

Recording Requested by And
When Recorded Return to:

City of Long Beach
411 W Ocean Blvd., 3rd Floor
Long Beach, CA 90802
Attn: Scott Kinsey

[Exempt From Recording Fee Per Gov. Code §6103]

DEVELOPMENT AGREEMENT

(River Park)

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into as of this ____ day of _____, 2022, pursuant to an action taken by the City Council of the City of Long Beach at its meeting held on _____, 2022, by and among the City of Long Beach, a California municipal corporation (“City”), and The River Park Project Owner, LLC, a Delaware limited liability company (“Owner”). City and Owner hereafter are referred to collectively as the “Parties” and individually as a “Party.”

RECITALS

1. City is authorized to enter into development agreements with persons having legal or equitable interests in real property for the development of such property pursuant to Article 2.5 of Chapter 4 of Division I of Title 7 of the California Government Code commencing with Section 65864 (the “Development Agreement Law”), and Article XI, Section 7 of the California Constitution.

2. City has enacted an ordinance, incorporated into the Long Beach Municipal Code as Title 21, Chapter 21.29 that establishes the procedures and requirements for its consideration of such development agreements upon application by, or on behalf of, persons having legal or equitable interests in real property pursuant to the Development Agreement Law and applicable City General and Specific Plans, policies and regulations.

3. Owner represents that it has an equitable interest in approximately twenty (20) acres of undeveloped real property in Long Beach, as more specifically described in Exhibit “A” (the “Subject Property”).

4. Owner has proposed a project for the Subject Property consisting of approximately 226 residential units, as well as a clubhouse, recreation area, publicly-accessible park, and pool area (the “Project”), which requires a zone change, vesting tentative tract map, street vacation, general plan conformity certification, lot line adjustment, and site plan review. The impacts of

the Project have been fully analyzed by the Long Beach River Park Residential Project Environmental Impact Report (SCH #2021020492). On _____, the Planning Commission of City, at a duly noticed public hearing, recommended, in Resolution _____, that the City Council certify the EIR (SCH #2021020492). The Planning Commission also recommended that the City Council approve the Project's vesting tentative tract map, street vacation, site plan, and other associated approvals in Resolution _____.

5. On _____, the City Council of City, at a duly noticed public hearing, adopted Resolution _____ certifying the Final Environmental Impact Report, SCH #2021020492 (the "Final EIR") for the Project and the related Mitigation Monitoring and Reporting Program and also adopted Resolution No. _____ ("Project Approvals").

6. The Parties concur that all of the requirements of the California Environmental Quality Act, contained in Division 13 of the California Public Resources Code, commencing with Section 21000, and implemented by the Guidelines contained in Chapter 3 of Title 14, commencing with Section 15000, of the California Code of Regulations ("CEQA") have been satisfied with respect to the Project.

7. On _____, after a duly noticed public hearing held pursuant to the Development Agreement Law and City's Municipal Code, the City Council of City approved the introduction of Ordinance No. _____ (the "Enacting Ordinance") that would approve and adopt this Agreement and authorize its execution on behalf of City. On _____ the City Council of City adopted the Enacting Ordinance.

8. The Parties intend that Owner will be permitted to proceed with development of the Subject Property pursuant to the Existing Land Use Regulations and Existing Development Approvals in existence on the Effective Date; provided, however, that the Parties also understand that new or different regulations and other requirements for development of the Subject Property may be imposed by laws or regulations of the Federal and/or State governments and/or various regional governmental agencies or entities with regulatory jurisdiction over aspects of the Project or Subject Property, all of which may, or may not, supersede the provisions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Owner agree as follows:

ARTICLE I. DEFINITIONS.

The following terms when used in this Agreement shall, unless defined elsewhere in this Agreement, have the meanings set forth below:

1.1 The term "Agreement" shall mean this Development Agreement by and between City and Owner and any subsequent amendments.

1.2 The term "City" shall mean the City of Long Beach, a municipal corporation, organized and existing under the laws of the State of California.

1.3 The term “City Council” shall mean the governing body of City.

1.4 The term “Development” shall mean the improvement of the Subject Property for the purposes of completing the structures, improvements and facilities comprising the Project, including but not limited to: grading; the construction of infrastructure related to the Project whether located within or outside the Subject Property; the construction of buildings and structures, and the installation of landscaping and public facilities and improvements. “Development” also includes the maintenance, repair, reconstruction, modification, or redevelopment of any building, structure, improvement, landscaping, or facility after the construction and completion thereof on the Subject Property. Attached hereto as Exhibit “B” is a copy of the approved site plan for the Development of the Subject Property.

1.5 The term “Development Director” shall mean City’s Director of Development Services, or designee.

1.6 The term “Development Plan” shall mean the existing plan for Development of the Subject Property, which includes all of the plans, specifications, and conditions of approval for Owner’s entitlement for Development of the Subject Property, the planning and zoning standards, regulations, and criteria for the Development of the Subject Property, including those set forth in this Agreement.

1.7 The term “Development Requirement” shall mean any requirement of City in connection with or pursuant to any Existing Development Approvals for the construction or improvement of public facilities, the payment of fees or assessments in order to lessen, offset, mitigate or compensate for the impacts of Development on the environment, or the advancement of the public interest.

1.8 The term “Effective Date” means the later of (i) the date on which the Adopting Ordinance becomes effective, typically thirty (30) days after the second reading of the Adopting Ordinance, or (ii) the date this Agreement is recorded in the records of the Los Angeles County Recorder following the date the Owner acquires fee simple title to the Subject Property (the “Closing”).

1.9 The term “Existing Development Approvals” shall mean any and all permits, licenses, consents, rights and privileges, and other actions approved or issued by City in connection with Development of the Subject Property on or before the Effective Date, including but not limited to, zone changes and other legislative approvals, site plans, parcel maps and tentative tract maps, infrastructure improvement plans, approval of a community facilities district, and grading and building-related permits, as well as all associated environmental documentation and mitigation measures pursuant to the California Environmental Quality Act.

1.10 The term “Existing Land Use Regulations” shall mean all ordinances, resolutions, codes, rules, regulations and official policies of City, including but not limited to City’s development impact fees, adopted and effective on or before the Effective Date governing Development and use of the Subject Property, including but not limited to the permitted use of land, the density or intensity of use, the maximum height and size of proposed buildings, and the

architectural design, improvement and construction standards and specifications applicable to the Development of the Subject Property including but not limited to, the Development Plan.

1.11 The term “Mortgagee” shall mean a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security device, a lender, or each of their respective successors and assigns.

1.12 The term “Owner” shall mean The River Park Owner, LLC, a Delaware limited liability company and/or its successors or assigns to any portion of or all of the Subject Property.

1.13 The term “Project” shall mean the Development of the Subject Property as an approximately 226-unit residential development with a clubhouse, recreation area, publicly-accessible park, and pool area pursuant to and consistent with the Development Plan and the provisions of this Agreement.

1.14 The term “Site Plan” shall mean the site plan attached hereto as Exhibit “B”.

1.15 The term “Subject Property” shall mean that certain real property more particularly described in Exhibit “A” attached hereto.

1.16 The term “Subsequent Development Approvals” shall mean any and all permits, licenses, consents, rights and privileges, and other actions approved or issued by City in connection with Development of the Subject Property after the Effective Date.

1.17 The term “Subsequent Land Use Regulations” shall mean any ordinances, resolutions, codes, rules, regulations and official policies of City adopted and effective after the Effective Date.

1.18 The term “Term” shall mean the period of time during which this Agreement shall be in effect and bind the Parties, as set forth in Section 3.4 of this Agreement, unless earlier terminated as provided in this Agreement.

ARTICLE 2. EXHIBITS.

The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit “A”	Legal Description of the Subject Property
Exhibit “B”	Approved Site Plan and Elevations for the Project
Exhibit “C”	List of Permitted Assignees
Exhibit “D”	Assignment and Assumption Agreement
Exhibit “E”	Release of Development Agreement
Exhibit “F”	City of Long Beach Impact Fee Schedule

ARTICLE 3. GENERAL PROVISIONS.

3.1 **Binding Effect of Agreement.** From and following the Effective Date, Development of the Subject Property and City's actions on applications for Subsequent Development Approvals shall be subject to the terms and conditions of this Agreement.

3.2 **Ownership of Subject Property.** City and Owner acknowledge and agree that Owner has the requisite legal or equitable interest in the Subject Property, and thus Owner is qualified to enter into and be a party to this Agreement in accordance with Government Code Section 65865(b).

3.3 **Assignment Rights.** Owner shall have the right to sell, transfer, or assign the Subject Property in whole or in part (provided that no such parcel transfer shall violate the Subdivision Map Act, Government Code Section 66410, *et seq.*) and the rights and obligations under this Agreement to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement (collectively, "Assignment"); so long as (i) the assignee is an entity on the list attached hereto as Exhibit "C", as the same may be amended from time to time during the term of this Agreement with the concurrence of the Director of Development Services, and (ii) any such sale, transfer or assignment shall include an assignment and assumption of the rights, duties and obligations arising under or from this Agreement in form and substance reasonably similar to the form attached hereto as Exhibit "D". Any proposed assignee that does not satisfy clause (i), above, must first be reasonably approved by City after review by City of assignee's certified financial statements and any other documents City may request pertaining to the proposed assignee's ability to meet its obligations hereunder.

