, SAN BERNARDINO AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY UNITED STATES GOVERNMENT SURVEY.

EXCEPTING THEREFROM THAT PORTION THEREOF WHICH IS CONTAINED IN A 60 FOOT WIDE STRIP OF LAND MEASURED AT RIGHT ANGLES AND MORE PARTICULARLY DESCRIBED AS 30 FEET WIDE ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION 17 FROM WHICH POINT THE SOUTHWEST CORNER BEARS NORTH 89 DEG. 30' WEST, 71.86 FEET; THENCE NORTH 33 DEG. 34' EAST, 63.80 FEET; THENCE NORTHEASTERLY ON THE ARC OF A 600 FOOT CURVE CONCAVE TO THE NORTHWEST THROUGH AN ANGLE OF 20 DEG. 42' FOR AN ARC DISTANCE OF 216.77 FEET; THENCE NORTH 12 DEG. 52' EAST, 962.05 FEET; THENCE NORTHERLY ON THE ARC OF A 1,000 FOOT RADIUS CURVE CONCAVE TO THE WEST THROUGH AN ANGLE OF 23 DEG. 51' FOR AN ARC DISTANCE OF 416.26 FEET; THENCE NORTH 10 DEG. 59' WEST, 144.23 FEET; THENCE NORTHWESTERLY ON THE ARC OF A 2,000 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST THROUGH AN ANGLE OF 06 DEG. 09' FOR AN ARC DISTANCE OF 214.88 FEET; THENCE OF 214.88 FEET; THENCE NORTH 17 DEG. 08' WEST, 921.88 FEET; THENCE NORTHERLY ON THE ARC OF A 1,000 FOOT RADIUS CURVE CONCAVE TO THE EAST THROUGH AN ANGLE OF 17 DEG. 29' FOR AN ARC DISTANCE OF 305.14 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 17 FROM WHICH POINT THE WEST CORNER BEARS SOUTH 00 DEG. 21' WEST, 500.42 FEET; THENCE ALONG THE WEST LINE OF SAID SECTION 17 TO THE NORTHWEST CORNER THEREOF AS CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED SEPTEMBER 27, 1950 IN BOOK 1207 PAGE 293 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

ALSO EXCEPTING THEREFROM THE NORTHERLY 360 FEET OF THE SOUTHERLY 390 FEET OF SAID LAND WHICH WAS CONDEMNED BY SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FINAL DECREE OF CONDEMNATION ENTERED IN THE SUPERIOR COURT FOR THE COUNTY OF RIVERSIDE, CASE NO. 98718, A CERTIFIED COPY THEREOF BEING RECORDED JUNE 21, 1973 AS INSTRUMENT NO. 80695 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL M:

THE NORTHERLY 360 FEET OF THE SOUTHERLY 390 FEET OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 17, TOWNSHIP 5

SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN A STRIP OF LAND, 60 FEET WIDE, AS CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED SEPTEMBER 27, 1950 IN BOOK 1207 PAGE 293 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED AUGUST 19, 1991 AS INSTRUMENT NO. 285498 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

(continued)

ALSO EXCEPTING THEREFROM ALL URANIUM, THORIUM AND OTHER FISSIONABLE MATERIALS, ALL OIL, GAS, PETROLEUM, ASPHALTUM, AND OTHER HYDROCARBON SUBSTANCES AND OTHER MINERALS AND MINERAL ORES OF EVERY KIND AND CHARACTER, WHETHER SIMILAR TO THESE HEREIN SPECIFIED OR NOT, WITHIN OR UNDERLYING, OR WHICH MAY BE PRODUCED FROM THE HEREINBEFORE DESCRIBED LAND, TOGETHER WITH THE RIGHT TO USE THAT PORTION ONLY OF SAID LAND WHICH UNDERLIES A PLANE PARALLEL TO AND FIVE HUNDRED (500) FEET BELOW THE PRESENT SURFACE OF SAID LAND, FOR THE PURPOSE OF PROSPECTING FOR, DEVELOPING AND/OR EXTRACTING SAID URANIUM, THORIUM AND OTHER FISSIONABLE MATERIALS, OIL, GAS, PETROLEUM, ASPHALTUM AND OTHER MINERAL OR HYDROCARBON SUBSTANCES FROM SAID LAND, IT BEING EXPRESSLY UNDERSTOOD AND AGREED THAT SAID SOUTHERN CALIFORNIA EDISON COMPANY, ITS SUCCESSORS AND ASSIGNS, SHALL HAVE NO RIGHT TO ENTER UPON THE SURFACE OF SAID LAND OR TO USE SAID LAND OR ANY PORTION THEREOF TO SAID DEPTH OF FIVE HUNDRED (500) FEET FOR ANY PURPOSE WHATSOEVER.

