

ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. __

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADOPTING A
DEVELOPMENT AGREEMENT WITH ALDRSGATE INVESTMENT, LLC

WHEREAS, Government Code sections 65864 et seq. authorize development agreements;

WHEREAS, the City has been requested by Centex Homes to enter into a development agreement;

WHEREAS, the City Council certifies that the final supplemental environmental impact report for this project was presented to the City Council, and the City Council considered the information contained in the final supplemental environmental impact report before approving this project; and

WHEREAS, the documents and other material that constitute the record of proceedings upon which the decision to certify the final supplemental environmental impact report is located in the Planning and Environmental Services Division, and the custodian of the record is the Planning and Environmental Services Manager; and

WHEREAS, on June 1, 2006 and June 15, 2006, the City's Planning Commission conducted a public hearing on the application for a development agreement;

WHEREAS, the City gave notice of its intent to consider adoption of this development agreement in accordance with the requirements set forth in section 65867 of the Government Code; and

WHEREAS, on July 18, 2006, the City Council conducted a public hearing on the application for a development agreement in accordance with the requirements set forth in section 65867 of the Government Code; and

WHEREAS, on July 18, 2006, the City Council referred the project back to the Planning Commission for a report; and

WHEREAS, on February 15, 2007, the Planning Commission reported on the project.

Now, therefore, the City Council of the City of Oxnard does ordain as follows:

Part 1. The Mayor is hereby authorized to execute on behalf of the City the development agreement between the City and Aldersgate Investment, LLC, which is attached hereto as Exhibit A.

Part 2. Within 15 days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. _____ was first read on _____, 2007 and finally adopted on _____, 2007 to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:


Gary L. Gillig, City Attorney

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Oxnard
305 West Third Street
Oxnard, California 93030
Attention: City Clerk

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") by and between the **CITY OF OXNARD**, a municipal corporation of the State of California (the "**City**"), and **ALDRSGATE INVESTMENT, LLC** (the "**Developer**"), is entered into as of the Entry Date as defined herein and is effective on the Effective Date as defined herein.

RECITALS

A. The Developer has an equitable interest in that certain real property more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "**Property**"). The Property consists of approximately 20.97 acres.

B. The City is authorized pursuant to California Government Code Sections 65864 through 65869.5 and City Council Resolution No. 10,448 to enter into binding development agreements with persons or entities owning legal or equitable interests in real property located within the City.

C. The City and the Developer each desire to enter into this Agreement in conformance with California Government Code Section 65864, *et. seq.*, and all applicable City ordinances in order to achieve the mutually beneficial Development of the Property as expressly provided for in this Agreement.

D. The Developer seeks to develop (1) a 4.95 acre park site with full recreational amenities, including a competition swimming pool and two baseball field, all of which will be fully improved by the Developer and dedicated to the City by the Developer pursuant to the terms of this Agreement; and (2) 89 residential units (collectively, the "**Project**"). The Development of the Project is consistent with the Northeast Community Specific Plan (the "**Specific Plan**") heretofore adopted by the City Council of the City ("**City Council**"), and amended pursuant to City Council Resolution No. _____.

E. The Developer is currently, and will be, processing applications with the City for land use entitlements for the Property, including, but not limited to (1) an amendment to the City of Oxnard 2020 General Plan ("**General Plan**") to modify the land use designation for the residential component of the Project from Park to Low Medium Density Residential, (2) an

amendment to the Specific Plan to allow for a change in the land use designation for the proposed residential component of the Project from Park to Low Medium Density Residential and add an additional 89 residential units to the Specific Plan sub-area where the Property is located, (3) a zone change for the residential component from Community Reserve (C-R) to R-2, (4) a tentative tract map, (Tentative Tract Map No. 5654 (“**TTM No. 5654**”)), (5) Planning and Zoning Permit No. PZ 05-500-23, and (6) permit for Planned Residential Groups. All the foregoing entitlements, together with the Existing Development Approvals, other land use approvals previously obtained and all Subsequent Approvals are hereafter collectively referred to as the “**Entitlements**” or the “**Project.**” The Entitlements will, upon approval, permit the Developer to develop the Property in accordance with TTM No. 5654 filed with the City as Application No. PZ 05-300-23 or any other subsequent subdivision map approved by the City Council with respect to the Property or any portion thereof.

F. The City and the Developer each mutually desire to obtain the binding agreement of one another to permit and ensure that the Property is developed strictly in accordance with the provisions of this Agreement.

G. This Agreement will benefit the Developer and the City by eliminating uncertainty in planning and providing for the orderly Development of the Project. Specifically, this Agreement (1) eliminates uncertainty about the validity of exactions to be imposed by the City, (2) allows for the installation of necessary improvements, (3) provides for the improvement and dedication of Developer’s interests in a 4.95 acre park site with a value in excess of the fees that would otherwise be due with respect to the Project pursuant to California Government Code Section 66477, (4) provides for public services and infrastructure appropriate to the Development of the Property, (5) provides for the dedication of all streets within the Property, (6) provides for the establishment of a Community Facilities District (as defined in Section 7(n)), and (7) generally serves the public interest within the City and the surrounding region.

H. The Planning Commission of the City (the “**Planning Commission**”) and the City Council have each given notice of their intention to consider this Agreement, have each conducted public hearings thereon pursuant to the relevant provisions of the California Government Code, and have each found that the provisions of this Agreement are consistent with the General Plan, as amended by City Council Resolution No. _____, City zoning ordinances, and the Specific Plan, as amended by City Council Resolution No. _____. The City Council has also specifically considered the impacts and benefits of the Project upon the welfare of the residents of the City and the surrounding region and has determined that this Agreement is beneficial to the residents of the City and is consistent with the present public health, safety and welfare needs of the residents of the City and the surrounding region. Additionally, a supplemental environmental impact report has been certified by the Planning Commission pursuant to Planning Commission Resolution No. 2006-29.

I. On June 1, 2006 and June 15, 2006, the Planning Commission held a duly noticed public hearing wherein the Planning Commission recommended approval of this Agreement.

J. On July 18, 2006, the City Council considered and referred the Project back to the Planning Commission for a report.

K. On February 15, 2006, the Planning Commission reported on the Project.

L. On February 27, 2007, the City Council conducted the first reading of Ordinance No. _____ and on March 6, 2007, adopted Ordinance No. _____ approving this Agreement.

COVENANT

NOW, THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into the operative provisions of this Agreement by this reference, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and the Developer agree as follows:

1. Definitions.

1.1 **“Actual Knowledge of the Developer”** or other similar phrases means the current actual knowledge of the Developer, as of the date this Agreement is executed by the Developer, without any duty of inquiry.

1.2 **“Affordable Housing Payment”** shall have the meaning assigned to such term in Section 7(i) of this Agreement.

1.3 **“Agreement”** means this Development Agreement.

1.4 **“Applicable Rules”** means the rules, regulations and official policies of the City which were in force as of the Entry Date of this Agreement which govern the City’s General Plan, City zoning ordinance and other entitlements, development conditions and standards, permitted uses, public works standards, subdivision regulations, density, growth management, environmental considerations, grading requirements, and design, improvement and construction standards, specifications and criteria applicable to the Project, but does not include the building, plumbing, mechanical, electrical, or fire codes of the State of California or the local amendments thereto by the City or other rules, regulation or official policies that are specifically excepted by this Agreement.

1.5 **“City”** means the City of Oxnard.

1.6 **“City Council”** means the City of Oxnard City Council.

1.7 **“City Manager”** means the City Manager of the City of Oxnard.

1.8 **“County”** means the County of Ventura, California.

1.9 **“Development”** means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading, the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping. “Development” does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.10 “Development Approvals” means all permits and other entitlements for use subject to approval or issuance by the City in connection with the Development of the Property, including, but not limited to:

- (a) amendments to the General Plan;
- (b) amendments to the Specific Plan;
- (c) zone changes;
- (d) conditional use permits;
- (e) special use permits;
- (f) tentative and final subdivision and parcel maps, and amendments thereto, including, but not limited to, TTM No. 5654;
- (g) planned residential development permits;
- (h) grading, building and occupancy permits; and
- (i) certification of environmental impact report.

1.11 “Developer” means Aldersgate Investment, LLC.

1.12 “Effective Date” means the date on which this Agreement becomes effective. This Agreement will be effective upon the execution of the Agreement by the City and the Developer (individually “Party” and jointly “Parties”) and the effective date of the ordinance adopting this Agreement, whichever is later.

1.13 “Entitlements” means all Existing Development Approvals and all Subsequent Approvals.

1.14 “Entry Date” means the date on which this Agreement is executed by the Parties.

1.15 “Existing Development Approvals” means all Development Approvals approved or issued prior to the Entry Date of this Agreement. “Existing Development Approvals” includes the approvals incorporated as **Exhibit B**, attached hereto and incorporated herein by reference, and all other approvals that are a matter of public record on the Entry Date of this Agreement. Such approvals shall include the General Plan and the Specific Plan, as each existed on the Entry Date of this Agreement. “Existing Development Approvals” includes the Applicable Rules.

1.16 “Existing Impact Fees” shall have the meaning assigned to such term in Section 6 of this Agreement except as specifically excepted by this Agreement.

1.17 “Foreclosure” shall have the meaning assigned to such term in Section 15 of this Agreement.

1.18 **“General Plan”** means the City of Oxnard 2020 General Plan and all amendments thereto.