3.3.1 **Release of Transferring Owner.** Notwithstanding any Assignment, a transferring Owner shall continue to be obligated under this Agreement unless such transferring Owner is given a release in writing by City, which release shall be provided by City upon the full satisfaction by such transferring Owner of all of the following conditions:

(a) Owner no longer has a legal or equitable interest in all or any part of the Subject Property;

(b) Owner is not then in default under this Agreement; and

(c) The assignee provides City with security equivalent to any security previously provided by Owner to secure performance of its obligations hereunder.

3.3.2 **Subsequent Assignment.** Any subsequent Assignment after an initial Assignment shall be made only in accordance with and subject to the terms and conditions of this Agreement.

3.3.3 Partial Release of Purchaser, Transferee or Assignee of Parcel. A purchaser, transferee or assignee of a lot which has been finally subdivided and for which a site plan for development of the lot has been finally approved (a "Parcel") may submit a request, in writing, to City to release said lot from the obligations under this Agreement by executing a form of Release of Development Agreement attached hereto as Exhibit "E." Within thirty (30) days following such request, City shall review, and if the conditions contained in Section 3.3.1 are satisfied, shall execute and deliver to the purchaser, transferee or assignee the appropriate form of Release. No such release approved pursuant to this Section 3.3.3 shall cause, or otherwise effect, a release of Owner from its duties and obligations under this Agreement.

3.3.4 Termination of Agreement With Respect to Individual Parcels upon Sale to Public and Completion of Construction. The provisions of Section 3.3 shall not apply to the sale or lease (for a period longer than one year) of any Parcel which has 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 such Parcel and such Parcel shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The Parcel 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 final inspection card has been issued for a building on the Parcel, and the fees set forth under this Agreement have been paid.

For purposes of this Section 3.3.4, a transfer shall be deemed to be "in bulk" if it involves the conveyance of more than one Parcel and the transferee will not be the ultimate user of the Parcels. Notwithstanding the foregoing, Owner acknowledges that, unless and until an assignment of the Subject Property has occurred pursuant to Section 3.3 of this Agreement, Owner is responsible for (i) ensuring the completion of all Project conditions and (ii) the payment of all applicable fees to the extent any conditions are not satisfied or any fees remain unpaid following the transfer or development of a parcel.

3.4 Term. Unless earlier terminated as provided in this Agreement, this Agreement shall continue in full force and effect until the earlier of (i) the date of completion of the last portion of the Development, or (ii) the date that is ten (10) years from and after the Effective Date.

3.5 Waiver of Estoppel Defenses by City. Notwithstanding any legal authorities to the contrary concerning the doctrines of waiver and estoppel as applied to public entities and the actions or inactions of public agencies or public agency officers and officials, City acknowledges and agrees that Owner and its successors and assigns to all or any interest in the Subject Property is relying upon the contents of this Agreement and City's execution of this Agreement and the recordation hereof, and that in consideration of such material reliance, City shall now and forever be estopped from denying the validity of this Agreement and City knowingly and expressly waives any such claim or defense.

3.6 **No Obligations to Proceed with Project.** Nothing in this Agreement shall obligate Owner to proceed with any part of or the entirety of the Project. Owner maintains sole and absolute discretion over whether to commence and/or complete any portion of the Project or the Project in its entirety and nothing in this Agreement shall be construed to impose upon Owner an obligation to commence the construction of and/or complete the Project.

ARTICLE 4. DEVELOPMENT OF THE SUBJECT PROPERTY

4.1 **Vested Right to Develop.** Subject to and during the term of this Agreement, Owner shall have a vested right to develop the Subject Property in accordance with the Development Plan and this Agreement.

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

4.3 **Subsequent Development Approvals / Minor Modifications.** To the extent applicable, City shall accept for processing, review and action all applications for Subsequent Development Approvals, and such applications shall be processed in the manner applicable to other residential property developments. City further agrees that, unless otherwise requested by Owner and provided that this Agreement has not terminated due to Owner default, City shall not amend or rescind any Subsequent Development Approvals respecting the Subject Property after such approvals have been granted by City. City agrees to allow modifications to the type, mix and layout of the Project's 226 residential units ("Minor Modifications") with approval from the Development Director. City further agrees to allow modifications to the Project's Site Plan with approval from the Development Director, provided that all modifications are in substantial conformance with the approved Site Plan attached to this Agreement as Exhibit "B". The modifications described in this Section 4.3 shall not require approval by the Planning Commission or the City Council.

4.4 **Timing of Development.** The Parties acknowledge that Owner cannot at this time predict when or the rate at which phases of the Subject Property will be developed. Such decisions depend upon numerous factors which are not within the control of Owner, such as market orientation of demand, interest rates, absorption, completion and other similar factors. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 455, 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, it is the Parties' intent to cure that deficiency by expressly acknowledging and providing that Owner shall have the right to develop the Subject Property, or to not develop the Subject Property, in such order and such rate and at such time as Owner deems appropriate within the exercise of its subjective business judgment in its sole and absolute discretion. In addition, to the extent Owner or its assignee decide to proceed with a phase of the development of the Subject Property, City shall cooperate with Owner or its assignee with respect to the phasing of the development of the Subject Property.

4.5 Terms of Maps and Other Project Approvals. Pursuant to California Government Code Sections 66452.6(1) and 65863.9, any subdivision or parcel map may be processed on all or any portion of the Subject Property and the term of each of the development approvals, including the Tentative Map and any future approvals, shall be extended for a period of time through the scheduled termination date of this Agreement, as set forth above.

4.6 Changes and Amendments. The Parties acknowledge that although Development of the Project may require Subsequent Development Approvals, such Development shall be in compliance with the Development Plan. The above notwithstanding, Owner may determine that changes are appropriate and desirable in the existing Development Approvals or Development Plan. In the event Owner finds that such a change is appropriate or desirable, Owner may apply in writing for an amendment to prior Development Approvals or the Development Plan to effectuate such change. The Parties acknowledge that City shall be permitted to use its sole and absolute discretion in deciding whether to approve or deny any such amendment request; provided, however, that in exercising the foregoing, City shall not apply a standard to Owner that is less favorable or different than applied by City to any other residential property developments. In addition, the Parties acknowledge and agree any modification to the Development that does not meet the thresholds set forth in 14 Cal. Code of Regs. Section 15162 shall be deemed to be a minor modification and shall not require any subsequent environmental review. Any change in the Development Approvals or Development Plan made pursuant to Owner's application and deemed a material change by City, shall require an amendment to this Agreement. Any such amendment shall be solely for the purpose of acknowledging the change to the Development Approvals or Development Plan, as the case may be.

4.7 Reservation of Authority.

4.7.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the Development of the Subject Property:

(a) Processing fees and charges of every kind and nature imposed by City to cover the estimated actual costs to City of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued.

(b) Procedural regulations consistent with this Agreement relating to hearing bodies, petitions, applications, notices, findings, records, hearing, reports, recommendations, appeals and any other matter of procedure.

(c) Changes adopted by the International Conference of Building Officials, or other similar body, as part of the then most current versions of the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code, or National Electrical Code, and also adopted by City as Subsequent Land Use Regulations.

(d) Regulations that are not in conflict with the Development Plan and this Agreement and do not impede the Development, or add to the cost of the Development of the Project.

(e) Regulations that are in conflict with the Development Plan provided Owner has given written consent to the application of such regulations to Development of the Subject Property at Owner's sole and absolute discretion.

(f) Federal, state, county, and multi-jurisdictional laws and regulations which City is required to enforce against the Subject Property or the Development of the Subject Property.

(g) Payment of development impact fees in effect at the time that certificates of occupancy are issued for the development or any portion thereof, except all of City's impact fees related to transportation, sewer, police, fire and public safety will be calculated based on the impact fees in effect as of the Effective Date, as more particularly described in Exhibit "F."

4.7.2 Future Discretion of City. This Agreement shall not prevent City, in acting on Subsequent Development Approvals, from applying subsequent Land Use Regulations that do not conflict with the Development Plan, nor shall this Agreement prevent City from denying or conditionally approving any Subsequent Development Approval on the basis of Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

4.7.3 Modification or Suspension by Federal, State, County, or Multi-Jurisdictional Law. In the event that federal, state, county, or multi-jurisdictional laws or regulations, enacted after the Effective Date, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such federal, state, county, or multi-jurisdictional laws or regulations, and this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provision impractical to enforce.

4.8 Future Voter Actions. It is the intent of the Parties that future voter actions adopting Subsequent Land Use Regulations shall not apply to the Project unless such voter actions promote, advance, or otherwise further the intent and expeditious development of the Project pursuant to and consistent with the terms and conditions of this Agreement.

4.9 Financing District Formation. City and Owner agree to cooperate in the formation of a financing district in order to finance, at Owner's sole election, some or all of certain improvements and obligations required of Owner pursuant to the Existing Development Approvals and this Agreement.