PARCEL N:

LOTS B AND C OF PARCEL MAP NO. 14801, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP ON FILE IN BOOK 81 PAGE 35 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

Assessors Parcel Number: 335-430-017-2; 335-070-039-0; 335-070-040-0; 335-070-041-1;
335-070-036-7; 335-070-037-8; 335-070-037-8; 335-070-038-9;
335-070-046-6; 335-070-047-7; 330-220-008-0; 330-220-011-2
335-070-048-8; 330-220-012-3; 330-220-013-4; 330-220-004-6
330-220-005-7; 330-220-010-1; 330-220-007-9; 330-230-003-6;
330-230-015-7; 330-230-029-0; 330-230-036-6; 330-230-037-7;
330-230-038-8; 330-230-039-9; 330-230-010-2; 330-230-032-2;
330-230-035-5; 330-230-013-5; 330-230-034-4; 330-230-040-9;
330-230-040-9; 330-230-041-0

END OF LEGAL DESCRIPTION

Exhibit

EXHIBIT "B"
APPLICABLE CITY REGULATIONS

The following shall constitute the Applicable City Regulations for purposes of this Agreement:

1. City of Menifee General Plan, adopted 2013
2. Menifee Municipal Code
3. Riverside County Ordinance No. 460, as adopted by the City of Menifee

EXHIBIT "C"
FORM ASSIGNMENT AND ASSUMPTION AGREEMENT

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City of Menifee)
29714 Haun Road)
Menifee, CA 92586)
Attn: City Clerk)

(Space Above This Line for Recorder's Use Only)
Exempt from Recording Fee per Government Code §27383

PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT ("**Agreement**") is entered into as of the ____ day of November, 2016, by and among CIMARRON RIDGE, LLC, a Wisconsin limited liability company ("**Assignor**"), _____, a _____ ("**Assignee**"), and CITY OF MENIFEE, a municipal corporation of the State of California ("**City**").

RECITALS

A. Assignor (in its capacity as "**Developer**") has entered into a Development Agreement with the City effective _____, 2017 (Recorder's Document No. _____) ("**Development Agreement**") to facilitate the development of that certain real property owned by Developer within the City of Menifee, State of California, which is legally described in Exhibit A to the Development Agreement ("**Property**"). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement.

B. Assignor is the fee owner of the approximately ____ acre portion of the Property, more particularly described in Exhibit 1 attached hereto and incorporated herein ("**Assigned Property**").

C. Assignor desires to transfer its interest in the Assigned Property to Assignee concurrently with execution of this Agreement and Assignee desires to so acquire such interest in the Assigned Property from Assignor.

D. Article 8 of the Development Agreement provides that Developer may assign less than all of its rights and obligations under the Development Agreement to another party who acquires a portion of the Property, provided that (i) the Assignor shall have provided to City at least ten (30) days prior written notice, (ii) the Assignor and Assignee document the assignment in an agreement substantially in the form of Exhibit C to the Development Agreement and that such assignment and assumption agreement provides that the Assignee agrees in writing to be subject to all of the applicable provisions of the Development Agreement and provides for the allocation of responsibilities and obligations between the Assignor and Assignee as to the Assigned Property, and (iii) this Agreement shall be recorded in the in the Official Records of Riverside County ("**Official Records**") as an encumbrance on the Assigned Property.

E. Assignor has provided the required written notice to City of its intent to enter into an assignment and assumption agreement as required by Section 8.2, this Agreement is substantially in the form of Exhibit C to the Development Agreement, provides that the Assignee agrees in writing to be subject

to all of the applicable provisions of the Development Agreement, provides for the allocation of responsibilities and obligations between the Assignor and Assignee as to the Assigned Property, and shall be recorded in the Official Records as an encumbrance on the Assigned Property.