1.19 **“Grading Plan”** shall have the meaning assigned to such term in Section 7(k) of this Agreement.

1.20 **“Community Facilities District”** shall have the meaning assigned to such term in Section 7(n) of this Agreement.

1.21 **“Master Planned Sewer Improvements”** means the City’s Water Resource Division’s master plan sewer lines and other related sewer transmission equipment and improvements contemplated by the City’s May 1979 Sewer Master Plan, as amended or updated prior to the date this Agreement is executed by the Parties.

1.22 **“Periodic Review”** shall have the meaning assigned to such term in Section 12(a) of this Agreement.

1.23 **“Permitted Exceptions”** shall have the same meaning assigned to such term in Section 4 of this Agreement, and as set forth in **Exhibit C**, attached hereto and incorporated herein by this reference.

1.24 **“Processing Fees”** shall have the meaning assigned to such term in Section 6 of this Agreement.

1.25 **“Project”** means the Development of the Property pursuant to the Entitlements.

1.26 **“Property”** means the real property in the City which Developer holds an equitable interest in which is more particularly described in **Exhibit A**.

1.27 **“Qualified Lender”** shall have the meaning assigned to such term in Section 15(a)(vi)(A) of this Agreement.

1.28 **“Special Purpose Facility Park”** means the approximately 4.95 acres to be developed as a park and related facilities as described in Section 7(f) herein.

1.29 **“Specific Plan”** means the Northeast Community Specific Plan and all amendments thereto.

1.30 **“Subsequent Approvals”** means all Development Approvals required for the Project subsequent to the Entry Date of this Agreement that are in connection with the Development of the Project. “Subsequent Approvals” includes those approvals set forth in Section 8 of this Agreement.

1.31 **“Subsequent Land Use Regulations”** means any all ordinances, resolutions, codes, rules, regulations and official policies of the City governing the Development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed

buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the Development of the Property adopted and effective after the Entry Date of this Agreement.

2. **Binding Effect of Agreement.** The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out only in accord with the terms set forth in this Agreement.

3. **Term of Agreement.** This Agreement shall become operative and commence upon the Effective Date, and shall remain in effect for a term of ten years (“**Term**”), unless the term is modified by mutual written consent of the City and the Developer. Upon the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect.

4. **Equitable Interest of the Developer.** To the Actual Knowledge of the Developer, the Developer represents to the City that the Developer owns an equitable interest in the Property, subject to encumbrances, easements, covenants, conditions and restrictions and other matters of record or otherwise known to the Actual Knowledge of the Developer (collectively, the “**Permitted Exceptions**”). To the Actual Knowledge of the Developer, the Permitted Exceptions are described on **Exhibit C**.

5. **Vested Right to Develop the Project.**

(a) **Applicable Rules.** The City hereby grants to the Developer the vested right to develop the Property to the extent and in the manner provided in this Agreement, subject to the Applicable Rules. Any change in the Applicable Rules adopted or becoming effective after the Entry Date of this Agreement shall not be applicable to or binding upon the Project or the Property, except for any change consented to in writing by the Developer. This Agreement will bind the City to the terms and obligations specified in this Agreement and will limit, to the degree specified in this Agreement and under State law, the future exercise of the City’s ability to regulate the Development of the Property.

(b) **No Conflicting Enactments.** Without limiting subparagraph (a) above, the City shall not apply to the Project any additional conditions or restrictions, whether by specific reference to the Development or as a part of a general enactment, and whether by action of the Planning Commission, the City Council or otherwise as by initiative or referendum, which would:

(i) Limit or reduce the density or intensity of the Development of the Property, or otherwise require any reduction in the height, number, size or square footage of lots, structures or buildings in a manner which is inconsistent with or more restrictive on the Developer than the Applicable Rules;

(ii) Expand or increase the Developer’s obligations with respect to the provision of parking spaces, streets, roadways and/or any other public or private improvements, structures or dedications of land or with respect to payments of monetary exactions in a manner which is inconsistent with or more restrictive on the Developer than the Applicable Rules;

(iii) Limit or control the timing or phasing of the construction or Development of the Property in a manner which is inconsistent with or more restrictive on the Developer than the Applicable Rules. The Parties acknowledge that Developer cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors that are not within the control of Developer, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of Development resulted in a later adopted initiative restricting the timing of Development to prevail over such Parties' agreement, the Parties intend to cure that deficiency by acknowledging and providing that Developer shall have the right to develop the Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment, and shall not be subject to any after-enacted initiative measures, ordinances or policies which purport to regulate or limit the rate, timing or sequencing of any Development permits necessary for the Project.

(iv) Limit the design, improvement or construction standards or specifications or the location of buildings, structures, grading or other improvements relating to the Development of the Project in a manner which is inconsistent with or more restrictive than the Applicable Rules.

6. **Limitation on Increase of Fees for Build Out of the Project.** As they apply to the Project, the Property or the Developer (or its successors and assigns) as the owner/developer of the Project (or a portion thereof), if at all, all impact fees imposed by the City in connection with the Development of the Project, whether imposed in connection with map approvals, building permit issuance, certificate of occupancy issuance or any other discretionary or ministerial City approval, shall be fixed after the Entry Date of this Agreement at the rate in effect as of that date, including, without limitation, the following fees: Quimby Act Fees, Bridge and Thoroughfare Fees, Growth Requirement Capital Fees, Planned Drainage Facilities Fees, Planned Traffic Circulation Facilities Fees, Planned Water Facilities Fees, Sewer Connection Fee, Sewer Conveyance Fee, Storm Drain Fee, Wastewater Treatment Fee, and Water System Connection Fee (hereinafter "**Existing Impact Fees**"). Additionally, any new impact fees enacted by the City which take effect after the Entry Date of this Agreement shall not be applied to the Development of the Project or the Property. Provided, however, nothing in this Section shall limit the City Council's power to increase fees which reimburse the City for the reasonable cost of processing Development applications or reimbursing the City for its reasonable costs of building inspection or plan checking (collectively, "**Processing Fees**"). Any such increase in any Processing Fees applicable to the Project, the Property or the Developer (or its successors and assigns) as the owner/developer of the Project (or a portion thereof) which is not prohibited by this Agreement shall only be applicable to the Project, the Property and/or the Developer (or its successors and assigns) to the extent that any such Processing Fee increase is applied by the City consistently and proportionately in accordance with applicable law.

7. **Development of the Property.**

(a) **Permitted Uses.** The City and the Developer agree that the Development of the Property shall be in accord with the Entitlements which includes the Applicable Rules, and

the Subsequent Approvals, and as the same may be amended by the City with the written consent of the Developer.

(b) Development Standards. All Development and design requirements and standards applicable to the Property shall conform to the Existing Development Approvals, the Subsequent Approvals, and the Applicable Rules. The architectural design for the residential units shall be in accord with the requirements set forth in the Specific Plan.

(c) Maximum Height and Size. The maximum height of any buildings constructed within the Property shall conform to the Existing Development Approvals, the Subsequent Approvals, and the Applicable Rules.

(d) Conflicts with Agreement. In the case of any conflict between any condition of approval or mitigation measure, and the provisions of this Agreement, this Agreement shall govern, unless Developer agrees otherwise, in writing, in its sole discretion.

(e) Density and Intensity of Use. The maximum number of units permitted within the Property shall conform to the Existing Development Approvals, the Subsequent Approvals, and the Applicable Rules.

(f) Special Purpose Facility Park. The Special Purpose Facility Park shall be located on the 4.95 acre parcel designated as Lot 53 on TTM No. 5654 ("**Park Site**"). The Developer agrees to fully improve and dedicate to the City the Park Site. The Special Purpose Facility Park shall include full recreational amenities with a competition swimming facility and two baseball fields. The Developer shall record an Irrevocable Offer of Dedication dedicating Developer's property interest in the Special Purpose Facility Park to the City upon completion of the improvement of the Special Purpose Facility Park.

(i) Preparation of Special Purpose Facility Park Plans. On or before March 12, 2007, Developer shall meet with representatives designated by the City Manager to discuss the preparation of the Special Purpose Facility park plans ("**Park Plans**"). The Developer shall cause the preparation of the Park Plans. In developing the Park Plans, the Developer shall meet with and be responsive to all requests of the City's designated representatives as to the facilities and features to be included in the Park Plans. In addition to the customary amenities and specifications included in City parks, the Park Plans shall include a competition swimming facility and two baseball fields.

(ii) Review of Schematic Park Plans. On or before April 16, 2007, Developer shall present schematic Park Plans to the City's representatives for review and approval. Within twenty days of such submittal, City representatives shall provide Developer written approval or suggested revisions to the schematic Park Plans. If City representatives make suggested revisions, Developer shall have twenty days to either accept such suggested revisions or reject such revisions and shall notify City representatives in writing of Developer's decision. If the suggested revisions are rejected by Developer, the Developer shall have twenty days to either (a) present a revised set of schematic Park Plans to the City, or (b) declare impasse. If revised schematic Park Plans are submitted by Developer, the same process set forth above in this paragraph shall be used for review of such revised schematic Park Plans. If impasse is

declared by the Developer, then the impasse procedure set forth in section 7(f)(viii) below shall be invoked by Developer. If the City representatives approve schematic Park Plans or revised schematic Park Plans without suggested revisions, the Developer shall proceed in accordance with section 7(f)(iii), below.

