FIDELITY NATIONAL TITLE COMPANY
259922998

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder
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RECORDED AT REQUEST OF
AND WHEN RECORDED RETURN TO:
City of Lake Forest
25550 Commercentre Drive
Lake Forest, California 92630
Attn: City Manager

Fee Exempt - Gov't Code §6103

(Space above for Recorder's Use)

DEVELOPMENT AGREEMENT

between

THE CITY OF LAKE FOREST,
a California municipal corporation

and

FOOTHILL VILLAGE, LLC,
a Delaware limited liability company

FIDELITY NATIONAL TITLE COMPANY
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DEVELOPMENT AGREEMENT

between

THE CITY OF LAKE FOREST,
a California municipal corporation

and

FOOTHILL VILLAGE, LLC,
a Delaware limited liability company

THIS DEVELOPMENT AGREEMENT (the "New Agreement" or the "Agreement") is entered by and between THE CITY OF LAKE FOREST, a California municipal corporation ("City"), and FOOTHILL VILLAGE, LLC, a Delaware limited liability company ("Owner") with reference to the following facts:

RECITALS.

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted the "Development Agreement Statute," Sections 65864 et seq., of the Government Code. City, a general law city, is authorized by the Development Agreement Statute to enter into development agreements with persons and entities having legal or equitable interests in real property for the purpose of establishing predictability for both City and the property owner in the development process. Owner has requested that City enter into a development agreement for the development of the Property, as defined below. City enters into this Agreement pursuant to the provisions of the California Government Code, the City's General Plan, the City Municipal Code, and applicable City policies.

B. Owner has a legal or equitable interest in that certain real property consisting of approximately seven (7) acres of land located in the City of Lake Forest, County of Orange, State of California, more particularly described in Exhibit "A" (the "Property"). Owner desires to develop the Property for residential uses.

C. On August 16, 2011 the City Council approved a multi-step process to be used in evaluating requests for privately-initiated changes to the City's General Plan, including execution of a "pre-application agreement" between Owner and the City, and filing a formal application for a general plan amendment, zone change, and site development permit, and commencement of negotiations for a development agreement between the City and the property owner.

D. In accordance with the process approved by the City Council, Owner and City entered into a "pre-application agreement" and Owner filed a formal application for the City's consideration of a conversion of the Property to residential land use through the Council-approved general plan amendment, zone change, site development permit and development agreement process in order for Owner to develop the Property for residential uses.

E. This Agreement is intended to ensure that Owner has provided funding sufficient to provide the adequate and appropriate infrastructure and public facilities required by the development of the Property, and that this infrastructure and these public facilities will be available no later than when required to serve demand generated by development of the Property.

F. This Agreement also assures that the development will assist the City in meeting its goals for the provisions of affordable housing by contributing to the City's affordable housing stock.

G. This Agreement further assures that development of the Property may occur in accordance with City's General Plan, as amended by the General Plan Amendment. The development of the Property pursuant to the Existing Land Use Regulations, this Agreement, the Subsequent Land Use Regulations to which Owner has consented in writing, and Subsequent Development Approvals (as each of those terms and phrases is defined within this Agreement) shall be referred to as the "Development Plan."

H. This Agreement constitutes a current exercise of City's police powers to provide predictability to Owner in the development approval process by vesting the permitted use(s), density, intensity of use, and timing and phasing of development consistent with the Development Plan in exchange for Owner's commitment to provide significant public benefits to City (the "Public Benefits") as set forth in Section 9.

I. The provision by Owner of the Public Benefits allows the City to realize significant economic, recreational, park, open space, educational, social, and public facilities benefits. The Public Benefits will advance the interests and meet the needs of City's residents and visitors.