F. Assignor desires to assign to Assignee and Assignee desires to assume the rights and obligations of Assignor under the Development Agreement applicable to the Assigned Property as provided in this Agreement. Upon execution of this Agreement and transfer to Assignee of legal title to the Assigned Property, Assignor desires to be released from all obligations under the Development Agreement as to the Assigned Property as provided in this Agreement.

A G R E E M E N T

NOW, THEREFORE, Assignor, Assignee and City hereby agree as follows:

1. Assignment by Assignor. Assignor hereby assigns, transfers and grants to Assignee, and its successors and assigns, all of Assignor's rights, title and interest and obligations, duties, responsibilities, conditions and restrictions under the Development Agreement that are applicable to, serve, benefit and/or relate to the Assigned Property (collectively, "**Assigned Rights and Obligations**"). The term "Assigned Rights and Obligations," however, shall not include those rights and obligations provided in subsection 1(i)-(iv) below which shall not be assigned to the Assignee but shall be expressly retained by Assignor.

- (i) _____.
- (ii) _____.
- (iii) _____,ns.

Assignor and Assignee further agree and acknowledge that any Assigned Rights and Obligations are to be interpreted (1) to be strictly limited to Assignee's ownership and development of the Assigned Property and (2) such that Assignee shall not be obligated to incur, nor reimburse Assignor for, any cost or expense arising from any Assigned Rights and Obligations to the extent they continue to relate to, serve, or benefit Assignor's Property.

2. Acceptance and Assumption by Assignee. Assignee, for itself and its successors and assigns, hereby accepts the assignment of, and assumes all of, the Assigned Rights and Obligations, accruing after (and not prior to) the Effective Date (defined in Section 17 below). Assignee agrees, expressly for the benefit of City, to comply with, perform and execute all of the covenants and obligations of Assignor arising from or under the Development Agreement as to the Assigned Property and Assigned Rights and Obligations.

3. Release of Assignor. Assignee and City hereby fully release Assignor from all of the Assigned Rights and Obligations. Both Assignor and Assignee acknowledge that this Agreement is intended to fully assign the Assigned Rights and Obligations to Assignee, and it is expressly understood that Assignor shall not retain any of the Assigned Rights and Obligations.

4. Substitution of Assignor. With respect to the Assigned Rights and Obligations, Assignee shall be substituted for and replace Assignor in the Development Agreement as to the Assigned Property. Whenever the term "Cimarron Ridge, LLC" appears in the Development Agreement with respect to the Assigned Rights and Obligations as they relate to the Assigned Property, such term shall hereafter mean Assignee with respect to the Assigned Rights and Obligations. Whenever the term "Developer" or "Party" appears in the Development Agreement, it shall

hereafter include Assignee as to the Assigned Property. Whenever the term "Project" appears in the Development Agreement with respect to the Assigned Rights and Obligations, such term shall be interpreted (based on the context and in order to give effect to the terms and intent of this Agreement) to include Assignee's proposed development of the Assigned Property in a manner compliant with the vested rights secured under the Development Agreement.

5. Assignee's Representations and Warranties.

(a) Assignee represents and warrants to City as follows:

(i) Assignee is a _____ duly formed within and good standing under the laws of the State of California. The copies of the documents evidencing the formation of Assignee, which have been delivered to City, are true and complete copies of the originals, as amended to the date of this Agreement. Assignee has full right, power and lawful authority to undertake all obligations as provided herein and the execution, performance and delivery of this Agreement by Assignee has been fully authorized by all requisite actions on the part of Assignee.

(ii) Assignee's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Assignee is a party or by which it is bound.

(iii) Assignee has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Assignee's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Assignee's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Assignee's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(iv) As of the Effective Date of this Agreement, Assignee owns fee simple title to the Assigned Property.

6. Assignor and Assignee Agreements, Indemnifications and Waivers. Assignor and Assignee hereby acknowledge and agree that City has not made, and will not make, any representation or warranty that the assignment and assumption of the Development Agreement provided for hereunder will have any particular tax implications for Assignor or Assignee.