4.10 Conditions of Approval. Owner shall comply with the Project conditions of approval.

4.11 Covenants, Conditions and Restrictions. Owner agrees to declare Covenants, Conditions and Restrictions ("CC&Rs") applicable to the entire Project, which will be administered by a Homeowners Association ("HOA") to be established by Owner.

4.12 Payment of Impact Fees. Los Angeles County and School Developer Fees and the Long Beach Water Department's Sewer Capacity Fee are due and payable prior to the issuance

of a building permit in connection with the Project. The City's applicable developer impact fees are due and payable prior to final building inspection or issuance of a certificate of occupancy, whichever comes first.

4.13 **Affordable Housing.** Owner or its assignee shall provide either (i) no less than five percent (5%) of the total housing units for very low income households as defined in Section 50105 of the California Health & Safety Code, or (ii) no less than ten percent (10%) of the total housing units for lower income households as defined in Section 50079.5 of the California Health & Safety Code.

ARTICLE 5. PUBLIC BENEFITS

5.1 **Vacation of Baker Street Right of Way.** The Owner has applied for the vacation of Baker Street west of the prolongation of the western right of way line of Golden Avenue to the eastern edge of the Los Angeles County Flood Control District-owned parcel located immediately to the west of the Subject Property (the "District Parcel"). City staff shall consider the vacation of Baker Street concurrently with its consideration of the Project Approvals.

5.1.1 **Maintenance Access Agreements.** The Owner or its assignee shall grant maintenance access easements to (i) the Los Angeles County Flood Control District ("District"); (ii) the Los Angeles County Department of Public Works ("County"), (iii) the City, and (iv) any franchisees, utility owners, or other similar owners of property rights in or under the vacated portions of Baker Street (collectively, the "Baker Street Licensees"). The maintenance access easements shall respectively allow (i) the District, the County and the City access to the District Parcel to the west, and (ii) the Baker Street Licensees access to the vacated portions of Baker Street.

5.1.2 **Public Access Agreements.** The Owner or its assignee shall grant a public access easement of sufficient width for pedestrian and bicycle access from Golden Avenue to the western line of the Subject Property for the purpose of connecting public right-of-way to the east of the Subject Property to the Los Angeles River Trail.

5.1.3 **Lot Line Adjustment.** If necessary to satisfy Subdivision Map Act requirements, the City shall process a Lot Line Adjustment on two Los Angeles County Flood Control-owned parcels to move the southerly lot line of parcel no. 7203-001-900/northerly lot line of parcel no. 7203-001-901 to the south to align with the westerly prolongation of the southern edge of the 34th Street ROW (based upon that segment of 34th St. directly east of said parcels), for the purpose of allowing public street access directly to parcel no. 7203-001-900 and avoid land locking parcel no. 7203-001-900 through the vacation of Baker Street.

5.2 **Vacation of Wardlow Road Right of Way.** The Owner has applied for the vacation of the unused Wardlow Road right of way adjacent to the southwest of the Subject Property per the specifications set forth by the City's Public Works Department and as shown on the Site Plan. City staff shall consider the vacation of the Wardlow right of way concurrently with its consideration of the Project Approvals. This real property shall be added to the Subject Property in order to meet building setback requirements, and City shall execute a quitclaim deed in favor of

Developer or such other documents as may be reasonably necessary to evidence ownership of such property by Developer.

5.3 **Traffic Signal.** Following the City's issuance of the first building permit to Owner or its assignee, the Owner or its assignee shall install a traffic signal and related right-of-way reconfigurations at the Project driveway at Wardlow Road to the specifications issued by the City Traffic Engineer. Such traffic signal and related reconfigurations and improvements shall be installed and operational prior to the issuance of the first certificate of occupancy for the Project. . In addition, Owner or its assignee shall bear full cost of plans, permits, and installation. Prior to the installation of the traffic signal, any Project driveway on Wardlow Road shall be barricaded at all times to prevent use, and all construction and employee traffic shall be routed to the Subject Property using other roads. Construction and hauling traffic routes shall be approved by the City Traffic Engineer prior to usage.

5.4 **Publicly-Accessible Park on Private Land.** The Owner or its assignee shall improve the northern approximately five (5) acres of the Subject Property north of Baker Street as a publicly-accessible park subject to the following:

(a) The park shall be open to the public in perpetuity at times reasonably established by the City.

(b) The park shall be developed and maintained in such a way as to appear to be a seamless extension of the City's Baker Street Park, which abuts the site to the east.

(c) Parks, Recreation, and Marine ("PRM") to advise regarding the planning of the park at Owner or its assignee's expense, and Owner or its assignee shall be responsible for preparing all plans and procuring all permits, if any, to the satisfaction of Directors of Development Services and PRM.

(d) The Owner or its assignee shall complete park infrastructure at or prior to the completion of the infrastructure for the other portions of the Project. The park shall be roughly 50% complete on or before the issuance of the 45th residential building permit, and the Owner or its assignee shall construct the park to completion, and such park shall have been approved by PRM, no later than the issuance of the 90th residential building permit.

(e) The Owner or its assignee shall commence grading for the park concurrently with the grading of the residential development.

(f) Upon completion of the park and its improvements, the HOA established for the residential development shall provide for the on-going maintenance of the privately-owned park in perpetuity to the standards required for City parks and this requirement shall be part of the residential development's CC&Rs.

(g) The Owner, its assignee, and/or the HOA shall not be responsible for any maintenance of the City-owned portion of Baker Street Park. The Owner, its assignee, and the HOA shall not have any liability whatsoever for the City-owned portion of Baker Street Park.

(h) The Owner or its assignee shall construct a restroom at the City-owned portion of Baker Street Park to PRM specifications. The City shall be responsible for the maintenance of the restroom.

5.5 Wrigley Heights Dog Park. The Owner or its assignee shall make improvements to the Wrigley Heights Dog Park, which adjoins the development site to the southeast. The improvements shall include benches, trash cans, signs, drinking fountains, and message boards in the park, replacement of the fence adjacent to the residential development, installation of a gate between the residential development and the dog park, and installation of a new fence within the dog park creating separate areas for large dogs and small dogs, as specified by the Director of Parks, Recreation, and Marine. The Owner or its assignee shall work cooperatively with the City to prepare the necessary plans and the procurement of necessary permits, if any.

5.6 Remediation of Contamination. The Owner or its assignee shall obtain a No Further Action (NFA) Letter (or equivalent concurrence) from the Los Angeles Regional Water Quality Control Board (RWQCB) covering the Subject Property, or the final portion thereof not covered by previous letters of no further action, prior to residential occupancy of any dwelling unit or opening of the park to any user. The HOA shall be responsible for the ongoing maintenance of the sludge pits/bioswales/biofiltration areas in perpetuity (or until the RWQCB issues an NFA status for those areas); this shall be recorded in the CC&Rs. Preceding references to the RWQCB shall also mean the Department of Toxic Substance Control (DTSC) if the RWQCB specifies that the Department of Toxic Substance Control (DTSC) shall oversee or approve part or all of any required remediation, or otherwise be responsible for issuance of an NFA.

5.7 Right of Way Improvements. The Owner or its assignee shall construct all of the public improvements identified in the technical advisory committee comments applicable to the Project dated June 27, 2022, each to City Public Works specifications.

ARTICLE 6. REVIEW FOR COMPLIANCE

6.1 Periodic Review. The City Council shall review this Agreement annually, on or before the anniversary of the Effective Date, in order to ascertain the good faith compliance by Owner with the terms of this Agreement. As part of that review, Owner shall submit an annual monitoring review statement describing its actions in compliance with this Agreement, in a form acceptable to the Development Director or his/her authorized designee, at least thirty (30) days prior to each anniversary of the Effective Date. The statement shall be accompanied by an annual review and administration fee sufficient to defray the estimated costs of review and administration of this Agreement during the succeeding year. The amount of the annual review and administration fee shall be set by resolution of the City Council. No failure on part of City to conduct or complete the review as provided herein shall have any impact on the validity of this Agreement.

6.2 Special Review. The City Council may, in its sole and absolute discretion, order a special review of compliance with this Agreement at any time at City's sole cost. Owner shall cooperate with City in the conduct of such special reviews.

6.3 **Procedure.** Each Party shall have a reasonable opportunity to assert matters which it believes have not been undertaken in accordance with this Agreement, to explain the basis for such assertion, and to receive from the other Party a justification of its position on such matters.

6.3.1 If on the basis of the Parties' review of any terms of this Agreement, either Party concludes that the other Party has not complied in good faith with the terms of this Agreement, then such Party may issue a written "Notice of Non-Compliance" specifying the grounds therefor and all facts demonstrating such non-compliance.

6.3.2 The Party receiving a Notice of Non-Compliance shall have thirty (30) days to cure or remedy the non-compliance identified in the Notice of Non-Compliance, or if such cure or remedy is not reasonably capable of being completed within such thirty (30) days period, to commence to cure or remedy the non-compliance and to diligently and in good faith prosecute such cure or remedy to completion.

6.3.3 If the Party receiving the Notice of Non-Compliance does not believe it is out of compliance and contests the Notice, it shall do so by responding in writing to said Notice of Non-Compliance within thirty (30) days after receipt of the Notice.

6.3.4 If the response to the Notice of Non-Compliance has not been received in the offices of the Party alleging the non-compliance within the prescribed time period, the Notice of Non-Compliance shall be presumed to be valid unless good cause exists for not responding within the time period.