J. The phasing, timing, and development of public infrastructure necessitate a significant commitment of resources, planning, and effort by Owner for the public facilities financing, construction, and dedication to be successfully completed. In return for Owner's participation and commitment to these significant contributions of private resources for public purposes, City is willing to exercise its authority to enter into this Agreement and to make a commitment of predictability for the development process for the Property. Absent City's willingness to make such a commitment, Owner would be unwilling to enter into this Agreement or make the significant investment of resources required for the planning, financing, construction, and dedication of the public facilities and infrastructure identified in this Agreement.

AGREEMENT

City and Owner agree as follows:

1. INTEREST OF OWNER. Owner represents that it has a legal or equitable interest in the Property and is authorized to enter into this Agreement.

2. PUBLIC HEARINGS. On August 20, 2013, after providing notice as required by law, the City Council held a public hearing on this Agreement and made the findings set forth in Section 3.

3. CITY COUNCIL FINDINGS. The City Council finds that:

3.1 Subject to the approval of the General Plan Amendment becoming effective on or before the Effective Date, this Agreement is consistent with City's General Plan.

3.2 This Agreement ensures a desirable and functional community environment, provides effective and efficient development of public facilities, infrastructure, and services appropriate for the development of the Project, enhances effective utilization of resources within the City, provides assurances to the developer in an effort to control the cost of housing and development to the consumer, and provides other significant benefits to the City and its residents.

3.3 This Agreement provides public benefits beyond those which are necessary to mitigate the development of the Project.

3.4 This Agreement strengthens the public planning process, encourages private participation in comprehensive planning, particularly with respect to the implementation of the City's General Plan, and reduces the economic costs of development and government.

3.5 The best interests of the citizens of the City and the public health, safety, and welfare will be served by entering into this Agreement.

4. CONTINUING OBLIGATIONS. This Agreement binds the City now and in the future. By approving this Agreement, the City Council has elected to exercise certain governmental powers at the time of entering into this Agreement rather than deferring its actions to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by the City staff and the City Council and have been found to be fair, just, and reasonable. City has concluded that the Project will serve the best interests of its citizens and that the public health, safety, and welfare will be best served by entering into this Agreement.

5. DEFINITIONS. In this Agreement, unless the context otherwise requires, the following terms and phrases shall have the following meanings:

5.1 [reserved]

5.2 "Agreement" shall mean this Development Agreement between the City and Owner. The term "Agreement" shall include any amendment properly approved and executed pursuant to Section 7.5.

5.3 "'A' Map" shall mean a Final Map approved by the City as a ministerial action for all or a portion of a Tentative Map, that shall consist of neighborhoods or areas which may be further subdivided with a "B" Map or which may be developed upon the approval of the "A" Map. If a portion of the "A" Map shall be further subdivided with a "B" Map, the Developer

shall be required to satisfy, for those portions of the "A" Map, only the conditions identified as "A" Map conditions on the Tentative Map. If the "A" Map creates a lot which shall not be further subdivided with a "B" Map, then all other applicable Tentative Map conditions shall be satisfied.

5.4 "Approval Date" means the date on which the City Council conducted the first reading of the ordinance adopting this Agreement. That date is August 20, 2013.

5.5 "'B' Map" shall mean a Final Map approved by the City as a ministerial action for all or a portion of the Tentative Map, for which no further subdivision is authorized under the Tentative Map.

5.6 "City" shall mean the City of Lake Forest, a California municipal corporation.

5.7 "City Council" shall mean the governing body of the City.

5.8 "City Facilities" shall mean public purpose facilities and projects located within the City.

5.9 "City Municipal Code" shall mean the Lake Forest Municipal Code. However, changes to the Lake Forest Municipal Code occurring between the Approval Date and the Effective Date shall not be considered part of the City Municipal Code for purposes of this Agreement without Owner's prior written consent.

5.10 "Day" refers to a calendar day unless specifically stated as a "business day."

5.11 "Default" shall refer to a Major Default or Minor Default as defined herein.

5.12 "Development" shall mean the improvement of the Property for the purposes of completing the structures, improvements, and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public and private facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; the installation of landscaping; and other improvements.