(a) Assignor and Assignee each hereby waives and releases and each hereby agrees to indemnify and hold City harmless from any and all damages, liabilities, causes of action, claims or potential claims against City (including attorneys' fees and costs) arising out of or resulting from the assignment and assumption of the Assigned Rights and Obligations.

(b) Assignor acknowledges and agrees that the Assigned Rights and Obligations have been fully assigned to Assignee by this Agreement and, accordingly, that Assignee shall have the exclusive right to assert any claims against City with respect to such Assigned Rights and Obligations. Accordingly, without limiting any claims of Assignee under the Development Agreement related to the Assigned Rights and Obligations, Assignor hereby waives any claims or potential claims by Assignor against City to the extent arising solely out of Assigned Property and/or Assigned Rights and Obligations.

(c) For the Term of the Development Agreement, Assignor agrees to and shall indemnify, defend and hold harmless Assignee, its affiliated entities and persons, and their respective members, partners, officers, directors, shareholders, and employees from any claims, demands, loss, liability, damages, costs or expenses (including attorneys' fees, expert witness fees, court costs and any and all litigation fees and costs) made against or suffered with regard to any breach by Assignor of the Development Agreement and/or this Agreement ("**Assignor Indemnity**"). The foregoing Assignor Indemnity shall be binding on Assignor's assignees, successors-in-interest, and any person or entity that takes title to any part of the Property.

(d) For the Term of the Development Agreement, Assignee agrees to and shall indemnify, defend and hold harmless Assignor, its affiliated entities and persons, and their respective members, partners, officers, directors, shareholders, and employees from any claims, demands, loss, liability, damages, costs or expenses (including attorneys' fees, expert witness fees, court costs and any and all litigation fees and costs) made against or suffered with regard to any breach by Assignee of the Development Agreement and/or this Agreement ("**Assignee Indemnity**"). The foregoing Assignee Indemnity shall be binding on Assignee's assignees, successors-in-interest, and any person or entity that takes title to the Assigned Property.

7. Development Agreement in Full Force and Effect. Except as specifically provided herein with respect to the assignment, all the terms, covenants, conditions and provisions of the Development Agreement are hereby ratified and shall remain in full force and effect.

8. Recording. Assignor shall cause this Agreement to be recorded in the Official Records on the Assigned Property, and shall promptly provide conformed copies of the recorded Agreement to Assignee and City.

9. Successors and Assigns. Subject to the restrictions on transfer set forth in the Development Agreement, all of the terms, covenants, conditions and provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

10. Assignee Address for Notices.

The address of Assignee for the purpose of notices, demands and communications under Section 8.5 of the Development Agreement shall be:

The City shall send a copy of any Notice of Default under Article 7 of the Development Agreement related to the Property or the Assigned Site to both Assignor and Assignee

11. California Law/Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. Any legal actions under this Agreement shall be brought only in the Superior Court in Riverside County, State of California.

12. Interpretation. All Parties have been represented by counsel in the preparation and negotiation of this Agreement, and this Agreement shall be construed according to the fair meaning

of its language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. Unless the context clearly requires otherwise: (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine, and neuter genders shall each be deemed to include the others; (c) "shall," "will," or "agrees" are mandatory, and "may" is permissive; (d) "or" is not exclusive; and (e) "includes" and "including" are not limiting.

13. Headings. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Agreement.

14. Severability. Except as otherwise provided herein, if any provision(s) of this Agreement is (are) held invalid, the remainder of this Agreement shall not be affected, except as necessarily required by the invalid provisions, and shall remain in full force and effect unless amended or modified by mutual consent of the Parties.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all of the Parties to this Agreement had executed the same counterpart.

16. City Consent. City is executing this Agreement for the limited purpose of consenting to the form of assignment and assumption agreement pursuant to Article 8 of the Development Agreement and clarifying that there is privity of contract between City and Assignee with respect to the Development Agreement.

17. Effective Date/Amendments. The Effective Date of this Agreement shall be the date upon which Assignee obtains fee title to the Property and delivers evidence of the transfer to City. For the purposes of this Section, the evidence of transfer shall consist of a duly recorded deed and title report. This Agreement shall not be amended except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

[Signature Page Follows]

IN WITNESS WHEREOF, Assignor, Assignee and City (subject to the limitations set forth in Section 16) have entered into this Agreement as of the date first above written.