(iii) Submission and Approval of Completed Park Plans. If the City representatives approve the schematic Park Plans or revised schematic Park Plans, the Developer shall have ninety days to submit completed Park Plans in such detail as the City requires for plan checking by the City's Development Services Division. When all revisions to such completed Park Plans have been made to the satisfaction of the City ("**Approved Park Plans**"), the Developer shall post a bond that is approved as to form by the City Attorney and approved as to amount by the City Manager that is sufficient to allow the City to complete the Approved Park Plans in the event the Developer defaults on its obligation to construct the improvements in accordance with the Approved Park Plans.

(iv) Dedication to the City. The Developer shall give notice to the City Manager of the completion of the Special Purpose Facility Park in accordance with the Approved Park Plans pursuant to the Notice requirements set forth in this Agreement and shall record the Irrevocable Offer of Developer's property interests therein. Within ninety days of the City's determination that the Special Purpose Facility Park has been completed in accordance with Approved Park Plans, the City shall accept the dedication of the Special Purpose Facility Park.

(v) Maintenance of the Special Purpose Facility Park by Developer. Warranties. The Developer shall maintain the Special Purpose Facility Park in good and safe condition until the City's acceptance of the Special Purpose Facility Park. During this maintenance period by the Developer, the Developer shall be responsible for maintaining the Special Purpose Facility Park improvements in proper operating condition, and shall perform such maintenance as the City Engineer reasonably determines to be necessary. As of the date of acceptance of the Special Purpose Facility Park and Developer's interest in the land upon which those improvements are built, the Developer shall assign to the City all of the Developer's rights in any warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to the Special Purpose Facility Park.

(vi) Construction Timing. Developer agrees that prior to recordation of the final map for Tract No. 5654, Developer shall have either (a) posted the bond referred to in section 7(f)(iii), above, or (b) declared impasse pursuant to and fully complied with section 7(f)(viii).

(vii) Delay in Agreement on Approved Park Plans. The City and the Developer acknowledge that the agreement on Approved Park Plans may be time consuming, therefore the Parties agree that the time periods set forth in section 7(f)(ii) and 7(f)(iii) may be extended by mutual written agreement of the Parties acting through their representatives.

(viii). Impasse Procedure. The Parties agree that it may not be feasible to agree on Approved Park Plans in a time-frame acceptable to the Developer. Therefore, the Parties agree that the Developer may declare impasse at any time after submission of schematic Park Plans and receiving suggested revisions from the City's designated representatives. If the

Developer chooses to declare impasse, the Developer may (a) dedicate the 4.95 acre Park Site to the City, and (b) pay to the City \$7.5 million, as adjusted from the Effective Date by the movement in the Engineering News Record Los Angeles Construction Cost Index. The Parties agree that Developer's dedication of the Park Site to the City and payment to the City of \$7.5 million, as so adjusted, will be deemed full compliance with the Developer's obligations with regard to the Special Purpose Facility Park pursuant to section 7(f). The Parties further agree that it is impractical or extremely difficult to fix the actual damages that may result if the Developer declares impasse. The City and the Developer therefore agree that the dedication of the Park Site and payment of \$7.5 million, as so adjusted, to the City is a reasonable method under the circumstances existing at this time of compensating the City.

(ix) Issuance of Building Permits. Before issuance of the 50th building permit for the construction of a residential unit for the Project, the Developer shall either (a) complete the Special Purpose Facility Park improvements, record the Irrevocable Offer of the Special Purpose Facility Park, and ninety days shall have passed after the recordation of the Irrevocable Offer, or (b) declare impasse pursuant to and comply with section 7(f)(viii).

(g) Changes and Amendments. The Parties acknowledge that refinement and further Development of the Project requires a special use permit ("SUP") and may require other Subsequent Approvals and may demonstrate that changes in the Project Development are appropriate and mutually desirable. In the event the Developer finds that a change to or amendment of the Entitlements is necessary and/or appropriate, the Developer shall apply for any Subsequent Approvals to effectuate such a change and the City shall use reasonable good faith and diligent efforts, within the time limits imposed by applicable law, to expeditiously process all necessary studies and approvals that may be required for a SUP and/or any other Subsequent Approvals, together with any necessary related mitigation measures and requirements, any tentative and final subdivision maps, public improvement plans, conditional use permits, permit for planned residential groups, site and design review(s) and other related Project Development approvals. In connection therewith, the City shall comply with all legally required notice and other requirements. Unless otherwise required by law, any Subsequent Approval shall be deemed "minor" and not require an amendment or addendum to this Agreement, provided such change does not:

(i) Alter the permitted uses of the Property; or

(ii) Substantially increase the density or intensity of use of the Property as a whole beyond that set forth in the Specific Plan; or

(iii) Substantially increase the maximum height and size of permitted buildings beyond that set forth in the Specific Plan.

(h) Affordable Housing Payment. Pursuant to City Ordinance No. 2721, the Developer is authorized to request, and City is obligated to accept, that, in lieu of providing certain affordable housing units within the Project, Developer may pay an affordable housing payment to the City's Affordable Housing Program in an amount calculated in accordance with Ordinance No. 2721 ("**Affordable Housing Payment**"). In connection with acquiring building

permits for residential dwelling units, Developer will pay the applicable Affordable Housing Payment without the benefit of any density bonus or other incentive.

(i) Quimby Fee. The City acknowledges that the Property will be developed to include the Special Purpose Facility Park. The City and the Developer agree that the reasonable value of the Developer's interest in the land upon which the Special Purpose Facility Park will be located and which will be dedicated to the City from the Developer, in addition to the improvements of the Special Purpose Facility Park to be made by the Developer, is well in excess of the park and recreation fees that the City is authorized to levy against the Developer pursuant to California Government Code section 66477 or any similar City statute or ordinance. Accordingly, the Developer shall not be required to pay any amounts pursuant to California Government Code section 66477 or any similar statute or City ordinance regarding provision of park land or payment of parks and recreation impact fees for this Project. As partial consideration for the City entering into this Agreement, in no event will the City be required to pay to the Developer any sum due to the reasonable value of the Special Purpose Facility Park being in excess of the amount of the fee that would otherwise be due pursuant to California Government Code section 66477.

(j) Rough Grading Prior to Recordation of the Final Maps Associated With TTM No. 5654. Subject to (i) the City's receipt, review and approval of a grading plan or interim grading plan (collectively the "**Grading Plan**"), geotechnical report and engineering geologic report (collectively, the "**Reports**") for the applicable portion of the Property, (ii) the Developer's satisfaction of the City's bonding requirements as to the grading work to be done pursuant to a grading permit, and (iii) the Developer's satisfaction of the City's requirements for the issuance of a grading permit with respect to such Grading Plan, the City agrees to review the Reports and the Grading Plan when submitted and issue a grading permit or interim grading permit with respect to the Grading Plan, subject to the Grading Plan's compliance with the Entitlements and all Applicable Rules. The City agrees that the reports and the Grading Plan will be reviewed by the City, that a grading permit or interim grading permit with respect to the Grading Plan may be issued and that the Developer may grade the Property in accordance with the approved Grading Plan without the Developer first recording the final maps associated with TTM No. 5654 in the Official Records of the County. Notwithstanding the foregoing, prior to the recordation of the final maps associated with TTM No. 5654, the Developer shall only complete the rough grading with respect to the Grading Plan and the finish grading on the Park Site.

(k) Sewer Lines and Fees

(i) In connection with the Development of the Project, the Developer shall construct, repair and/or upgrade to the extent necessary, as determined by the City's Water Resources Manager, sewer transmission lines to the extent necessary to serve the Project. The Developer shall pay for all costs associated with the construction of the sewer line infrastructure located on the Property and servicing the Project. Subject to Section 7(1)(ii) of this Agreement, should Developer construct Master Planned Sewer Improvements on the Property, City shall issue credits against the Existing Impact Fees imposed on the Project, and if such credits are insufficient, the City shall reimburse Developer for the City approved cost of the design and construction of the Master Planned Sewer Improvements in excess of the sewer

facility and connection fees, and other sewer costs chargeable to this Project under the Existing Impact Fees.

(ii) Upon the recordation of the first final map for the Project, Developer shall pay to City the amount of \$5,256 per residential unit for total sewer connection fees (\$3,798 per unit for treatment fees and \$1,458 per unit for conveyance fees) as payment in full for all of the sewer fees for the Project (the "**Project Sewer Fee**"). City and Developer agree that Developer's payment of the Project Sewer Fee represents the amount necessary to insure that adequate sewer capacity and facilities are available to properly serve the Project. In consideration for Developer's payment of the Project Sewer Fee at the recordation of the first final map for the Project, City agrees not to impose any additional sewer fee on the Project or any portion thereof for the term of this Agreement provided that the build out of the Project occurs at substantially the same number of dwelling units and the same density, as is permitted by TTM No. 5654.

(l) Fee Credit for Roadway Improvements.

To the extent that Developer constructs, improves or installs off-site Master Planned streets, and traffic facilities, including but not limited to, improvements to streets and intersection facilities located adjacent to the Project, Developer shall receive a credit against street facility and construction fees, including but not limited to bridge and thoroughfare fees, planned traffic circulation fees and similar fees chargeable to the Project under the City's Existing Impact Fees, in the amount of the City approved cost of the design and construction of such Master Planned streets and facilities constructed by Developer. If Developer has paid all or a portion of such fees prior to construction of the Master Planned streets and facilities, then Developer shall receive a refund of fees paid. In addition, should Developer construct off-site Master Planned streets and facilities, City shall agree to reimburse Developer for the actual cost of construction of such off-site Master Planned streets and facilities in excess of the street facility and construction and similar fee and cost chargeable to this Project under the Existing Impact Fees.