5.13 "Development Approvals" shall mean all permits and other entitlements approved or issued by the City for the use of, construction upon, and/or development of the Property. For the purposes of this Agreement, Development Approvals shall be deemed to include, but are not limited to, the following actions, including revisions, addenda, amendments, and modifications to these actions:

this Agreement;

amendments to this Agreement;

amendments to the General Plan;

Specific Plan and Specific Plan amendments;

tentative and final subdivision and parcel maps;

conditional use permits, use permits and site development permits;

zoning;

area plans;

grading and building permits;

certificates of compliance and/or lot line adjustments;

street, drainage, utility, stormwater, and landscape permits;

occupancy permits; and

environmental review documents for the Project.

5.14 "Development Impact Fees" shall mean all fees established and imposed upon the Project by the City pursuant to the Mitigation Fee Act as set forth in California Government Code Section 66000 et seq. and this Agreement.

5.15 "Development Plan" means the Existing Land Use Regulations, this Agreement, the Subsequent Land Use Regulations to which Owner has consented in writing, and Subsequent Development Approvals.

5.16 "Effective Date" shall mean the later of: (i) date the ordinance adopting this Agreement becomes effective; (ii) expiration of the period provided by applicable law, including but not limited to Government Code Section 65009, for challenging the General Plan Amendment; or (iii) Owner closing escrow and acquiring the Property.

5.17 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date, including the General Plan Amendment (including the range of units approved for the Project by the General Plan Amendment). However, changes to Land Use Regulations occurring between the Approval Date and the Effective Date shall not be considered part of the Existing Land Use Regulations without Owner's prior written consent. Owner has consented to the General Plan Amendment, which shall be considered part of the Existing Land Use Regulations.

5.18 "Final Map(s)" refers to one or more final maps which may be filed with respect to any Tentative Map, including the First Tentative Map, as set forth in Section 66456 et seq. of the Subdivision Map Act, and are referenced in this Agreement as either an 'A' Map or a 'B' Map.

5.19 "Financing District" refers to a community facilities district, assessment district, infrastructure financing district, or other form of district or bond financing authorized by California as a means to fund public improvements and/or the maintenance of those improvements.

5.20 "First Tentative Map(s)" shall mean the first Tentative Map for the Project which is approved by the City following the Effective Date of this Agreement. Owner may submit more than one Tentative Map to be considered concurrently as the First Tentative Map(s).

5.21 "First Tentative Map(s) Submittal Package" shall mean the package of materials to be submitted with the Owner's application for the First Tentative Map(s), which shall include the site development permit for the Property.

5.22 "General Plan" shall mean the general plan of the City.

5.23 "General Plan Amendment" shall refer to the amendment of the City's General Plan on August 20, 2013, for the Property. A copy of the General Plan Amendment is attached as Exhibit "B".

5.24 "Implementing Agreement" refers to any agreement entered into by Owner and the City for the implementation of obligations established in this Agreement.

5.25 "Land Use Regulations" shall mean all ordinances, resolutions, codes, rules, regulations and official policies of the City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement, construction, and initial occupancy standards and specifications applicable to the Project. Land Use Regulations do not include any City ordinance, resolution, code, rule, regulation or official policy governing:

- The conduct or taxation of businesses, professions, and occupations applicable to all businesses, professions, and occupations in the City;

- Taxes and assessments of general application upon all residents of the City, provided that the taxes and assessments are not imposed

for the purpose of taxing the right, power or privilege of developing or improving land (e.g., excise tax) or to directly finance the acquisition or dedication of open space or any other public improvement in respect of which the Owner is paying any fee (directly or through a Financing District) or providing any improvement pursuant to this Agreement;

- The control and abatement of nuisances.

5.26 "LFTM Ordinance" means Chapter 7.19 of the Lake Forest Municipal Code. The LFTM Ordinance shall be considered one of the Existing Land Use Regulations.

5.27 "LFTM Program" means the Lake Forest Transportation Mitigation Program, as described in the LFTM Ordinance.