6.3.5 If a Notice of Non-Compliance is contested, the Parties shall, for a period of not less than fifteen (15) days following receipt of the response, seek to arrive at a mutually acceptable resolution of the matter(s) occasioning the Notice of Non-Compliance. In the event that a cure or remedy is not timely effected or, if the Notice of Non-Compliance is contested and the Parties are not able to arrive at a mutually acceptable resolution of the matter(s) by the end of the fifteen (15) day period, the party alleging the non-compliance may thereupon pursue the remedies provided in Article 6 of this Agreement.

6.3.6 Neither Party hereto shall be deemed in breach if the reason for non-compliance is due to a "force majeure" as defined in, and subject to the provisions of, Section 12.9.

6.4 **Certificate of Agreement Compliance.** If, at the conclusion of a periodic or special review, Owner is found to be in compliance with this Agreement, City shall, upon request by Owner, issue a Certificate of Compliance with Development Agreement in the form attached hereto as Exhibit "G" ("Certificate") to Owner stating that after the most recent periodic or special review and based upon the information known or made known to the City Council that (1) this Agreement remains in effect and that (2) Owner is in compliance. The Certificate, whether issued after a Periodic or Special Review, shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, and shall state that the Certificate expires upon the earlier of (i) one (1) year from the date thereof, or (ii) the date of recordation of a notice of termination of development agreement. Owner may record the Certificate with the County Recorder. Additionally, Owner may at any time request from City a

Certificate stating, in addition to the foregoing, which obligations under this Agreement have been fully satisfied with respect to the Subject Property, or any lot or parcel within the Subject Property.

ARTICLE 7. DEFAULT AND REMEDIES

7.1 **Specific Performance Available.** The Parties acknowledge and agree that specific performance is the preferred remedy available for the enforcement of this Agreement. However, nothing in the foregoing shall be construed to constitute a waiver of the right to obtain monetary damages from the other Party by reason of default of this Agreement. Subject to the cure rights set forth in Section 6.3, any material default by Owner or City of this Agreement or any of the conditions of approval of any of the Development Approvals that is not timely cured by Owner or City shall be deemed a material default by Owner or City of this Agreement.

7.2 Termination of this Agreement.

7.2.1 **Termination of Agreement for Default of Owner.** City may terminate this Agreement for any failure of Owner to perform any duty or obligation of Owner hereunder or to comply in good faith with the terms of this Agreement (hereinafter referred to as “default” or “breach”); provided, however, City may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 6.3.

7.2.2 **Termination of Agreement for Default of City.** Owner may terminate this Agreement for any default by City; provided, however, Owner may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 6.3 and thereafter providing written notice by Owner to City of the default setting forth the nature of the default and the actions, if any, required by City to cure such default and, where the default can be cured, the failure of City to cure such default within thirty (30) days after the effective date of such notice or, in the event that such default cannot be cured within such thirty (30) day period, the failure of City to commence to cure such default within such thirty (30) day period and to diligently proceed to complete such actions and to cure such default.

7.2.3 **Rights and Duties Following Termination.** Upon the termination of this Agreement, no Party shall have any further right or obligation hereunder except with respect to (i) any obligations to have been performed prior to said termination, (ii) any default in the performance of the provisions of this Agreement which has occurred prior to said termination, or (iii) restoration of any portion of the Subject Property owned by City to its general condition prior to the Effective Date.

7.3 **Institution of Legal Action.** Subject to notice of default and opportunity to cure under Section 6.3, in addition to any other rights or remedies, any Party to this Agreement may institute legal action to cure, correct, or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, or to obtain any other remedies consistent with this Agreement. If a legal action or proceeding is brought by any Party to this Agreement because of default, or to enforce a provision hereof, the prevailing Party shall be entitled to reimbursement of all costs and expenses, including attorneys’ fees, incurred in prosecuting such legal action or proceeding. This provision is separate and severable, and shall survive the merger of this Agreement into any judgment on this Agreement.

ARTICLE 8. THIRD PARTY LITIGATION

The City shall promptly notify Owner of any claim, action, or proceeding filed and served against the City to challenge, set aside, void, annul, limit or restrict the approval and continued implementation and enforcement of this Agreement. Owner agrees to fully defend and indemnify the City for all costs of defense and/or judgment obtained in any such action or proceeding. This indemnification clause shall only apply if Owner approves of the selection of defense counsel for the City, which approval shall not unreasonably be withheld. The City and Owner agree to cooperate in the defense of such action(s).

ARTICLE 9. MORTGAGEE PROTECTION

9.1 The Parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Subject Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Subject Property. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Owner and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. Subject to compliance with applicable laws, City will not unreasonably withhold its consent to any such requested interpretation or modification provided City determines such interpretation or modification is consistent with the intent and purposes of this Agreement.

9.2 Any Mortgagee of the Subject Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Subject Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Subject Property, or any part thereof, which Mortgagee has submitted a request in writing to City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by Owner in the performance of Owner's obligations under this Agreement.

(c) If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Owner under the terms of this Agreement, City shall make a good faith effort to provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Owner. The Mortgagee shall have the right, but not the obligation, to cure the default during the period that is the longer of (i) the remaining cure period allowed such Party under this Agreement, or (ii) thirty (30) days.

(d) Any Mortgagee who comes into possession of the Subject Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of Owner's obligations or other affirmative covenants of Owner hereunder, or to guarantee such performance; except that (i) to the

extent that any covenant to be performed by Owner is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and (ii) in the event any Mortgagee seeks to develop or use any portion of the Subject Property acquired by such Mortgagee by foreclosure, deed of trust, or deed in lieu of foreclosure, such Mortgagee shall strictly comply with all of the terms, conditions and requirements of this Agreement and the Development Plan applicable to the Subject Property or such part thereof so acquired by the Mortgagee.

ARTICLE 10. INDEMNITY

Owner agrees to and shall indemnify, defend, and hold harmless City and City's officers, officials, members, employees, agents, and representatives (collectively, "Indemnified Parties"), from and against any and all claims, liabilities, damages, and losses, including without limitation reasonable attorneys' fees and litigation expenses, including court costs and expert witness fees (collectively, "Claims"), due to the death or personal injury of any person, or physical damage to any person's real or personal property, caused by the construction of improvements by, or construction-related activities of, Owner or Owner's employees, agents, representatives, servants, invitees, consultants, contractors, or subcontractors (collectively, "Owner's Representatives") on the Subject Property, or for any construction defects in any improvements constructed by Owner or Owner's Representatives on the Subject Property or for any other work related to this Agreement; provided, however, that the foregoing indemnification shall not apply to the extent such Claims are proximately caused by the negligence or willful misconduct of City, or City's officers, officials, members, employees, agents, or representatives, subject to any immunities which may apply to City with respect to such Claims. The foregoing indemnification provision shall survive the termination of this Agreement.

ARTICLE 11. COMPLIANCE WITH APPLICABLE LAW

11.1 **Compliance with Laws.** Owner shall cause all work performed in connection with construction of the Project to be performed in compliance with (a) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies (including, without limitation, all applicable federal and state labor standards, including the prevailing wage provisions of Section 1770, *et seq.* of the California Labor Code), and (b) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. Owner shall indemnify, defend and hold the Indemnified Parties harmless from any and all Claims based upon or arising from the failure of any work related to the Project to comply with all such applicable legal requirements, including, without limitation, any such Claims that may be asserted against or incurred by any of the Indemnified Parties with respect to or in any way arising from the Project's compliance with or failure to comply with applicable laws, including all federal and state labor requirements including, without limitation, the requirements of California Labor Code Section 1770, *et seq.*

11.2 **Public Works.** Owner agrees that all public work (as defined in California Labor Code Section 1720) performed pursuant to this Agreement (the "Public Work") shall comply with the requirements of California Labor Code Section 1770, *et seq.* City makes no representation or

statement that the Project, or any portion thereof, is or is not a “public work” as defined in California Labor Code Section 1720.

11.3 Public Work Contracts. In all bid specifications, contracts and subcontracts for any Public Work, Owner (or its general contractor, in the case of subcontracts) shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification or type of worker needed to perform the Public Work, and shall include such rates in the bid specifications, contract or subcontract. Such bid specifications, contract or subcontract must contain the following provision: “It shall be mandatory for the contractor to pay not less than the said prevailing rate of wages to all workers employed by the contractor in the execution of this contract. The contractor expressly agrees to comply with the penalty provisions of California Labor Code Section 1775 and the payroll record keeping requirements of California Labor Code Section 1771.”

This Article 11 shall survive the termination of this Agreement.

ARTICLE 12. MISCELLANEOUS PROVISIONS

12.1 Recordation of Agreement. A fully-executed original of this Agreement shall be deposited into Escrow directing that this Agreement shall be recorded immediately after recordation of the grant or other deed to Owner by which Owner acquires the Property. Pursuant to Government Code Section 65868.5, upon recordation, the burdens of this Agreement and each of its provisions shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties. Any amendments to this Agreement approved by the Parties, and any cancellation hereof, shall be similarly recorded.