(m) Community Facilities Districts. The Developer agrees to provide for the continued maintenance of the Special Purpose Facility Park by a Communities Facilities District formed pursuant to California Government Code sections 53311, *et. seq.* (the "**Community Facilities District**") for the sole purpose of funding the cost of maintaining certain improvements, landscaping and facilities including, but not limited to the Special Purpose Facility Park, public recreation areas, recreation trails and equipment, bike lane and other services authorized pursuant to sections 53313 *et seq.* of the California Government Code. Future homeowners within the Project shall contribute towards the funding of the Community Facilities District in an amount not to exceed \$75.00 per household per month, with such amount increased yearly by not more than the increase in the Consumer Price Index for Los Angeles-Riverside-Orange County All Urban Consumers.

(o) Public Services for the Project. City acknowledges and agrees that City has and will have sufficient capacity for sewer collection, sewer treatment and sanitation service, and water treatment, distribution and service to accommodate the Project, as each final map for the Project is recorded. City has analyzed the existing and projected water needs for the areas

served by City and has determined that the City has the necessary water supplies available to properly serve the Project. To the extent that the City renders the services or provides the utilities referenced in this Section, the City agrees to timely grant or issue 89 residential water hookups and water hookup for the Special Purpose Facility Park. Notwithstanding the foregoing, the City may delay the granting of requested additional water hook ups for the Project, provided that all of the following conditions precedent occur: (i) after a duly noticed public hearing, the City Council imposes a ban on all new water hookups in the City, except for a ban on emergency hookups, legally mandated hookups, hookups for essential public purposes, and pass through hookups used solely to convey emergency water through the City to another public entity or public water provider; and (ii) after a duly noticed public hearing, the City Council makes findings, which are supported by substantial evidence, that the granting of additional water hookups in the Project would have a significant adverse impact on the public's health and safety. If the City Council delays the granting of requested additional water hookups for the Project under the preceding sentence, then, at such time as the City allows additional water hookups in the City, new water hookups in the Project shall have first priority for connection to the City's water system, with the exception of the following classes of hookups: emergency hookups, legally mandated hookups, hookups for essential public purposes and pass-through hookups used solely to convey emergency water through City to another public entity or public water provider.

(p) Reservations of Authority. Notwithstanding any other provision of this Agreement, this Agreement shall not prohibit the City from amending and applying to the Development of the Property the following:

(i) Processing fees and charges of every kind and nature imposed by the City on projects similar to the Project and applied uniformly throughout the City to cover the estimated actual costs to the City of processing applications for the Entitlements or for monitoring compliance with the Entitlements granted or issued.

(ii) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(iii) Regulations governing construction standards and specifications including, without limitation, the applicable Building Code, Plumbing Code, Mechanical Code, Electrical Code, and Fire Code.

(iv) Regulations that may be in conflict with the Site Plan attached as **Exhibit D**, and referenced in section 7 of this Agreement, so long as such regulations are necessary to protect the public from a serious and immediate threat to health and safety. To the extent possible, any such regulations shall be applied and construed so as to provide Developer with the rights and assurances under this Agreement.

(v) Regulations that are not in conflict with the Site Plan attached as **Exhibit D**, and referenced in section 7 of this Agreement. Any regulation, whether adopted by initiative or otherwise, limiting the rate, timing and/or sequencing of the Development of the Property shall be deemed in conflict with the Site Plan attached as **Exhibit D**, and described in

section 7 of this Agreement, and shall therefore not be applicable to the Development of the Property.

(vi) Regulations that are in conflict with the Site Plan attached as **Exhibit D**, and described in section 7 of this Agreement, provided Developer has given written consent to the application of such regulations to the Development of the Property.

(q) Compliance with Prevailing Wage Law. The following provisions regarding the application of prevailing wages shall apply to the Project:

(i) The Parties acknowledge that this Agreement does not, and is not intended to, vest the Developer with any right to obtain monetary assistance from the City for design, construction or installation of any part of the Project. The Project is a privately funded, privately constructed project which the Parties understand, based on existing law, decisions of the California courts, and public works determinations of the Director of the Department of Industrial Relations, is not a "public work" within the meaning of Labor Code, section 1720 and is not subject to payment of prevailing wages or other compliance with the Prevailing Wage Laws (Labor Code, section 1720 et seq.) The construction of the Special Purpose Facility Park improvements, is a private undertaking which will be completely funded by the Developer.

(ii) If Developer believes in good faith that the Prevailing Wage Laws do not apply to particular development activities occurring on or with respect to the Property, City agrees to provide reasonable cooperation and assistance to Developer in that regard, provided that such assistance shall be at no cost to City and the ultimate responsibility and risk for complying with applicable governmental requirements with respect to the Prevailing Wage Laws shall remain with Developer.

(iii) Developer shall defend, indemnify, and hold harmless the City, and its elected officials, officers, employees, volunteers, agents, and representatives (collectively, the "City Related Parties") from and against any and all liabilities, obligations, orders, claims, damages, fines, penalties and expenses (including attorneys' fees and costs) (collectively, "Claims"), arising out of or in any way connected with any breach the City is found to be in of its obligation to comply with the Prevailing Wage Laws with respect to the Development of the Property.

8. Subsequent Approvals

The Developer and the City expressly intend to cooperate and diligently work to process all applications, plans, maps, agreements, documents, and other instruments or entitlements necessary or appropriate for the completion of the Development of the Project pursuant to the Existing Development Approvals and Applicable Rules, including without limitation approvals necessary for rezoning, subdivision, design review approvals, site plan approvals, improvement agreements and other agreements, use permits, grading permits, dirt stockpile permits, encroachment permits, building permits, lot line adjustments, certificates of occupancy, sewer and water connection permits, zoning approvals, boundary adjustments, subdivision maps (including tentative, vesting tentative, parcel, vesting parcel, and final subdivision maps), certification of environmental impact reports, preliminary and final Existing Development

Approvals, landscaping plans, certificates of compliance, resubdivisions, and modifications to the Existing Development Approvals (collectively, "**Subsequent Approvals**"). With respect to the submittal of an application for any Subsequent Approval, the City shall review said applications expeditiously and shall apply the standards as set forth in the Applicable Rules with respect to the City's approval of said application(s). Without limiting the generality of the foregoing, the Developer may apply for multiple planned development permits and subdivision maps in connection with the Development of the Project.

(a) Expeditious Processing. The City agrees not to unreasonably withhold, condition or delay any Subsequent Approvals. Upon the filing of a complete application and payment of appropriate processing fees by the Developer, the City shall promptly commence and diligently:

(i) Review all applications and submittals related to the applications in an expeditious manner and consistent with the law;

(ii) Schedule and convene any and all required public hearings in an expeditious manner consistent with the law; and

(iii) Process all Subsequent Approvals in an expeditious manner consistent with the law.

(b) Incorporating Vested Project Approvals. Upon approval of any of the Subsequent Approvals, and as they may be amended from time to time, Developer shall have a "vested right," as that term is defined under California law, in and to such Subsequent Approvals by virtue of this Agreement for the term of this Agreement.

9. Life of Entitlements

The term of any subdivision map or other permit approved as part of the Entitlements shall automatically be extended to the term of this Agreement as provided under the applicable provisions of Government Code Section 66452.6(a) or Government Code Section 65863.9, unless a longer term would result under otherwise applicable State law or, in the absence of such State law, under otherwise applicable local law.

10. Public Services

In connection with the TTM No. 5654, the Developer has provided the City with all necessary studies required for the City to make a determination as to the availability of public facilities, utilities and services which are necessary for the Project. The City hereby acknowledges and agrees that when the Developer completes the public improvements called for by TTM No. 5654 for a specific utility or public infrastructure element in question, the City has and will have sufficient capacity in its existing infrastructure, services and utility systems for traffic circulation, sewer collection, sewer treatment, sanitation service and, except for reasons beyond City's control, water supply, treatment, distribution and service, and drainage, except for that portion governed by the County, to accommodate the Project as provided in this Agreement. To the extent the City renders such services or provides such utilities, the City hereby agrees to grant or issue hookups or service to the Project.

11. Other Governmental Permits and Fees

The City shall cooperate with the Developer's efforts to obtain such other permits and approvals as may be required by other governmental or quasi-governmental agencies (including, without limitation, annexation by water districts and/or approvals by other districts or special districts providing flood control, water supply, sewer, and fire protection) having jurisdiction over the Project in connection with the Development of, or provision of services to, the Project, and shall, from time to time at the request of the Developer, attempt with due diligence and in good faith to enter into binding agreements with any such entity necessary to assure the availability of such permits and approvals or services, provided such agreements are reasonable. The City shall use its best efforts to work with other governmental and quasi-governmental agencies so as to limit to the maximum extent possible the imposition of additional fees, dedications or exactions by or through such agencies.

12. Compliance Review.

(a) Periodic Review. Pursuant to California Government Code Section 65865.1, the City Manager of the City or the designee of the City Manager shall, not less than once in every twelve months, review the Project and this Agreement to ascertain whether or not the Developer is in good faith compliance with the terms of this Agreement (the "**Periodic Review**").