5.28 "Low Income Household" means persons and families whose income does not exceed eighty percent (80%) of the then-current area median income of the County of Orange adjusted for family size by the State Department of Housing and Community Development in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, as amended, and California Health and Safety Code Section 50093, as it may be amended from time-to-time. In no event, however, shall the stated maximum annual income for a Low Income Household be, for purposes of this Agreement, less than eighty percent (80%) of the then-current area median income of the County of Orange.

5.29 "Major Default" refers to the material and substantial failure by (1) Owner to timely meet Owner's Facilities Obligations, or (2) City's failure to issue Subsequent Development Approvals in accordance with its obligations under this Agreement, or (3) either Party to provide the agreed upon cooperation needed to implement the Public Benefits and/or the development of the Property pursuant to the Development Plan, including but not limited to a failure to comply with the terms of any Implementing Agreement. For purposes of this Agreement, a failure by Owner to timely meet Owner's Facilities Obligations shall include, but not be limited to, a failure to vote in favor of the formation of a Financing District if the City takes steps to form a Financing District, a failure to timely dedicate land for Public Facilities as required by this Agreement or any Implementing Agreement, and a dedication of land for Public Facilities that has a cloud on title or is in a location or condition that is inconsistent with the requirements of this Agreement or any Implementing Agreement. This definition is not intended to expand or limit the legal definition of "materiality," but only to establish the agreement of the Parties as to the

nature of a default which could lead to an early termination of this Agreement.

5.30 "Minor Default" means a failure by Owner or City to comply with the terms and conditions of this Agreement which is not a "Major Default" as defined herein.

5.31 "Moderate Income Household" means persons and families whose income does not exceed one hundred twenty percent (120%) of the then-current area median income of the County of Orange adjusted for family size by the State Department of Housing and Community Development in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, as amended, and California Health and Safety Code Section 50093, as it may be amended from time-to-time. In no event, however, shall the maximum annual income for a Moderate Income Household be, for purposes of this Agreement, less than one hundred twenty percent (120%) of the then-current area median income of the County of Orange.

5.32 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device, a lender, and their successors and assigns.

5.33 [reserved]

5.34 "Owner" refers to Foothill Village, LLC, a Delaware limited liability company, and Owner's successors and assigns as set forth in Section 14.14.

5.35 "Owner's Facilities Obligations" refers to the requirement of Owner to contribute to the City Facilities, the School Facilities, and to comply with LFTM, as those terms are defined in this Agreement (including Section 9.2 and Exhibit "F," and the attachments thereto), through the payment of City Facilities Fees, deposits of funds, and/or dedication of land.

5.36 "Owner's Vested Right" refers to Owner's guaranteed right to develop the Property as set forth in this Agreement, with particular reference to Section 8.

5.37 "Paragraph" means a lettered or numbered paragraph of an Exhibit to this Agreement, unless specifically stated to refer to another document or matter. (Note below that "Section" means a lettered or numbered section of the main body of this Agreement.) A reference to a Paragraph includes all subparagraphs of that Paragraph.

5.38 The "Parties" means the City and Owner. A "Party" refers to either the City or the Owner.

5.39 "Per Square Foot" is a term used in calculating fees owed per Unit. The actual square footage of a Unit, excluding the garage, shown on the final approved construction plans shall be used in calculating the square footage of a Unit, provided such plans are consistent with all Planning Commission and City Council approvals for the Project.

5.40 "Project" means the development of the Property as set forth in the Development Plan.

5.41 "Property" means the real property described in Exhibit "A".

5.42 "Public Benefits" refers to those benefits provided to the City and the community by Owner pursuant to Section 9 and Exhibit "F" below.

5.43 "Public Facilities" refers to the City Facilities and School Facilities, as those terms are defined in this Agreement.

5.44 "Reservation of Authority" means the rights and authority specifically reserved to City which limits the assurances and rights provided to the Owner under this Agreement. The Reservation of Authority is described in Section 8.7.