"ASSIGNOR"

CIMARRON RIDGE, LLC,
a California limited liability company

By: Van Daele Investment Properties, LLC

Its Managing Member

By: _____

Name: Michael C. Van Daele

Its: Chief Operating Officer

[Notary Acknowledgments Required]

[Signatures continued on next page]

"ASSIGNEE"

By: _____

Name: _____

Title: _____

CITY

CITY OF MENIFEE,
a political subdivision of the State of California,

By: _____

Name: _____

Title: City Manager

[Notary Acknowledgment Required]

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

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

Signature _____

Acknowledgement
Page to Partial
Assignment

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 WISCONSIN)
) ss.
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT 1

ASSIGNED PROPERTY LEGAL DESCRIPTION

That certain real property located in the City of Menifee, County of Riverside, State of California described as follows:

_____.

APN: ____-____-____

EXHIBIT "D"
ANNUAL REVIEW FORM

ANNUAL REVIEW FORM

This Annual Review Evaluation Form is submitted to the City of Menifee (“**City**”) by Cimarron Ridge, LLC, a California Limited Liability Company (“**Developer**”) pursuant to the requirements of California Government Code section 65865.1 and Section 7.2.1 of that certain Development Agreement by and between City of Menifee and Cimarron Ridge, LLC Regarding the Cimarron Ridge Specific Plan Project having an Effective Date of _____, 2017 (“**Development Agreement**”). All terms not otherwise defined herein shall have the meanings assigned to them in the Development Agreement:

Annual Review Period: _____ through _____.

In order to establish (1) that Developer has used good faith efforts to obtain financing, process required approvals, and/or construct and sell the remaining undeveloped properties and reach allocated development densities as specified in the Development Agreement and (2) whether the term of the Agreement may be extended consistent with the “Term” section 2.2, describe the following:

- a. Economic factors relevant to development in City and inland empire region including vacancy rates, construction costs, the availability of financing, market demand and average rental rates and sales prices for different product types within the Property.
- 6.
- b. A summary of all efforts made in during this annual review period to market, sell and process required permits and/or construct the remaining undeveloped properties and reach allocated development densities and intensities.
- 7.
- c. A summary of specific strategies to be followed in the coming year intended to facilitate the processing of permits and/or actual project construction.

Specify whether Impact Fees, Processing Fees, Connection Fees and/or other fees due and payable have been paid during this annual review period.

Describe whether obligations related to park and/or open space dedications, park and/or open space improvements and/or park and/or open space in lieu fees were satisfied where required during this annual review period.

Describe whether other applicable Development Agreement obligations were completed during this annual review period.

Specify whether Developer has assigned the all or any portion of the Development Agreement or otherwise conveyed all or any portion of the Property during the review period.

The undersigned representative confirms that Developer is:

_____ In good faith compliance with its obligations under the Development Agreement for this annual review period.

_____ Not in good faith compliance with its obligations under the Development Agreement for this annual review period, in response to which Developer is taking the actions set forth in the attachment hereto.

IN WITNESS WHEREOF, Developer has executed this Annual Review Form as of this ____ day of _____, 20__.

EXHIBIT "E"

DEVELOPMENT IMPACT FEES

Single Family Residential fees per unit: \$5,185.00

Quimby Fees per unit: \$1,204

EXHIBIT “F”

DEPICTION AND ESTIMATES FOR LIGHT INFRASTRUCTURE

[SEE FOLLOWING PAGES]



Menifee Sports Park- LED Lighting System
Menifee, CA
Date: 7/15/16
To: Mike Berger- Van Daele Homes

Budget Estimate – Phase I (250') Radius Baseball Field (Information provided July 5, 2016)

Musco's Light Structure Green™ using an LED light source as described below, delivered to the job site:

250' Radius Baseball Field: \$200,000.00

Pricing furnished is effective for 60 days unless otherwise noted and is kindly considered confidential.