12.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the Parties with respect to the subject matter set forth herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

12.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the invalid provision shall be deemed to be severable from the remaining provisions contained within this Agreement. The Parties hereby state and acknowledge they would have adopted each provision contained within this Agreement notwithstanding the presence of an invalid provision.

12.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party or in favor of City shall not be employed in interpreting this Agreement, all Parties having been represented by counsel in the negotiation and preparation hereof.

12.5 **Section Headings.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

12.6 **Singular and Plural.** As used herein, the singular of any word includes the plural.

12.7 **Waiver.** Failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

12.8 **No Third Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit for the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

12.9 **Force Majeure.** Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by earthquakes, the acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the Party's employment force), court actions (such as restraining orders or injunctions), or other causes beyond the Party's reasonable control. If any such events shall occur, the term of this Agreement and the time for performance shall be extended for the duration of each such event, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

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

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

12.12 **Litigation.** Any action at law or in equity arising under this Agreement or brought by any Party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Los Angeles, State of California, or such other appropriate court in said county, and the Parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court. Service of process on City shall be made in accordance with California law. Service of process on Owner shall be made in any manner permitted by California law and shall be effective whether served inside or outside California. In the event of any action between City and Owner seeking enforcement of any of the terms and conditions to this Agreement, the prevailing party in such action shall be awarded, in addition to such relief to which such party entitled under this Agreement, its reasonable litigation costs and expenses, including without limitation its expert witness fees and reasonable attorney's fees.

12.13 **Covenant Not To Sue.** The Parties to this Agreement, and each of them, agree that this Agreement and each term hereof is legal, valid, binding, and enforceable. The Parties to this Agreement, and each of them, hereby covenant and agree that each of them will not commence, maintain, or prosecute any claim, demand, cause of action, suit, or other proceeding against any

other Party to this Agreement, in law or in equity, or based on an allegation, or assert in any such action, that this Agreement or any term hereof is void, invalid, or unenforceable.

12.14 Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties that the Development of the Subject Property is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Owner is that of a government entity regulating the Development of private property, on the one hand, and the holder of a legal or equitable interest in such property and as future holder of fee title to such property, on the other hand.

12.15 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

12.16 Amendments in Writing/Cooperation. This Agreement may be amended only by written consent of both Parties specifically approving the amendment and in accordance with the Government Code Section 65868. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify the intent and application of this Agreement, and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters. Minor, non-material modifications may be approved by the City Manager in consultation with the City Attorney.

12.18 Corporate Authority. The person(s) executing this Agreement on behalf of each of the Parties hereto represent and warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such Party is bound.

12.19 Notices. All notices under this Agreement shall be effective upon personal delivery, via facsimile so long as the sender receives confirmation of successful transmission from the sending machine, or three (3) business days after deposit in the United States mail, registered, certified, postage fully prepaid and addressed to the respective Parties as set forth below or as to such other address as the Parties may from time to time designate in writing:

To City: City of Long Beach
411 W Ocean Blvd., 3rd Floor
Long Beach, CA 90802
Attn: Development Services Director

City of Long Beach
411 W Ocean Blvd., 9th Floor
Long Beach, CA 90802
Attn: City Attorney

To Owner: The River Park Project Owner, LLC
888 San Clemente, Suite 100
Newport Beach, CA 92660
Attn: John Stanek and Caren Read

Copy to: John A. Ramirez
Rutan & Tucker, LLP
18575 Jamboree Road, 9th Floor
Irvine, CA 92612
Phone: 714-662-4610
Fax: 714-546-9035

12.20 **Nonliability of City Officials.** No officer, official, member, employee, agent, or representatives of City shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, member, employee, agent, or representative.

12.21 **No Brokers.** City and Owner represent and warrant to the other that neither has employed any broker and/or finder to represent its interest in this transaction. Each Party agrees to indemnify and hold the other free and harmless from and against any and all liability, loss, cost, or expense (including court costs and reasonable attorney's fees) in any manner connected with a claim asserted by any individual or entity for any commission or finder's fee in connection with this Agreement arising out of agreements by the indemnifying Party to pay any commission or finder's fee.

[end – signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first set forth above.

City:

CITY OF LONG BEACH

By _____
Thomas B. Modica
City Manager, City of Long Beach

Owner:

THE RIVER PARK PROJECT OWNER, LLC, a
Delaware limited liability company

By: _____
John Stanek, Authorized Representative

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

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature_____

(Seal)

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

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature_____

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

EXHIBIT A
LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF LONG BEACH, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THOSE PORTIONS OF LOTS 3 AND 4 OF [TRACT NO. 1400](#), IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18 PAGE 96 OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF SAID LOT 3 WITH THE WESTERLY LINE OF THE PACIFIC ELECTRIC RAILWAY COMPANY'S 70 FOOT RIGHT OF WAY, AS DESCRIBED IN DEED RECORDED IN [BOOK 3991 PAGE 88, OFFICIAL RECORDS](#); THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 3 TO ITS INTERSECTION WITH THE EASTERLY LINE OF THE LOS ANGELES COUNTY FLOOD CONTROL CHANNEL, THENCE NORTHERLY ALONG THE EASTERLY LINE OF FLOOD CONTROL CHANNEL TO ITS INTERSECTION WITH THE SOUTHEASTERLY LINE OF PACIFIC ELECTRIC RAILWAY COMPANY'S 120 FOOT RIGHT OF WAY, AS DESCRIBED IN DEED RECORDED IN [BOOK 5596 PAGE 175 OF DEEDS](#), THENCE SOUTHEASTERLY ALONG AFORESAID SOUTHWESTERLY LINE OF RIGHT OF WAY TO ITS INTERSECTION WITH THE WESTERLY LINE OF PACIFIC ELECTRIC RAILWAY COMPANY'S 70 FOOT RIGHT OF WAY, AS DESCRIBED IN DEED RECORDED IN [BOOK 3991 PAGE 88, OFFICIAL RECORDS](#), THENCE SOUTHERLY AND WESTERLY ALONG AFORESAID WESTERLY LINE OF SAID 70 FEET RIGHT OF WAY TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION OF SAID LOT 4 INCLUDED WITHIN THE LAND DESCRIBED IN THE DEED FROM AMELIA M. E. BIXBY TO GREGORIO ENCINAS, RECORDED MAY 18, 1920 IN [BOOK 7086 PAGE 273, OF DEEDS RECORDS](#) OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 4, OF [TRACT NO. 1400](#), THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT 4, A DISTANCE OF 535 FEET; THENCE EASTERLY AND PARALLEL WITH THE CENTER LINE OF WILMINGTON STREET, AS SHOWN ON MAP OF SAID [TRACT NO. 1400](#), A DISTANCE OF 510 FEET; THENCE SOUTHERLY AND PARALLEL WITH THE EASTERLY LINE OF SAID LOT 4, A DISTANCE OF 555 FEET TO THE CENTER LINE OF SAID WILMINGTON STREET; THENCE WESTERLY AND ALONG THE CENTER LINE OF WILMINGTON STREET, 510 FEET TO ITS INTERSECTION WITH THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF SAID LOT 4, THENCE NORTHERLY AND ALONG THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF LOT 4, A DISTANCE OF 20 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THAT PORTION OF SAID LAND LYING NORTHERLY OF THE SOUTHERLY LINE OF THE LAND DESCRIBED IN PARCEL 1, OF THE DEED TO THE STATE OF CALIFORNIA, RECORDED MAY 12, 1958 AS [INSTRUMENT NO. 1464 IN BOOK D96 PAGE 899, OF OFFICIAL RECORDS](#), OF SAID COUNTY.

PARCEL 2:

THOSE PORTIONS OF LOTS 2, 3, 6, 7, 10 AND 11 OF [TRACT NO. 2220](#), IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 22 PAGE 97, OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF LOT 6 OF [TRACT NO. 1400](#), IN SAID COUNTY AND STATE, AS PER MAP RECORDED IN [BOOK 18 PAGE 96 OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF LOT 2 OF SAID [TRACT NO. 2220](#), WITH THE WESTERLY LINE OF THE PACIFIC ELECTRIC RAILWAY COMPANY'S RIGHT OF WAY, AS DESCRIBED IN DEED RECORDED IN [BOOK 3991 PAGE 88, OFFICIAL RECORDS](#), SAID POINT LYING IN THE SOUTH LINE OF 72C101A (6/06) 2 ALTA Commitment - 2006

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EXHIBIT A
(Continued)

WILMINGTON STREET, THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID WILMINGTON STREET, TO THE EASTERLY LINE OF THE LOS ANGELES COUNTY FLOOD CONTROL CHANNEL; THENCE SOUTH 0° 04' 15" WEST ALONG SAID EASTERLY LINE 1599.17 FEET TO A POINT IN THE CENTER LINE OF A WING LEVEE OF THE SAID LOS ANGELES COUNTY FLOOD CONTROL, SAID POINT LYING NORTH 0° 04' 15" EAST 29.2 FEET FROM THE NORTH LINE OF WARDLOW ROAD; THENCE ALONG SAID CENTRAL LINE OF WING LEVEE NORTH 44° 46' 45" EAST TO A POINT IN THE WESTERLY LINE OF SAID PACIFIC ELECTRIC RAILROAD COMPANY'S RIGHT OF WAY; THENCE NORTHERLY ALONG SAID WESTERLY LINE TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND LYING SOUTHWESTERLY OF THE NORTHEASTERLY LINE OF WARDLOW ROAD AS DESCRIBED IN DEED TO THE COUNTY OF LOS ANGELES, RECORDED NOVEMBER 16, 1950 AS [INSTRUMENT NO. 3649, IN BOOK 34834, PAGE 403, OF OFFICIAL RECORDS](#), OF SAID COUNTY.