(b) Review Procedure. The City shall deliver to the Developer a copy of all public staff reports, documents and related exhibits concerning the City's review of the Developer's performance hereunder prior to any such periodic review. The Developer shall have the opportunity to respond to the City's evaluation of the Developer's performance, either orally or in a written statement, at the Developer's election. Upon completion of a Periodic Review, the City Manager shall submit a report to the City Council setting forth the evidence concerning good faith compliance by the Developer with the terms of this Agreement along with the City Manager's finding on that issue. Failure of the City Manager to so provide such a report shall be deemed to constitute the City's determination that the Developer is in good faith compliance with this Agreement. If, as a result of a Periodic Review, the City Council finds and determines on the basis of substantial evidence that the Developer has not complied in good faith with the terms or conditions of this Agreement, the City shall issue a written "Notice of Non-Compliance" to the Developer specifying the grounds therefore and all facts demonstrating such non-compliance. The Developer's failure to cure the alleged non-compliance within ninety days after receipt of the notice, or, if such non-compliance is not capable of being cured within ninety days, the Developer's failure to initiate all actions required to cure such non-compliance within ninety days after receipt of the notice, shall constitute a default under this Agreement on the part of the Developer and shall constitute grounds for the termination of this Agreement by the City as provided for below. The ninety day cure period provided for in this Section may be extended by the City at the request of the Developer.

(c) Termination or Modification for Non-Compliance. Pursuant to California Government Code Section 65865.1, if the City Council finds and determines, on the basis of substantial evidence, that the Developer has not complied in good faith with the terms or conditions of this Agreement, the City Council may modify or terminate this Agreement, after

the expiration of the applicable cure period, or extension thereof, provided in this Agreement. Any action by the City with respect to the termination or modification of this Agreement shall comply with the notice and public hearing requirements of California Government Code Section 65867 in addition to any other notice required by law. Additionally, the City shall give the Developer written notice of its intention to terminate or modify this Agreement and shall grant the Developer a reasonable opportunity to be heard on the matter and to oppose such termination or modification by the City.

13. Modification, Amendment, or Cancellation by Mutual Consent.

Pursuant to California Government Code Section 65868, this Agreement may be amended or canceled, in whole or in part, by mutual written consent of the City and the Developer or their successors in interest. Public notice of the Parties' intention to amend or cancel any portion of this Agreement shall be given in the manner provided by California Government Code Section 65867. Any amendment to this Agreement shall be subject to the provisions of California Government Code Section 65867.5. Any amendment of the Entitlements pursuant to Section 7(g) of this Agreement shall not require an amendment to this Agreement. Additionally, for purposes of this Agreement, the resubdivision of the Property or the filing of an amended subdivision map which creates new legal lots (including the creation of new lots within any designated remainder parcel) or which reflects a merger of lots, shall not require an amendment to this Agreement. Those Subsequent Approvals that are consistent with the General Plan and Specific Plan (as both have been amended pursuant to City Council Resolution Nos. ___ and ___) also shall not require an amendment to this Agreement.

Upon the written request of the Developer for a minor amendment or modification to the Entitlements including, but not limited to: (i) the location of buildings, streets and roadways and other physical facilities; or (ii) the configuration of the parcels, lots or Development areas, the City's Planning and Environmental Services Manager shall determine whether the requested amendment or modification is consistent with this Agreement and the Applicable Rules. For purposes of this Agreement, the determination of whether such amendment or modification is minor shall be made by reference to whether the amendment or modification is minor in the context of the overall Project. If the proposed amendment is both minor and consistent with this Agreement and the Applicable Rules, the City's Planning and Environmental Services Manager may approve the proposed amendment without notice and public hearing.

14. Termination.

(a) This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(i) Expiration of the Term of this Agreement as set forth in Section 3 of this Agreement, and as may be extended pursuant to this Agreement.

(ii) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.

(iii) Completion of the Project in accordance with the terms and conditions of this Agreement, including issuance of all required occupancy permits and acceptance by the City and/or applicable public agency of all required public dedications.

(b) Termination of this Agreement shall not constitute termination of any of the Entitlements (Existing Approvals and Subsequent Approvals) approved for the Property if the Developer has fully complied with all the provisions of section 7(f). If the Developer has failed to satisfy any of the provisions of section 7(f) then termination of this Agreement shall constitute termination of each and every Entitlement approved for the Property. Upon termination of this Agreement, no Party shall have any further right or obligation set forth in this Agreement except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement that has occurred prior to such termination or with respect to any obligations specifically set forth as surviving the termination or expiration of this Agreement. Upon such termination, any public facility and service mitigation fees paid by Developer to City for residential units on which construction has not begun shall be refunded to Developer by the City.

15. Defaults, Notice and Cure Periods, Events of Default and Remedies.

(a) Default By the Developer.

(i) Default. If the Developer does not perform its obligations under this Agreement in a timely manner, the City may exercise all rights and remedies it has in law or equity provided the City shall have first given written notice to the Developer and the Developer does not cure such default within the applicable cure periods as provided herein, and provided further the Developer may appeal such declaration in the manner provided in, and subject to all terms and provisions of this Agreement.

(ii) Notice of Default. If the Developer does not perform its obligations under this Agreement in a timely manner, the City through the City's Development Services Director may submit to the Developer a written notice of default in the manner prescribed in this Agreement for the sending of Notices, identifying with specificity those obligations of the Developer under this Agreement which have not been timely performed. Upon receipt of any such written notice of default, the Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of any such written notice of default and shall complete the cure of any such default(s) no later than one hundred and twenty days after receipt of any such written notice of default, or within such longer period as is reasonably necessary to remedy such default(s), provided the Developer shall commence the cure of any such default(s) within such one hundred and twenty day period and thereafter diligently pursue such cure at all times until any such default(s) is cured.

(iii) Failure to Cure Default Procedure. If after the cure period provided for in this Agreement has elapsed, the City's Development Services Director finds and determines the Developer, or its successors, transferees and/or assignees, as the case may be, remains in default and that the City intends to terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, the City's Development Services Director shall make a report to the Planning Commission and then set a public hearing

before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If after public hearing, the Planning Commission finds and determines that the Developer, or its successors, transferees and/or assigns, as the case may be, has not cured a default under this Agreement pursuant to this Section, the Developer, and its successors, transferees and/or assigns, shall be entitled to appeal that finding and determination to the City Council in accordance with the terms of this Agreement. Such right of appeal shall include, but not be limited to, an objection to the manner in which the City intends to modify this Agreement if the City intends as a result of a default of the Developer, or one of its successors or assigns, to modify this Agreement. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity. Nothing in this Section or this Agreement shall be construed as modifying or abrogating the City Council's review of Planning Commission actions.

(iv) Termination or Modifications of Agreement. The City may terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, after such final determination of the City Council or, where no appeal is taken after the expiration of the applicable appeal periods described in this Agreement. There shall be no modifications of this Agreement unless the City Council acts pursuant to Government Code Sections 65867.5 and 65868, irrespective of whether an appeal is taken as provided herein. Notwithstanding any other provision of this Agreement to the contrary, in the event that (A) the Developer, or any of its successors and assigns, assigns some, but not all, of its rights under this Agreement in connection with a sale of some, but not all, of the Property and (B) thereafter the Developer or one or more of its successors in interest under this Agreement is in default under this Agreement and either the Developer or one or more of its successors in interest under this Agreement is not in default under this Agreement, then any remedy the City may have the right to take under this Agreement, including the right of termination or modification of this Agreement, shall only apply to the Party(ies) that is (are) in default and the portion(s) of the Property owned by such Party(ies) and shall not apply to the Developer or any successor and/or assignee of the Developer under this Agreement that is not in default hereunder.

(v) Notwithstanding anything to the contrary contained herein, no Party shall be deemed to be in default where delays in performance or failures to perform are due to wars, insurrections, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, enactment of conflicting State or federal laws or regulations, new or supplemental environmental regulations, or other similar reasons for excused performance which are not within the reasonable control of the party to be excused. At the request of either Party, an extension of time for such cause will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

(vi) Lender Protection Provisions.

(A) Notice of Default. In addition to the notice provisions set forth above, the City shall send a copy of any notice of default to any lender that has made a loan then secured by a deed of trust against the Property, or a portion thereof, provided such lender shall have (i) delivered to the City written notice in the manner provided in Section 21(a) of such lender's election to receive a copy of any such written notice of default and (ii) provided to the City a recorded copy of any such deed of trust. Any such lender that makes a loan secured by a

deed of trust against the Property, or a portion thereof, and delivers a written notice to the City and provides the City with a recorded copy of any such deed of trust in accordance with the provisions of this Section is herein referred to as a **“Qualified Lender.”**

(B) Right of a Qualified Lender to Cure a Default. If the Developer, or any of its applicable successors or assigns, fails to timely cure any default under this Agreement within the time periods specified in Section 15(a)(ii), then the City shall send a written notice of any such failure to timely cure any such default to each Qualified Lender. From and after receipt of any such written notice of failure to cure, each Qualified Lender shall have the right to cure any such default, provided the Qualified Lender(s) commence the cure of any such default within thirty days after receipt of any such written notice of failure to cure and thereafter diligently pursues the cure thereof to completion. If the nature of any such default is such that a Qualified Lender cannot reasonably cure any such default without being the owner of the Property, or the applicable portion thereof, then so long as the Qualified Lender(s) is (are) proceeding to foreclose the lien of its deed of trust against the Property, or the applicable portion thereof, and after completing any such foreclosure promptly commence the cure of any such default and thereafter diligently pursues the cure of such default to completion, such Qualified Lender shall be deemed to be diligently pursuing the cure of any such default. Any lender that has made a loan to a party that owns a single family dwelling unit provided such party is not a developer of the Property or a portion thereof shall not be deemed to be a Qualified Lender.