5.45 "Section" refers to a numbered section of this Agreement, unless specifically stated to refer to another document or matter.

5.46 "Subsequent Development Approvals" means all Development Approvals and permits approved, granted, or issued after the Effective Date for the Project which are required or permitted by the Existing Land Use Regulations, the Subsequent Land Use Regulations to which Owner has consented in writing, and this Agreement. Subsequent Development Approvals include, without limitation, all development review approvals required under the Subdivision Map Act, the City's subdivision ordinance and/or other provisions of the City Municipal Code, site development permits, excavation, grading, building, construction, encroachment or street improvement permits, occupancy certificates, utility connection authorizations, drainage, landscape, or other permits or approvals necessary for the grading, construction, marketing, use and occupancy of the Project.

5.47 "Subsequent Land Use Regulations" means those Land Use Regulations which are both adopted and effective after the Approval Date and which are not included within the definition of Existing Land Use Regulations. "Subsequent Land Use Regulations" include any Land Use Regulations adopted by moratorium by initiative, City action, or otherwise

5.48 "Tentative Map" shall mean any tentative map, as defined in the Subdivision Map Act and the City Municipal Code, for the Project, including the First Tentative Map(s). With the approval of any Tentative Map, the City shall identify the conditions that shall be satisfied to process an 'A' Map and the conditions that shall be satisfied to process a 'B' Map.

5.49 "Term" means the term of this Agreement as set forth in Section 7.2 of this Agreement.

5.50 "Unit" means (i) a residential dwelling unit within the Project. This definition is provided solely for the purposes of determining the uses which may be built as a part of the Project and for calculating the City Facilities Fee described in Exhibit F, and is not intended to allow for conversion of non-residential uses to residential uses.

5.51 "Very Low Income Household" means persons and families whose income does not exceed fifty percent (50%) of the then-current area median income of the County of Orange adjusted for family size by the State Department of Housing and Community Development in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, as amended, and California Health and Safety Code Section 50105, as it may be amended from time-to-time. In no event, however, shall the maximum annual income for a Very Low Income Household be, for purposes of this Agreement, less than fifty percent (50%) of the then-current area median income of the County of Orange.

6. EXHIBITS. All exhibits attached to this Agreement are incorporated as a part of this Agreement. Those exhibits are:

Exhibit	Description
"A"	Legal Description of the Property
"B"	General Plan Amendment
"C"	[reserved]
"D"	City's Long-Term Financing and Land Secured Debt Policy
"E"	County and Regional Agency Fees
"F"	Public Benefits
"G"	AHIP
"H"	[reserved]

"I"	Assignment and Assumption Agreement

7. GENERAL PROVISIONS.

7.1 Binding Effect of Agreement. This Agreement shall be recorded against the Property and shall run with the land. The Development shall be carried out only in accordance with the terms of this Agreement. Until released or terminated pursuant to the provisions of this Agreement or until Owner has fully performed its obligations arising out of this Agreement, no portion of the Property shall be released from this Agreement.

7.2 Term of Agreement. The Term shall commence on the Effective Date. The Term shall continue for a period of five years from the Effective Date, subject to the following:

7.2.1 *Extensions of Term.* The Term shall be extended for periods equal to the time during which:

7.2.1.1 Litigation is pending which challenges any matter, including compliance with CEQA or any other local, state, or federal law, related in any way to the approval or implementation of all or any part of the Development Plan. Any such extension shall be equal to the time between the filing of litigation, on the one hand, and the entry of final judgment or dismissal, on the other. All such extensions shall be cumulative.

7.2.1.2 Any application by Owner for state or federal regulatory permits and/or approvals required for the Project has been pending more than one year after its submittal, beginning on the 366th day following its submittal for approval.

7.2.1.3 Any other delay occurs which is beyond the control of the Parties, as described in Section 14.10.

7.2.2 During the Term, certain portions of the Property may be released from this Agreement as provided elsewhere in this Agreement.