PARCEL 3:

THOSE PORTION OF LOTS 6, 7, 10, AND 11 OF [TRACT NO. 2220](#), IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 22 PAGE 97 OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, WHICH ARE INCLUDED WITHIN THE 60 FEET STRIP OF LAND DESCRIBED IN THE DEED TO THE PACIFIC ELECTRIC RAILWAY COMPANY, RECORDED IN [BOOK 3991 PAGE 88, OFFICIAL RECORDS](#) OF SAID COUNTY.

EXCEPT THAT PORTION OF SAID 60 FEET STRIP, LYING NORTHERLY OF A LINE DRAWN AT RIGHT ANGLES TO THE EASTERLY LINE OF SAID LOT 6 AND WHICH PASSES THROUGH A POINT IN SAID EASTERLY LINE DISTANT SOUTHERLY 500 FEET, MEASURED ALONG THE EASTERLY LINE OF LOTS 2, 3, AND 6 OF SAID [TRACT NO. 2220](#), FROM THE NORTHEASTERLY CORNER OF SAID LOT 2.

ALSO EXCEPT THAT PORTION OF SAID LAND LYING WITHIN THE LINES OF THE LAND DESCRIBED IN DEED TO THE CIVILIAN MOUNTED GUARD INC. RECORDED MAY 7, 1951 AS [INSTRUMENT NO. 2968 IN BOOK 36229 PAGE 106 OF OFFICIAL RECORDS](#), OF SAID COUNTY.

PARCEL 4:

THAT PORTION OF [TRACT NO. 2220](#), IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 22 PAGE 97 OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BOUNDED ON THE WEST BY THE EASTERLY LINE OF THE 60 FEET STRIP OF LAND DESCRIBED IN DEED TO PACIFIC RAILWAY COMPANY, RECORDED IN [BOOK 3991 PAGE 89, OFFICIAL RECORDS](#), ON THE EAST BY THE EASTERLY LINE OF LOT 7 OF SAID TRACT, OR ITS PROLONGATION ON THE NORTH BY A LINE DRAWN AT RIGHT ANGLES WITH THE WESTERLY LINE OF GOLDEN AVENUE AS SHOWN ON SAID MAP, AND WHICH PASSES THROUGH A POINT THEREIN DISTANT SOUTHERLY 500 FEET FROM THE NORTHEASTERLY CORNER OF LOT 2 OF SAID [TRACT NO. 2220](#), AND ON THE SOUTH BY A LINE DRAWN AT RIGHT ANGLES WITH SAID WESTERLY LINE AND WHICH PASSES THROUGH A POINT THEREIN DISTANT SOUTHERLY 608 FEET FROM THE NORTHEASTERLY CORNER OF SAID LOT 2.

PARCEL 5:

THAT PORTION OF LOT 10 OF [TRACT NO. 2220](#), IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 22 PAGE 97 OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 10, THENCE NORTH 0° 02' 45" EAST ALONG THE EASTERLY LINE OF SAID LOT 10, A DISTANCE OF 40.08 FEET TO THE TRUE POINT OF BEGINNING,



EXHIBIT A
(Continued)

SAID POINT OF BEGINNING BEING ON A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 916.79 FEET, A RADIAL LINE THROUGH SAID POINT HAVING A BEARING OF NORTH 61° 46' 05" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE 37.50 FEET TO A POINT A RADIAL LINE THROUGH SAID LAST MENTIONED POINT HAVING A BEARING OF NORTH 64° 06' 42" EAST; THENCE SOUTH 89° 57' 15" EAST 17.08 FEET TO A POINT THENCE SOUTH 0° 02' 45" WEST ALONG THE EASTERLY LINE OF SAID LOT 10 A DISTANCE OF 33.38 FEET TO THE POINT OF BEGINNING.

PARCEL 6:

THAT PORTION OF LOT 11 [TRACT NO. 2220](#), IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 22 PAGE 97 OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID PARCEL WHICH IS NORTH 89° 57' 15" WEST 13.00 FEET FROM A POINT WHICH IS SOUTH 0° 02' 45" 56.43 FEET FROM THE NORTHEASTERLY CORNER OF SAID LOT 11; THENCE NORTH 89° 57' 15" WEST 15.62 FEET TO A POINT; THENCE NORTH 44° 44' 47" EAST 13.65 FEET TO A POINT SAID LAST MENTIONED POINT BEING A CURVE CONCAVE TO THE NORTHEASTERLY HAVING A RADIUS OF 1454.22 FEET A RADIAL LINE THROUGH SAID POINT HAVING A BEARING OF NORTH 58° 25' 57" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE 11.42 FEET TO THE POINT OF BEGINNING; A RADIAL LINE THROUGH SAID LAST MENTIONED POINT HAVING A BEARING OF NORTH 57° 58' 58" EAST; THE ABOVE DESCRIBED PARCEL IS BOUNDED NORTHWESTERLY BY THE SOUTHEASTERLY PROPERTY LINE OF OIL OPERATORS, INC. RECORDED IN [BOOK 5638 PAGE 349, OFFICIAL RECORDS](#), LOS ANGELES COUNTY AND BOUNDED NORTHEASTERLY BY THE SOUTHWESTERLY SIDE LINE OF THE ABANDONED 60 FOOT WIDE RIGHT OF WAY OF THE PACIFIC ELECTRIC RAILWAY CO. RECORDED IN [BOOK 3991 PAGE 98 OF OFFICIAL RECORDS](#), AND SHOWN ON COUNTY SURVEY MAP, NO. 8-228 ON FILE IN SURVEY OF LOS ANGELES COUNTY OFFICE.

PARCEL 7:

THOSE PORTIONS OF LOT 6 OF [TRACT NO. 1400](#), IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18 PAGE 96 OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND OF LOT 11 AND 14 OF [TRACT NO. 2220](#), AS PER MAP RECORDED IN [BOOK 22 PAGE 97 OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:

COMMENCING AT THE INTERSECTION OF THE WESTERLY LINE OF GOLDEN AVENUE SHOWN ON MAP SAID [TRACT NO. 2220](#) WITH A CURVE WHICH IS CURVE CONCAVE TO THE NORTHEAST HAS A RADIUS OF 1950.00 FEET AND IS CONCENTRIC WITH AND 50 FEET NORTHEASTERLY MEASURED RADially FROM THE NORTHWESTERLY CONTINUATION OF THAT CERTAIN CURVE HAVING A RADIUS OF 2000 FEET IN THE CENTER LINE OF WARDLOW ROAD AS DESCRIBED IN DEED TO SAID COUNTY, RECORDED AS [INSTRUMENT NO. 882 ON NOVEMBER 20, 1942, IN BOOK 19686 PAGE 213, OFFICIAL RECORDS](#) THENCE NORTHWESTERLY ALONG SAID CONCENTRIC CURVE 14.91 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST TANGENT TO SAID CONCENTRIC CURVE AND HAVING A RADIUS OF 1156.53 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE HAVING A RADIUS OF 1156.53 FEET A DISTANCE OF 38.73 FEET TO THE INTERSECTION THEREOF WITH A LINE PARALLEL WITH AND 50 FEET WESTERLY MEASURED AT RIGHT ANGLES FROM SAID WESTERLY LINE OF GOLDEN AVENUE SAID LAST MENTIONED INTERSECTION BEING THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTHWESTERLY ALONG SAID LAST MENTIONED CURVE 221.49 FEET TO A POINT THENCE NORTHWESTERLY ALONG A STRAIGHT LINE WHICH IS TANGENT TO SAID LAST MENTIONED CURVE AT SAID LAST MENTIONED POINT, A DISTANCE OF 22.83 FEET TO THE SOUTHEASTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED TO OIL OPERATORS, INC. RECORDED IN [BOOK 5638 PAGE](#)

EXHIBIT A
(Continued)

349. OFFICIAL RECORDS, THENCE NORTHEASTERLY ALONG SAID SOUTHWESTERLY LINE 304.71 FEET TO SAID PARALLEL LINE; THENCE SOUTHERLY ALONG SAID PARALLEL LINE 332.95 FEET TO SAID TRUE POINT OF BEGINNING.

PARCEL 8:

THOSE PORTIONS OF LOTS 2 AND 3 OF TRACT NO. 2220; IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 22 PAGE 97 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 2; THENCE SOUTHERLY, ALONG THE EASTERLY LINES OF SAID LOTS 2 AND 3, A DISTANCE OF 250 FEET; THENCE WESTERLY, AT RIGHT ANGLES WITH THE EASTERLY LINE OF SAID LOT 3 TO THE WESTERLY LINE OF THE 60 FOOT STRIP OF LAND DESCRIBED IN DEED TO THE PACIFIC ELECTRIC RAILWAY COMPANY, RECORDED IN BOOK 3991 PAGE 88, OF OFFICIAL RECORDS OF SAID COUNTY, THENCE NORTHERLY, ALONG SAID WESTERLY LINE TO THE NORTHERLY LINE OF SAID LOT 2; THENCE EASTERLY ALONG SAID NORTHERLY LINE, TO THE POINT OF BEGINNING.