Equipment Description- Baseball 250' Radius

Light-Structure Green™ System delivered to your site in Five Easy Pieces™

- (6) Pre-cast concrete bases- Baseball
- (6) Pre-cast concrete bases- Practice Area
- (6) 70' Galvanized steel poles – A1, A2, B1, B2, C1, C2
- UL Listed remote electrical component enclosures
- Pole length wire harnesses
- Factory-aimed and assembled LED luminaires

Note: The C1, and C2 poles are located outside the 250' radius along the homerun fenceline. If the entire grass area beyond the homerun fence is required to be lit, the Musco design will change, and pricing will have to be updated

Benefits Include:

- Cuts energy by 30-60 percent over alternative options
- Virtually eliminates offsite spill light and glare
- Delivers enhanced playability
- Includes easy-to-use controls – instant on/off, scheduling and monitoring
- Backed by an industry leading 10-year parts and labor warranty with guaranteed constant light levels.

Notes

Estimates are based on:

- Assumes field dimensions of Baseball (250') Radius.
- Assumes direct purchase, does not include any sales tax.
- Assumes standard soil conditions - rock, bottomless, wet, or unsuitable soil may require additional engineering, special installation methods, and additional cost. *See Soil Report Letter 2016.doc for additional information regarding foundation requirements. Portions of Menifee have significant rock formations, and a soil report with borings at the applicable pole locations would be recommended.*
- Assumes building code CBC 2013, and wind 110mph

Budget Estimate – Phase I (250') Radius Baseball Field (Information provided July 5, 2016)- Metal Halide 1500w Light Source

Musco's Light Structure Green™ using an Metal Halide light source as described below, delivered to the job site:

250' Radius Baseball Field- Metal Halide 1500w: \$109,000.00- 121,000.00

Pricing furnished is effective for 60 days unless otherwise noted and is kindly considered confidential.



Budget Estimate

LED Soccer Fields – July 15, 2016

Budget Estimate – Soccer Fields 1 / 2 (U8-U10 150' x 180'), and Soccer Field 3 (U12 210' x 240')

Musco's Light Structure Green™ using an LED light source as described below, delivered to the job site:

250' Radius Baseball Field: \$265,000.00 – 275,000.00

Pricing furnished is effective for 60 days unless otherwise noted and is kindly considered confidential.

Equipment Description- Soccer 1 / 2 (shared center poles) and Soccer 3 (stand alone field)

Light-Structure Green™ System delivered to your site in Five Easy Pieces™

- (10) Pre-cast concrete bases
- (10) 70' Galvanized steel poles – S1, S2, S3, S4, S5, S6 (Soccer 1 and Soccer 2), S7-S10 (Soccer 3)
- UL Listed remote electrical component enclosures
- Pole length wire harnesses
- Factory-aimed and assembled LED luminaires

Note: The S3 and S4 are back to back poles estimated with a 20' setback, or 40' distance between the touch line from Soccer 1 to the touch line of Soccer 2. If setback distances increase, it may be necessary to use four light poles per soccer field, and eliminate the shared poles. We can assist with final photometrics, and the lighting design as soon as a site plan is available.

Benefits Include:

- Cuts energy by 30-60 percent over alternative options
- Virtually eliminates offsite spill light and glare
- Delivers enhanced playability
- Includes easy-to-use controls – instant on/off, scheduling and monitoring
- Backed by an industry leading 10-year parts and labor warranty with guaranteed constant light levels.

Notes

Estimates are based on:

- Assumes field dimensions of Soccer #1- 150' x 180', Soccer #2- 150' x 180' (setback between fields 40'), Soccer #3 – 210' x 240'.
- Assumes direct purchase, does not include any sales tax.
- Assumes standard soil conditions - rock, bottomless, wet, or unsuitable soil may require additional engineering, special installation methods, and additional cost. See Soil Report Letter 2016.doc for additional information regarding foundation requirements. Portions of Menifee have significant rock formations, and a soil report with borings at the applicable pole locations would be recommended.
- Assumes building code CBC 2013, and wind 110mph

ASSUME 3% increase to pricing if procured in 2017.

Thank you for the opportunity to discuss Musco's innovative lighting solutions; we are determined to provide you with the best value option for your facility. Please contact us if you have any questions.