(C) Exercise of City’s Remedies. Notwithstanding any other provision of this Agreement, the City shall not exercise any right or remedy it may have under this Agreement or otherwise arising out of a default under this Agreement by the Developer or any of its successors or assigns during the period of time which the Developer, any of its successors or assigns and/or a Qualified Lender has the right to cure any such default pursuant to this Section 15(a)(ii).

(D) No Impairment of Development Agreement to Mortgage. No default by the Developer (or any successor or assign) under this Agreement shall subordinate, invalidate or defeat the lien of any mortgage held by a lender. Neither a breach of any obligation secured by any mortgage held by a lender or other lien against the mortgaged interest, nor a judicial foreclosure, trustee’s sale or acceptance of a deed in lieu of foreclosure (a **“Foreclosure”**) under any mortgage or other lien, shall defeat, diminish, render invalid or unenforceable or otherwise impair the Developer’s rights or obligations, or constitute a default, under this Agreement. In no event shall a Foreclosure or other exercise by a lender of its pre- or post-Foreclosure rights in connection with a mortgage require any consent or approval by the City.

(E) Lender’s Obligations With Respect to the Property. Notwithstanding anything to the contrary in this Agreement, no lender shall have any obligations or other liabilities under this Agreement unless and until the lender acquires title to the portion of the Property that was subject to the applicable mortgage. Without limiting the foregoing, no lender shall have any obligations or other liabilities under this Agreement solely because it holds a mortgage, or an interest in any party or successor or assign.

(b) Default by the City.

(i) Default. In the event the City does not accept, process or render a decision in a timely manner on necessary Development permits, land use or building approvals, or other Entitlements as provided for in this Agreement, upon compliance with the requirements therefore, or as otherwise agreed to by the Parties, or the City otherwise defaults under the provisions of this Agreement, the Developer shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the City's obligations under this Agreement (which the City hereby agrees is an appropriate remedy) provided the Developer has first complied with the procedures in Section 15(b)(ii), but Developer shall not have the right to recover monetary damages for default of this Agreement other than reasonable attorneys' fees (including expert costs) and costs incurred. Notwithstanding the foregoing, nothing in this Agreement shall be deemed to preclude Developer from instituting a legal action to enforce any right or pursue any remedy, including monetary damages, based upon any alleged wrongful act of the City concerning the Development of the Property arising independently of the terms of this Agreement.

(ii) Notice of Default. Prior to the exercise of any other right or remedies arising out of a default by the City under this Agreement, the Developer shall first submit to the City a written notice of default stating with specificity those obligations which have not been performed under this Agreement. Upon receipt of the notice of default, the City shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default(s) no later than thirty days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default(s), provided the City shall continuously and diligently pursue each remedy at all times until such default(s) is cured. In the case of a dispute as to whether the City is in default under this Agreement or whether the City has cured the default, or to seek the enforcement of this Agreement, the City and the Developer may commence legal action pursuant to Section 22(p) of this Agreement.

16. Administration of Agreement and Resolution of Disputes

The Developer shall at all times have the right to appeal to the City Council any decision or determination made by any employee, agent or other representative of the City concerning the Project or the interpretation and administration of this Agreement. All City Council decisions or determinations regarding the Project or the administration of this Agreement shall also be subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5, provided that, pursuant to California Code of Civil Procedure Section 1094.6, any such action must be filed in a court of competent jurisdiction not later than ninety days after the date on which the City Council's decision becomes final. In addition, in the event the Developer and the City cannot agree whether a default on the part of the Developer, or any of its successors or assigns, under this Agreement exists or whether or not any such default has been cured, then the City or the Developer may commence legal action pursuant to Section 22(p) of this Agreement.

17. Recordation of this Agreement

Pursuant to California Government Code Section 65868.5, the City Clerk shall record a copy of this Agreement in the Official Records of the County within ten days after the mutual execution of this Agreement.

18. No Third Party Beneficiaries

This Agreement is made and entered into for the sole protection and benefit of the City, the Developer and their respective successors and assigns. No other person or entity shall have any right of action based upon any provision of this Agreement.

19. Conflict of City and State or Federal Laws

In the event that State or federal laws or regulations enacted after the date this Agreement is executed by the Parties prevent or preclude compliance with one or more provisions of this Agreement or require changes in the Entitlements, the City shall provide the Developer with written notice of such State or federal law or regulation, a copy of such law or regulation and a statement concerning the conflict with the provisions of this Agreement. The Parties shall, within thirty days, meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such State or federal law or regulation.

20. Assignment.

(a) Developer's Right to Assign. The Developer shall have the right to sell, lease, assign, hypothecate or otherwise transfer (a "**Transfer**") all or any portion of the Property (the "**Transferred Property**"), and to assign part or all of its rights, title and interest in and to this Agreement, to any person, partnership, joint venture, form or corporation (a "**Transferee**") at any time and from time to time during the term of this Agreement; provided, however, that Developer provide notice to the City Manager at least thirty days prior to the date upon which the Transfer takes effect, and any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties, and obligations arising under or from this Agreement and be made in compliance with the following terms and conditions precedent:

(i) The Developer's rights and obligations under this Agreement may be transferred only in conjunction with the Transfer of the portion of the Transferred Property to which the rights and obligations apply;

(ii) The Developer shall give written notice to the City after the closing or other completion of a Transfer, and shall concurrently deliver to the City a fully executed Assignment and Assumption Agreement between the Developer and the Transferee pursuant to which the Developer shall assign and delegate to the Transferee, and the Transferee shall accept, assume and agree to perform all of the rights and obligations of the Developer under this Agreement that are allocable to the Transferred Property (the "**Assignment and Assumption Agreement**"); and

(iii) Except as otherwise provided in this Section 20, upon recordation of the deed conveying title to the Transferred Property to the Transferee and delivery to the City of the fully executed Assignment and Assumption Agreement (the date of delivery to be the "**Transfer Date**"), the Transferee shall succeed to all of the Developer's rights under this

Agreement which relate to the Transferred Property (including without limitation the right to Transfer), and to all of the Developer's obligations which relate to the Transferred Property, and the Developer shall have no further rights or obligations under this Agreement with respect to the applicable Transferred Property, except for any such rights and obligations that accrued prior to the Transfer Date.

(b) Transfer of Obligations. If the Developer so elects in its sole discretion, the Developer may enter into a separate agreement with a Transferee (a "**Transfer Agreement**") concerning the allocation of rights and obligations between the Developer and its Transferee with respect to the Transferred Property. Without limiting the foregoing, a Transfer Agreement may contain provisions: (i) assigning to the Transferee any obligations that otherwise would not relate to the Transferred Property (provided the Transferee expressly assumes all such obligations); (ii) releasing the Transferee from any obligations that otherwise could relate to the Transferred Property; (iii) reserving to the Developer certain rights that relate to the Transferred Property and otherwise would be assigned in the Assignment and Assumption Agreement; (iv) assigning to the Transferee any of the Developer's other rights hereunder; and (v) defining and describing the extent to which the Transferee will be deemed to be a "Developer" hereunder. To the extent a Transfer Agreement reserves obligations to the Developer that otherwise would be allocable to the Transferred Property, the Transferee shall have no liability with respect to such reserved obligations and the Developer shall remain liable with respect thereto. To the extent a Transfer Agreement delegates obligations to a Transferee that otherwise would not be allocable to the Transferred Property, the Transferee shall be liable for the performance of such delegated obligations on and after the Transfer Date and the Developer shall have no further liability with respect thereto. Such Transfer Agreement shall not be binding upon or amend the City's rights or obligations under this Agreement unless the City agrees to such assignment of rights and obligations in writing. The City's agreement shall not be unreasonably withheld.

(c) Non-Assuming Transferees. The burdens, obligations and duties of the Developer under this Agreement shall terminate with respect to, and neither a Transfer Agreement nor the City's consent shall be required in connection with, any single parcel improved with a completed residential structure and leased for a period of longer than one year, or conveyed to a purchaser, for use rather than re-sale. The Transferee in such a transaction and its successors shall be deemed to have no obligations under this Agreement, but shall continue to benefit from the vested rights provided by this Agreement for the duration of the term. Immediately upon any such lease or conveyance, and without the execution or recordation of any further document, such parcel shall no longer be subject to or burdened by this Agreement.

(d) Covenants Run With the Land; Binding Effect. Subject to the terms, conditions and exceptions set forth in this Section 20 and elsewhere in this Agreement, this Agreement shall run with the land, and shall be binding upon and inure to the benefit of the Parties' respective successors and assigns (including without limitation all Transferees).

21. Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Section 20(a) of this Agreement shall not apply to the sale or lease (for a period longer than one year) of any lot that had been finally subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this

Agreement shall terminate with respect to any lot and such lot shall be released and no longer subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The lot has been finally subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and

(b) A certificate of occupancy has been issued for a building on the lot and the fees set forth in Section 6 of this Agreement have been paid.