EXCEPT ALL OIL, GAS AND OTHER MINERALS IN AND UNDER AND THAT MAY BE PRODUCED OR MINED FROM SAID LAND, BUT WITHOUT THE RIGHT TO USE THE SURFACE OF SAID LAND TO PRODUCE, MINE OR TAKE SAID OIL, GAS AND MINERALS, AS RECORDED IN THE DEED FROM J. L. TOLBERT, ET AL., RECORDED MARCH 26, 1946 IN BOOK 22828 PAGE 374, OF OFFICIAL RECORDS.

PARCEL 9:

THOSE PORTIONS OF LOTS 3 AND 6 OF TRACT NO. 2220, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 22 PAGE 97 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY LINE OF SAID LOT 3, DISTANT SOUTHERLY 250 FEET MEASURED ALONG THE EASTERLY LINES OF LOTS 2 AND 3 OF SAID TRACT NO. 2220 FROM THE NORTHEASTERLY CORNER OF SAID LOT 2, THENCE SOUTHERLY ALONG THE EASTERLY LINES OF SAID LOTS 3 AND 6, A DISTANCE OF 250 FEET THENCE WESTERLY AT RIGHT ANGLES WITH THE EASTERLY LINE OF SAID LOT 6, TO THE: WESTERLY LINE OF THE 60 FOOT STRIP OF LAND DESCRIBED IN DEED TO THE PACIFIC ELECTRIC RAILWAY, COMPANY, RECORDED IN BOOK 3991 PAGE 88 OF OFFICIAL RECORDS, OF SAID COUNTY; THENCE NORTHERLY ALONG SAID WESTERLY LINE TO A LINE EXTENDING WESTERLY AT RIGHT ANGLES, WITH THE EASTERLY LINE OF SAID LOT 3, FROM THE POINT OF BEGINNING, THENCE EASTERLY IN A DIRECT LINE, TO THE POINT OF BEGINNING.

EXCEPT ALL OIL, GAS AND OTHER MINERALS IN AND UNDER AND THAT MAY BE PRODUCED OR MINED FROM SAID LAND, BUT WITHOUT THE RIGHT TO USE THE SURFACE OF SAID LAND TO PRODUCE, MINE OR TAKE SAID OIL, GAS AND MINERALS, AS RECORDED IN THE DEED FROM J. L. TOLBERT, ET AL., RECORDED MARCH 26, 1946 IN BOOK 22828 PAGE 374, OFFICIAL RECORDS.

PARCEL 10:

THOSE PORTIONS OF LOT 6, 7 AND 10 OF TRACT NO. 2220, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 22 PAGE 97 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:



EXHIBIT A
(Continued)

BEGINNING AT A POINT IN THE WESTERLY LINE OF GOLDEN AVENUE AS SAID AVENUE IS SHOWN 60 FEET WIDE DISTANT SOUTHERLY THEREON 608.00 FEET FROM THE NORTHEASTERLY CORNER OF LOT 2 OF SAID [TRACT NO. 2220](#), SAID POINT BEING THE SOUTHEASTERLY CORNER OF THE LAND DESCRIBED IN THE DEED TO OIL OPERATORS, INC. A CORPORATION, RECORDED JANUARY 13, 1950 AS [INSTRUMENT NO. 914 IN BOOK 31958 PAGE 305, OF OFFICIAL RECORDS](#) OF SAID COUNTY; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LAND OF OIL OPERATORS, INC. A DISTANCE OF 104.62 FEET TO A POINT IN A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 913.79 FEET SAID LAST MENTIONED POINT BEING THE NORTHWESTERLY CORNER OF THE LAND DESCRIBED IN THE DEED TO OIL OPERATORS, INC. RECORDED ON SEPTEMBER 13, 1954 AS [INSTRUMENT NO. 2057 IN BOOK 3794 PAGE 138, OF OFFICIAL RECORDS](#), OF SAID COUNTY, THENCE SOUTHEASTERLY ALONG THE CURVE DESCRIBED IN SAID LAST MENTIONED DEED, AN ARC DISTANCE OF 358.54 FEET TO A POINT IN THE NORTHERLY LINE OF THE LAND DESCRIBED IN THE DEED TO OIL OPERATORS, INC. RECORDED ON SEPTEMBER 13, 1951 AS [INSTRUMENT NO. 2056 IN BOOK 37194 PAGE 137, OF OFFICIAL RECORDS](#), OF SAID COUNTY DISTANT THEREON, NORTH 89° 57' 15" WEST 13.70 FEET FROM THE EASTERLY LINE OF SAID LOT 10, THENCE ALONG THE NORTHERLY LINE OF SAID LAND RECORDED IN [BOOK 37194 PAGE 137, OF OFFICIAL RECORDS](#), SOUTH 89° 57' 15" EAST 13.70 FEET TO THE EASTERLY LINE OF SAID LOT 10; THENCE NORTHERLY ALONG THE EASTERLY LINES OF SAID LOTS 10, 7 AND 6, A DISTANCE OF 346.45 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

APN: 7203-002-001, 005, 007, 008, 009 & 010

EXHIBIT "B"

APPROVED SITE PLAN AND ELEVATIONS

[SEE FOLLOWING PAGES]

EXHIBIT "C"

LIST OF APPROVED TRANSFEREES/ASSIGNEES

[TO BE INSERTED]

EXHIBIT "D"

ASSIGNMENT AND ASSUMPTION AGREEMENT

[SEE FOLLOWING PAGES]

Recording Requested by And
When Recorded Return to:

City of Long Beach
411 W Ocean Blvd.
Long Beach, CA 90802
Attn: City Clerk
APNs: _____

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is made and entered into as of _____, 20__ by and among _____ (“Assignor”), and _____ (“Assignee”).

RECITALS:

A. Assignor entered into that certain Development Agreement No. _____ executed by City of Long Beach (“City”) and the Assignor on _____ and recorded on _____ (the “Development Agreement”) in the Official Records of Los Angeles, California as Document No. _____.

B. The Development Agreement vested Assignor’s rights to develop 226 residential units, (the “Project”) on real property in Long Beach, California, as more specifically described in Exhibit “A” to the Development Agreement (the “Subject Property”).

C. Section 3.3 of the Development Agreement allows Assignor to sell, transfer, or assign the Subject Property in whole or in part to any person, partnership, joint venture, firm or corporation at any time during the term of that Development Agreement, provided that any such sale, transfer or assignment includes an assignment and assumption of the rights, duties and obligations arising under or from the Development Agreement. This Agreement is intended to serve as the instrument that effects that assignment and assumption of the rights, duties and obligations arising under or from the Development Agreement, in order to comply with Section 3.3 of the Development Agreement.

D. The Assignor and Assignee have entered into a purchase and sale agreement (“Purchase Agreement”) whereby Assignor is selling all of its interest in the Subject Property to the Assignee, which is scheduled to close concurrently with the recordation of this Agreement (the “Effective Date”).

E. As part of its sale of the Subject Property, Assignor desires to assign, and Assignee desires to be assigned, all of Assignor’s interest in the Development Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. Assignment of Development Agreement.

(a) As of the Effective Date (as defined below), Assignor hereby transfers and assign to Assignee, all right, title and interest under the Development Agreement (“Assignment”). The “Effective Date” shall be the date on which the Assignee acquires the Subject Property.

(b) Assignor represents and warrants that it has complied in all material respects with its obligations under the Development Agreement arising prior to the Effective Date.

(c) Notwithstanding Section 3.3.1 of the Development Agreement, Assignor shall remain liable to City for the full and proper performance of all the obligations under the Development Agreement only for the period prior to the Effective Date of this Agreement.

(d) Assignor has not received notice of any default under the Development Agreement from the City and, to Assignor’s knowledge, neither Assignor nor the City is in default in any material respect thereunder. Assignor represents and warrants that it has not assigned any interest in the Development Agreement and that it will defend its interest under the Development Agreement. Except as stated above, and except for such representations and warranties as may expressly survive the execution of this Agreement pursuant to the terms of the Purchase Agreement, Assignor’s right, title and interest in, to and under the Development Agreement and the Subject Property covered thereby are assigned hereunder without representation or warranty of any kind or nature whatsoever, whether statutory, express or implied.

2. Assumption of Development Agreement.

(a) The undersigned Assignee (i) hereby accepts said Assignment as of the Effective Date; (ii) hereby assumes all of Assignor’s burdens and obligations under the Development Agreement from and after the Effective Date; (iii) hereby agrees to and for the benefit of City to keep, perform, and be bound by all of the terms, covenants and conditions contained in said Development Agreement on the part of the Owner therein to be kept and performed from and after the Effective Date, to all intents and purposes as though the undersigned Assignee was the original Owner thereunder; and (iv) hereby agrees to be subject to all of the terms and conditions of the Development Agreement applicable to the Subject Property, in each case to the extent that such burdens, obligations or duties arise from and after the Effective Date.