7.2.3 The Term may be extended automatically one time for an additional five years with the mutual consent of both parties.

7.2.4 As provided in Section 7.3 and elsewhere within this Agreement, the Term may end earlier than the end of the Term specified in this Section.

7.3 Termination. This Agreement shall be deemed terminated and of no further effect upon the earlier occurrence of any of the following events:

7.3.1 Expiration of the Term (including any extension thereto pursuant to Section 7.2.3 above) as set forth in Section 7.2;

7.3.2 Entry of a final judgment setting aside, voiding, or annulling the adoption of the ordinance approving this Agreement;

7.3.3 The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement;

7.3.4 Completion of the Project in accordance with the terms of this Agreement, including issuance of all required occupancy permits and acceptance, as required by state law, by City, or the applicable public agency, of all required dedications and the satisfaction of all of Owner's obligations under this Agreement; and

7.3.5 As may be provided by other specific provisions of this Agreement.

7.4 Effect of Termination. Subject to Section 8.11, upon any termination of this Agreement, the only rights or obligations under this Agreement which either Party shall have are:

7.4.1 The completion of obligations which were to have been performed prior to termination, other than those which are separately addressed by Section 12;

7.4.2 The performance and cure rights set forth in Section 12; and

7.4.3 Those obligations that are specifically set forth as surviving this Agreement, such as those described in Section 9 and in Sections 11.1 through 11.7 and 14.15.

7.5 Amendment or Cancellation of Agreement. This Agreement may be amended from time to time or canceled only by the written consent of both City and Owner in the same manner as its adoption, as set forth in California Government Code Section 65868. Any amendment or cancellation shall be in a form suitable for recording in the Official Records of Orange County, California. An amendment or other modification of this Agreement will continue to relate back to the Effective Date of this

Agreement (as opposed to the effective date of the amendment or modification), unless the amendment or modification expressly states otherwise.

7.6 Release of Obligations With Respect to Individual Lots Upon Certification of Occupancy. Notwithstanding any other provision of this Agreement:

7.6.1 When any individual lot has been finally subdivided and sold, leased, or made available for lease to a member of the public or any other ultimate user, and a certificate of occupancy has been obtained for the building(s) on the lot, that lot and its owner shall have no further obligations under and shall be released from this Agreement.

7.6.2 Upon the conveyance of any lot, parcel, or other property, whether residential, commercial, or open space, to a homeowners' association, property owners' association, or public or quasi-public entity, that lot, parcel, or property and its owner shall have no further obligations under and shall be released from this Agreement, provided that this paragraph shall not be deemed to release any transferee (including a good faith purchaser) from obligations to pay assessments imposed in connection with a Financing District.

No formal action by the City is required to effect this release, but, upon Owner's request, City shall sign an estoppel certificate or other document to evidence the release.

7.7 Minor Changes. The provisions of this Agreement require a close degree of cooperation between the Parties and "Minor Changes" to the Project may be required from time to time to accommodate design changes, engineering changes, and other refinements related to the details of the Parties' performance. "Minor Changes" shall mean changes to the Project that are otherwise consistent with the Development Plan, and which do not result in a change in the type of use, an increase in density or intensity of use, significant new or increased environmental impacts that cannot be mitigated, or violations of any applicable health and safety regulations in effect on the Effective Date.

Accordingly, the Parties may mutually consent to adopting "Minor Changes" through their signing of an "Operating Memorandum" reflecting the Minor Changes. Neither the Minor Changes nor any Operating Memorandum shall require public notice or hearing. The City Attorney and City Manager shall be authorized to determine whether proposed modifications and refinements are "Minor Changes" subject to this Section 7.7 or more significant changes requiring amendment of this Agreement.