21. Miscellaneous.

(a) Notices. All notices which are allowed or required to be given pursuant to the terms of this Agreement shall be in writing and (i) shall be deemed given and received when personally delivered or (ii) shall be deemed given when the same are deposited in the United States mail in a sealed envelope, with postage prepaid, to be sent by registered or certified mail or overnight mail service, addressed to the applicable designated person by one Party to the other in writing, and shall be deemed received on the second business day after such mailing.

All notices sent pursuant to the terms of this Agreement shall be addressed as follows:

If to City: City of Oxnard
 300 West Third Street
 Oxnard, California 93030
 Attention: City Manager
 Tel. No.: (805) 385-7430
 Fax No.: (805) 385-7595

with a copy to: City of Oxnard
 305 West Third Street
 Oxnard, California 93030
 Attention: Development Services Director
 Tel. No.: (805) 385-7877
 Fax No.: (805) 385-7854

 City of Oxnard
 300 West Third Street
 Oxnard, California 93030
 Attention: City Attorney
 Tel. No.: (805) 385-7483
 Fax No.: (805) 385-7423

City of Oxnard
305 West Third Street
Oxnard, California 93030
Attention: Planning & Environmental Services
Manager
Tel. No.: (805) 385-7863
Fax No.: (805) 385-7417

If to the Developer: Aldersgate Investment, LLC
300 E. Esplanade Drive, Suite 430
Oxnard, California 93036
Attention: Ernest T. Mansi, Managing Member
Tel. No.: (805) 988-4114
Fax No.: (805) 988-4116

with a copy to: Schroeder, Comis, Nelson & Kahn, LLP
300 E. Esplanade Drive, Suite 1170
Oxnard, California 93036
Attention: Mitchel B. Kahn
Tel. No.: (805) 604-4100
Fax No.: (604) 604-4150

(b) Severability. If any part, term, provision, covenant, or condition of this Agreement is declared invalid for any reason, such invalidity shall not affect the validity of the rest of this Agreement. The other parts of this Agreement shall remain in effect as if this Agreement had been executed without the invalid part. The City and the Developer declare that they intend and desire that the remaining parts of this Agreement continue to be effective without any part or parts that have been declared invalid.

(c) Entire Agreement; Conflicts. This Agreement represents the entire agreement between the City and the Developer with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, between the City and the Developer with respect to the matters contained in this Agreement. Should any or all of the provisions of this Agreement be found to be in conflict with any other provision or provisions found in the Applicable Rules, then the provisions of this Agreement shall govern and prevail.

(d) Further Assurances. The City and the Developer agree to perform, from time to time, such further acts and to execute and deliver such further instruments as the other Party or such Party's legal counsel may reasonably request to effect the intents and purposes of this Agreement, provided that the intended obligations of the City and the Developer are not thereby modified.

(e) Authority to Execute. By executing this Agreement, each of the undersigned covenants, warrants, and represents that he or she has the right, power and authority to execute this Agreement on behalf of the corporation, partnership, public agency or other entity for whom he or she is signing. Each Party represents and warrants that it has given any and all

notices, and obtained any and all consents, powers and authorities, necessary to permit it, and the persons executing this Agreement, to enter into this Agreement.

(f) Inurement and Assignment. Subject to Section 20 above, this Agreement shall inure to the benefit of and bind the successors and assigns of the City and the Developer.

(g) Project as a Private Undertaking. The Parties specifically understand and agree that the Development of the Project is a private undertaking, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. The only relationship between the City and Developer is that of a government entity regulating the Development of private property and the owner of such property.

(h) Attorneys' Fees. Notwithstanding Section 15 above, in the event of any claim, dispute or controversy arising out of or relating to this Agreement, including an action for declaratory relief or other legal action pursuant to Section 15 above, the prevailing party in such action or proceeding shall be entitled to recover its court and/or arbitration costs and reasonable out-of-pocket expenses not limited to taxable costs, including, but not limited to telephone calls, photocopies, expert witness, travel, and reasonable attorneys' fees and costs to be fixed by the court or the arbitrators. Such recovery shall include, but not be limited to, court costs, arbitration costs, out-of-pocket expenses and attorneys' fees and costs on appeal, if any. The court or the arbitrators shall determine who is the "prevailing party," whether or not the dispute or controversy proceeds to final judgment. If either Party is reasonably required to incur such out-of-pocket expenses and attorneys' fees as a result of any claim arising out of or concerning this Agreement or any right or obligation derived hereunder, then the prevailing party shall be entitled to recover such reasonable out-of-pocket expenses and attorneys' fees whether or not an action is filed.

(i) Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought.

(j) Force Majeure. In the event of changed conditions, changes in local, State or federal laws or regulations, floods, delays due to strikes, inability to obtain materials, civil commotion, fire, acts of God, or other circumstances which substantially interfere with carrying out the Project or with the ability of either the City or the Developer to perform its obligations under this Agreement, and which are not due to actions on the part of the Developer or the City and are beyond the reasonable control of the Developer and the City, the Developer and the City agree to bargain in good faith to modify this Agreement as may be necessary to achieve the goals and preserve the original intent of this Agreement.

(k) Section Headings. The section headings contained in this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.

(l) Singular and Plural. As used herein, the singular of any word includes the plural.

(m) Time of Essence. Time is of the essence of this Agreement, and all performances required hereunder shall be completed within the time periods specified. Any failure of performance shall be deemed a material breach of this Agreement.

(n) Counterparts. This Agreement and any modifications hereto may be executed in any number of counterparts with the same force and effect as if executed in the form of a single document.

(o) Incorporation of Recitals and Exhibits. All recitals set forth herein, and all exhibits referenced herein and/or attached hereto, are incorporated into and are effective parts of this Agreement.

(p) Choice of Law; Construction; Jurisdiction. The Parties agree that this Agreement shall be interpreted under the laws of the State of California and that the applicable law for any question or controversy arising out of or in any way related to this Agreement shall be the law of the State of California. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any Party. No presumptions or rules of interpretation based upon the identity of the Party preparing or drafting the Agreement, or any part thereof, shall be applicable or invoked.

(q) Estoppel Certificates. Either Party may at any time, and from time to time, deliver written notice to the other Party, requesting that the other Party certify in writing to the knowledge of the certifying Party that: (i) this Agreement is in full force and effect and is a binding obligation of the certifying Party; (ii) this Agreement has not been amended or modified, except as expressly identified; (iii) no default in the performance of the requesting Party's obligations pursuant to Agreement exists, except as expressly identified. A Party receiving a request hereunder shall execute and return the requested certificate within thirty days after receipt of the request.

23. Acceptance by City. For consideration received and acknowledged, Developer offers this Agreement and has executed this Agreement. The Developer's offer for the City to authorize the Mayor to execute this Agreement and for the City to enter into this Agreement shall remain valid until June 1, 2007.

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

DEVELOPER

ALDERSGATE INVESTMENT, LLC

By: _____
Ernest T. Mansi, Managing Member

CITY

CITY OF OXNARD, a municipal corporation
of the State of California

By: _____
Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Gary L. Gillig, City Attorney

EXHIBIT A

(Legal Description)

(Attached)

LEGAL DESCRIPTION

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

PARCEL 1:

A PORTION OF SUBDIVISION 23, OF THE RANCHO EL RIO DE SANTA CLARA O' LA COLONIA, CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, ACCORDING TO THE MAP FILED WITH THE ACTION ENTITLED, THOMAS A. SCOTT, ET AL., PLAINTIFFS VS RAFAEL GONZALES, ET AL., DEFENDANTS, IN THE OFFICE OF THE COUNTY CLERK OF SAID VENTURA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF GONZALES ROAD, AND THE EAST LINE OF SAVIERS ROAD AS SAID ROADS ARE DELINEATED UPON THE ABOVE DESCRIBED MAP; THENCE FROM SAID POINT OF BEGINNING.

- 1ST: EAST 39.62 CHAINS ALONG THE SOUTH LINE OF SAID GONZALES ROAD TO A POINT IN THE BOUNDARY LINE BETWEEN SUBDIVISIONS 23 AND 26 OF SAID RANCHO EL RIO DE SANTA CLARA O' LA COLONIA; THENCE ALONG SAME,
- 2ND: SOUTH 19.72 CHAINS TO THE NORTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND CONTAINING 78.13 ACRES, CONVEYED TO CAROLINE PFEILER, BY DEED DATED JANUARY 8, 1895, AND RECORDED IN BOOK 44, PAGE 278 OF DEEDS; THENCE AT RIGHT ANGLES,
- 3RD: WEST 39.62 CHAINS ALONG THE NORTH LINE OF SAID LANDS OF CAROLINE PFEILER, TO A POINT IN THE EAST LINE OF SAID SAVIERS ROAD, AT THE NORTHWEST CORNER OF SAID LANDS OF CAROLINE PFEILER, FROM WHICH A ROCK 18" X 6" X 4" IN DIMENSIONS, SET AT THE SOUTHWEST CORNER OF SAID SUBDIVISION 23 BEARS SOUTH 7.90 CHAINS DISTANT; THENCE,
- 4TH: NORTH 19.72 CHAINS ALONG THE EAST LINE OF SAID SAVIERS ROAD TO THE POINT OF BEGINNING.