(b) Pursuant to Section 3.3.1(c) of the Development Agreement, the Assignee shall provide the City with security equivalent to any security previously provided by the Assignor to secure performance of Assignee’s obligations as the Owner under the Development Agreement.

(c) As between the Assignee and the Assignor, the delivery of this Agreement shall not affect, enlarge, diminish or otherwise impair any of the terms or provisions of the Purchase Agreement or the rights or obligations of the parties thereunder. In the event of a conflict between the terms and provisions of this Agreement and the terms and provisions of the Purchase Agreement, the terms and provisions of this Agreement shall govern and control. In the event of a conflict between (i) the Development Agreement and this Agreement, and/or (ii) the

Development Agreement and the Purchase Agreement, the terms and provisions of the Development Agreement shall, as between the City, on the one hand, and the Assignor and Assignee, on the other hand, govern and control.

(d) The undersigned Assignee further covenants and agrees that it has examined the Subject Property and that no representation or warranties have been made by Assignor, the City or by any person or agent acting for the Assignor or the City in connection with the Subject Property. Assignee accepts the Subject Property "AS IS".

(e) On or before the Effective Date, Assignee further agrees to provide City evidence of insurance in the manner required by Article 9 of the Development Agreement.

(f) Any default under this Agreement by Assignee shall be a concurrent default under the Development Agreement.

3. Development Agreement. Assignee has reviewed all of the provisions of the Development Agreement, has sought legal counsel where necessary, and fully understands all of the terms and conditions of the Development Agreement that are allocated to the Subject Property and assumed by Assignee by this Agreement.

4. No Amendment to Development Agreement. Assignor and Assignee acknowledge and agree that the Development Agreement shall continue to be in full force and effect notwithstanding the Assignment thereof with respect to the Subject Property, and shall continue to govern the rights and obligations of Assignee as the assignee of the "Owner" of the Subject Property, as provided by this Agreement and the Development Agreement.

5. Recording. This Agreement may be recorded.

6. Counterparts. This Agreement may be executed in counterparts, each of which when taken together shall constitute the one original.

[The remainder of this page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed as of the date first above written.

ASSIGNOR:

_____,
a _____

By: _____
Name: _____
Its: _____

ASSIGNEE:

_____,
a _____

By: _____
Name: _____
Its: _____

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

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature_____

(Seal)

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

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature_____

(Seal)

EXHIBIT "E"

RELEASE

[SEE FOLLOWING PAGES]

Recording Requested by And
When Recorded Return to:

City of Long Beach
411 W Ocean Blvd.
Long Beach, CA 90802
Attn: City Clerk
APN: _____

RELEASE OF DEVELOPMENT AGREEMENT

THIS RELEASE OF DEVELOPMENT AGREEMENT (“Release”) is dated as of _____, 20____, and is made by the City of Long Beach, a California municipal corporation (“City”), with respect to that certain Development Agreement No. _____, executed by City and _____, a _____ (“Owner”) on _____, which was recorded in the Official Records of Los Angeles County, California, on _____, as Document No. _____ (the “Development Agreement”).

Initially capitalized words or terms used but not defined in this Release shall have the meanings assigned to such words or terms in the Development Agreement.

Pursuant to Section 3.3.3 of the Development Agreement, the City finds and declares that the parcel more specifically described in Exhibit “A” hereto (“Parcel”) has been finally subdivided and a site plan for development of the Parcel has been finally approved, as those terms are used in Section 3.3.3 of the Development Agreement. The City hereby finds and declares that the conditions in Section 3.3.1 of the Development Agreement have been satisfied, and the Parcel has been transferred to _____ (“Purchaser”) in compliance with the terms of that Development Agreement.

Accordingly, the City hereby fully and completely releases the Purchaser from all of the Owners’ obligations under the Development Agreement with respect to the Parcel. This Release specifically inures to the benefit of the Purchaser’s successors and assigns.

IN WITNESS WHEREOF, City has caused this Partial Release of Development Agreement to be executed as of the day and year first above written.

CITY:

CITY OF LONG BEACH, a California municipal corporation

By: _____
_____, City Manager

ATTEST:

_____, City Clerk

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

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT “F”

CITY OF LONG BEACH IMPACT FEE SCHEDULE

[SEE FOLLOWING PAGES]

DRAFT

Development Impact Fees

Fee Changes Effective 10/01/2021

Last updated: 10/11/2021

Fee Name & Description	Fee
Fire Facilities Impact Fee	
Residential:	
Single-Family	\$496 / dwelling unit
Multi-Family	\$378 / dwelling unit
Accessory Dwelling Units (ADU)	\$241.74 / dwelling unit
Non-Residential:	
Commercial	\$0.267 / sq. ft.
Office	\$0.325 / sq. ft.
Industrial	\$0.132 / sq. ft.
Parks & Recreation Facilities Impact Fee	
Commercial	\$0 (exempt / no fee)
Residential:	
Single-Family	\$4,613.04 / dwelling unit
Multi-Unit	\$3,562.78 / dwelling unit
Mobile Home Dwelling	\$2,619.63 / unit pad
Accessory Unit (Artist Studio, Caretakers Unit, Personage, ADU)	\$1,781.39 / dwelling unit
Police Facilities Impact Fee	
Residential:	
Single-Family	\$703 / dwelling
Multi-Family	\$537 / unit
ADU	\$342.86 / dwelling unit
Non-Residential:	
Commercial	\$0.442 / sq. ft.
Office	\$0.538 / sq. ft.

This information is available in alternative format by request at (562) 570-5807.
For an electronic version of this document, visit our website at longbeach.gov/lbds.

Industrial	\$0.218 / sq. ft.
School Impact Fee (Effective 06/01/2020)	
Residential Level 1	\$4.08 / sq. ft.
Residential Level 2 (New Construction)	\$4.08 / sq. ft.
Commercial/Industrial	\$0.66 / sq. ft.
Sewer Capacity Fees	
Required on new residential, nonresidential, or change of use (when additional sewer capacity is required) development for the purpose of construction, reconstruction, maintenance and operation of the Sewer System.	\$121.39
Required on new residential, nonresidential, or change of use (when additional sewer capacity is required) development as outlined in the Douglas Park Development Agreement for the purpose of construction, reconstruction, maintenance and operation of the Sewer System.	\$67.82
Transportation Improvement Fee	
Residential:	
Residential	\$1,125.00 / dwelling unit
Accessory, up to 220 sq.ft. Secondary, up to 640 sq.ft.	\$236.25 / dwelling unit \$663.75 / dwelling unit
Senior Citizen	\$663.00 / unit
Commercial: (Citywide)	
Industrial	\$1.10 / sq. ft.
Office	\$2.00 / sq. ft.
Retail	\$3.00 / sq. ft.
Hotel	\$750.00 / guest room
Movie	\$140.00 / seat
Commercial: (Downtown CBD Area)	
Office	\$3.00 / sq. ft.
Retail	\$4.50 / sq. ft.
Hotel	\$1,125.00 / guest room
Movie	\$90.00 / seat
Low Impact Development Fee	
Offsite Runoff Mitigation Fee	
Project that does not demonstrate compliance with LID standards shall pay a fee to construct or apply towards the construction of an offsite mitigation project.	\$3.00 per square foot

EXHIBIT "G"

CERTIFICATE OF COMPLIANCE WITH DEVELOPMENT AGREEMENT

[SEE FOLLOWING PAGES]

DRAFT

Recording Requested by And
When Recorded Return to:

City of Long Beach
411 W Ocean Blvd.
Long Beach, CA 90802
Attn: City Clerk

CERTIFICATE OF COMPLIANCE WITH DEVELOPMENT AGREEMENT

This Certificate of Compliance with Development Agreement (“Certificate”) is delivered with reference to that certain Development Agreement No. _____, executed by and between _____, a _____ (“Owner”) and the City of Long Beach, a California municipal corporation (“City”) on _____, and recorded with the County of Los Angeles on _____, as Document No. _____. Section references in this Certificate relate to the Development Agreement unless stated otherwise.

This Certificate is delivered in accordance with Section 6.4 of the Development Agreement, and has been executed by an authorized officer of the City. This Certificate is delivered with respect to the time period from _____ to _____ (“Review Period”), and the date on which this certificate was executed by the City shall be referred to as the Compliance Date.

In accordance with Section 6.4 of the Development Agreement, as of the Compliance Date, after the City’s most recent [Periodic or Special] Review, which occurred during the Review Period, based upon the information known or made known to the City Council, the Development Agreement remains in effect, and the Owner is in full compliance with the development agreement.

To the best knowledge of the undersigned and the City Council, no event or circumstance has occurred that constitutes a material adverse change since the date the most recent Certificate was executed and delivered.

This Certificate shall expire the earlier of (i) one (1) year after the Compliance Date, or (ii) the date of recordation of a Notice of Termination of Development Agreement, as that term is defined in the Development Agreement.

The undersigned and the City Council affirm that the obligations under the Development Agreement have been fully satisfied by the Owner as of the Compliance Date:

Dated: _____, 20__.

City of Long Beach

By:

DRAFT