Mike Higgins
Musco Sports Lighting, LLC- Project Manager
Phone: 800-659-0117x6121
Email: Mike.Higgins@Musco.com

Menifee Sports Park Van Daele Homes LED BE 7_15_10

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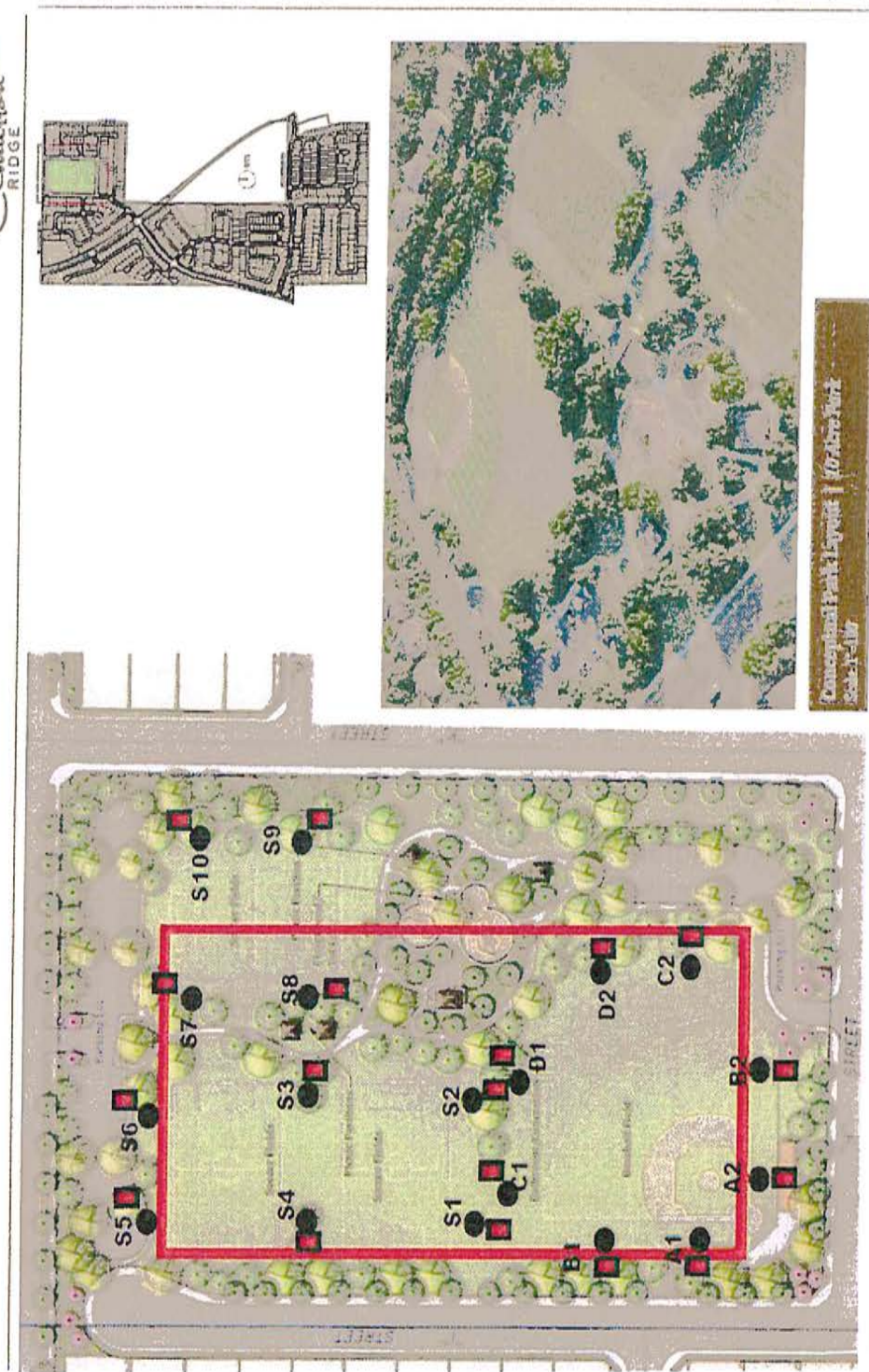


Figure 2.1-3A
Conceptual
Park Layout
10 Acre Park

EXHIBIT