EXCEPT FROM THE ABOVE DESCRIBED PARCEL OF LAND:

- (A) A STRIP OR PARCEL OF LAND 100 FEET WIDE, LYING EQUALLY ON EACH SIDE OF THE MAIN TRACT OF SOUTHERN PACIFIC RAILROAD COMPANY, AS CONVEYED TO SOUTHERN PACIFIC RAILROAD COMPANY, BY DEED DATED DECEMBER 1, 1897, AND RECORDED IN BOOK 54, PAGE 636 OF DEEDS.
- (B) A STRIP OR PARCEL OF LAND 15 FEET WIDE AND 1304 FEET LONG, LYING ADJOINING AND IMMEDIATELY EAST OF THE EAST LINE OF THE RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY, AS CONVEYED TO VENTURA COUNTY POWER COMPANY, BY DEED DATED NOVEMBER 17, 1906, AND RECORDED IN BOOK 108, PAGE 111 OF DEEDS.
- (C) THAT PORTION OF SAID LAND AS GRANTED TO THE CITY OF OXNARD, IN BOOK 4075, PAGE 387 OF OFFICIAL RECORDS
- (D) THAT PORTION OF SAID LAND AS CONTAINED IN A FINAL ORDER OF CONDEMNATION TO THE CITY OF OXNARD, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, RECORDED IN BOOK 5416, PAGE 824 OF OFFICIAL RECORDS.
- (E) THAT PORTION OF SAID LAND, AS CONTAINED IN THE FINAL ORDER OF CONDEMNATION TO THE OXNARD UNION HIGH SCHOOL DISTRICT, RECORDED JANUARY 28, 1993, AS INSTRUMENT NO. 93-16792.

PARCEL 2:

Parcel 2:

A PORTION OF SUBDIVISION 23, OF THE RANCHO EL RIO DE SANTA CLARA O' LA COLONIA, COUNTY OF VENTURA, STATE OF CALIFORNIA, ACCORDING TO THE MAP FILED WITH THE ACTION ENTITLED "THOMAS A. SCOTT ET AL., PLTFFS. V. RAFAEL GONZALES ET AL. DEFTS.", IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS THAT PORTION OF PARCEL 1 DESCRIBED IN THE DEED RECORDED JANUARY 28, 1993 AS DOCUMENT NO. 93-016792, OFFICIAL RECORDS OF SAID COUNTY, AS SHOWN ON THE MAP FILED IN BOOK 51 PAGE 48 AND 49 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT, AT THE INTERSECTION OF THE WEST LINE OF SAID DEED WITH A LINE PARALLEL WITH AND 39.00 FEET SOUTHERLY OF THE SOUTH LINE OF GONZALES ROAD (HALF WIDTH 25.00 FEET WIDE) AS SHOWN ON SAID MAP, SAID POINT BEING THE TRUE POINT OF BEGINNING;

1ST THENCE ALONG SAID PARALLEL LINE SOUTH 89 DEGREES 59' 26" EAST 39.94 FEET.

2ND THENCE LEAVING SAID PARALLEL LINE SOUTH 45 DEGREES 00' 58" EAST 13.53 FEET

3RD THENCE SOUTH 0 DEGREES 2' 31" EAST 157.71 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND NORTHWESTERLY AND HAVING A RADIUS OF 249.00 FEET;

4TH THENCE SOUTHERLY AND SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 43 DEGREES 04' 32" AN ARC DISTANCE OF 187.20 FEET TO A POINT ON THE CURVED WESTERLY LINE OF SAID PARCEL 1, THE RADIAL CENTER OF SAID CURVED LINE BEARS NORTH 65 DEGREES 58' 33" WEST 200.00 FEET;

5TH THENCE ALONG CURVED WESTERLY LINE THROUGH A CENTRAL ANGLE OF 24 DEGREES 00' 51" AN ARC DISTANCE OF 83.83 FEET;

6TH THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 0 DEGREES 00' 34" EAST 256.00 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT B

(Existing Development Approvals)

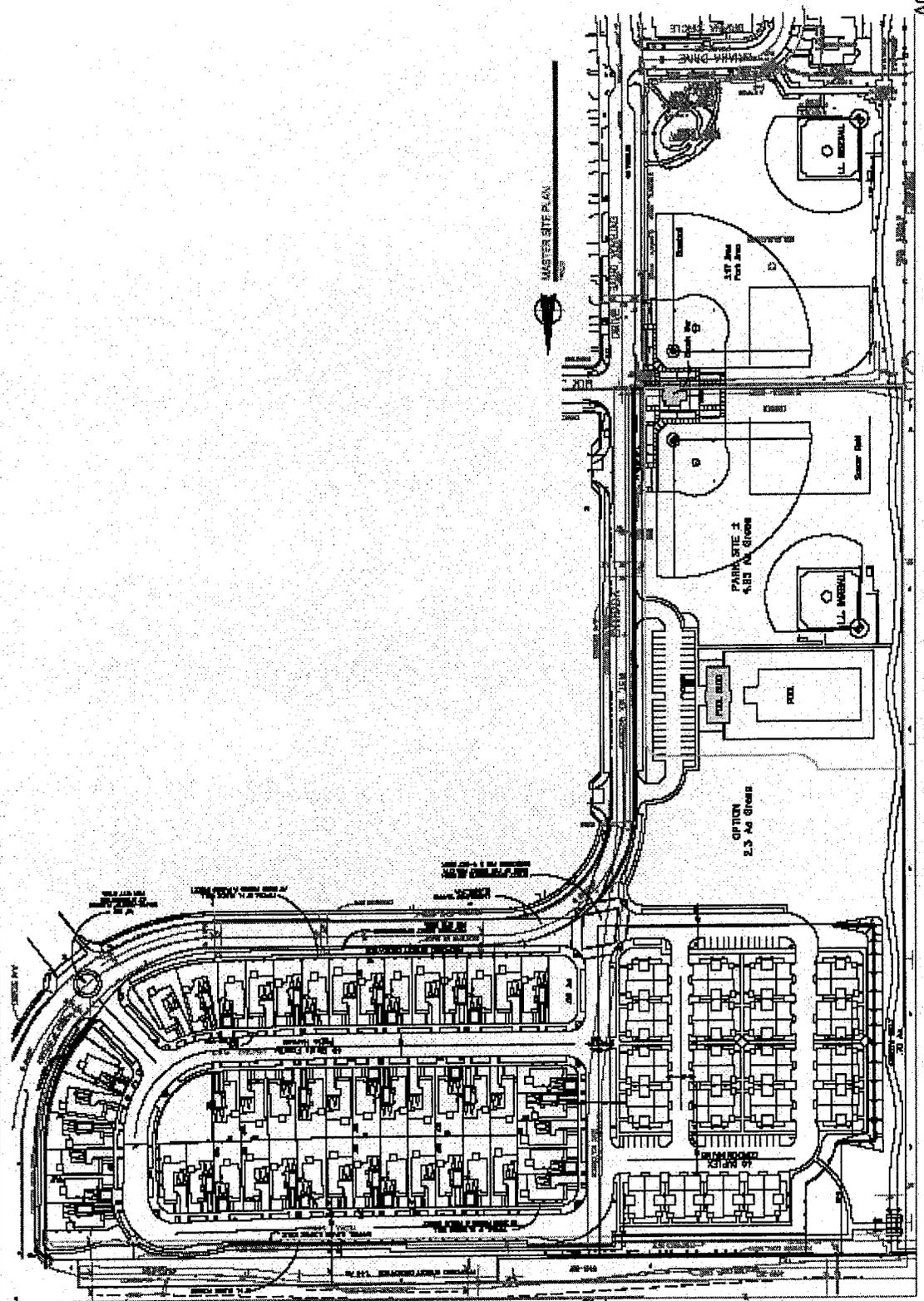
1. City of Oxnard 2020 General Plan
2. Northeast Community Specific Plan
3. Program Level NECSP Environmental Impact Report
4. Subsequent Lombard/Levy Environmental Impact Report
5. Subsequent Daily Ranch Environmental Impact Report
6. East Village Supplemental Environmental Impact Report
7. John Laing Homes Pfeiler Property Supplemental Environmental Impact Report
8. Final Supplemental Environmental Impact Report for the Centex Homes at Oxnard Gonzalez Project, SCH # 2006041071, certified by City of Oxnard Planning Commission on June 1, 2005, City Planning Commission Resolution No. 2006-29
9. All other Development Approvals for the Project in existence at the time this Agreement is executed by the Parties

EXHIBIT C

(Permitted Exceptions)

1. Easement for Central Trunk Sewer North Extension and related public uses, Case No. 69562, recorded in 1981 as Instrument No. 028205
2. Northeast Community Specific Plan School Facility Agreement among Oxnard School District, Oxnard Union High School District, Rio School District, Landowners and the City of Oxnard, recorded June 14, 1994 as Instrument Nos. 94-100764, 96-036490 and 97-127955
3. Easement for Sidewalk in favor of City of Oxnard, recorded December 2, 2002 as Instrument No. 02-303132
4. Right of Way dedication in favor of the City of Oxnard, recorded December 2, 2002 as Instrument No. 02-303133
5. Easement for public sidewalk in favor of the City of Oxnard, recorded December 2, 2002 as Instrument No. 02-303134

EXHIBIT D



SPORTIVO ENTRADA
RESIDENTIAL AND SPORTS PARK MASTER PLAN
GONZALES ROAD & ENTRADA DRIVE CHICAGO CA

Adlersgate Investment, LLC