With a copy to:
Scott C. Smith
18101 Von Karman Avenue
Suite 1000
Irvine, CA 92612

If to Owner, to:
FOOTHILL VILLAGE, LLC
c/o Trumark Companies
450 Newport Center Drive, Suite 300
Newport Beach, CA 92660

With a copy to:
Mr. Michael L. Tidus
Jackson DeMarco Tidus Peckenpaugh
2030 Main Street, 12th Floor
Irvine, CA 92614

City or Owner may change its address by giving notice in writing to each of the other names and addresses listed above. Thereafter, notices, demands, and correspondence shall be addressed and transmitted to the new address. Notice shall be deemed given upon personal delivery or, if mailed, two (2) business days following deposit in the United States mail.

7.11 Waiver of Right to Protest. Execution of this Agreement is made by Owner without protest. Owner knowingly and willingly waives any rights it may have under Government Code Section 66020 or any other provision of law to protest the imposition of any fees, dedications, reservations, or other exactions imposed on the Project as authorized by this Agreement.

8. DEVELOPMENT OF THE PROPERTY.

8.1 Owner's Vested Right. Owner shall have the vested right to complete Development of the Property in accordance with the Development Plan as provided in this Agreement ("Owner's Vested Right"). To enable Owner to complete the Project, Owner's Vested Right shall include, but not be limited to, the rights to (1) develop a minimum of 69 single family residential units and a maximum of 75 single family residential units, (2) the timely issuance by the City of all Subsequent Development Approvals, and (3) the timely taking by the City of such other actions that are (i) requested by Owner and (ii) consistent with the terms of this Agreement. Where the Development Plan permits the development of some or all of the Property within a specified range of dwelling units, Owner's Vested Right shall include the right to develop to the greater of: (i) the minimum number of dwelling units permitted by the General Plan Amendment; and (ii) any greater number of dwelling units approved by

The City Manager may execute any Operating Memorandum without City Council action.

7.8 Term of Map(s) and Other Project Approvals.

7.8.1 Subdivision Maps. Pursuant to Government Code Section 66452.6, the term of all subdivision or parcel maps that are approved for all or any portion of the Property shall be extended to a date coincident with the Term and, where not prohibited by State law, with any extension of the Term.

7.8.2 Site Development Permits. Site Development Permits for the Project shall have terms that coincide with the term of the subdivision or parcel map for the portion of the Property to which a particular Site Development Permit pertains.

7.8.3 Other Development Approvals. Pursuant to Government Code Section 65863.9, any and all other Development Approvals for any portion of the Project shall automatically be extended for a term ending concurrently with the applicable tentative maps for the Project. Pursuant to Section 7.8.1, those terms shall be the same as the Term of this Agreement.

7.8.4 Decisions of Development Services Director. Any decision of the Development Services Director with respect to Subsequent Development Approvals may be appealed to the City's Planning Commission pursuant to Section 2.04.100(D) of the Lake Forest Municipal Code. Decisions of the Planning Commission on appeal may be appealed to the City Council pursuant to Section 2.04.100(E) of the Lake Forest Municipal Code.

7.9 Relationship of City and Owner. The contractual relationship between City and Owner arising out of this Agreement is one of independent contractor and not agency. This Agreement does not create any third-party beneficiary rights.

7.10 Notices. All notices, demands, and correspondence required or permitted by this Agreement shall be in writing and delivered in person or mailed by first class or certified mail, postage prepaid, addressed as follows:

If to City, to:
City of Lake Forest
25550 Commercentre Drive
Lake Forest, California 92630
Attn: City Manager

City Council subsequent to the execution of this Agreement, provided that (i) Owner can comply with all development standards contained in the Development Plan and (ii) the Project does not exceed the development limits set forth in the General Plan Amendment and First Tentative Map(s) for the Property as a whole.

Owner's Vested Right shall be subject to the Reservation of Authority set forth in Section 8.7 and all provisions of this Agreement, and may not be modified or terminated except as expressly provided by this Agreement.

8.2 Governing Land Use Regulations. The Land Use Regulations applicable to the Project and the Property shall be those contained in the Development Plan. An amendment or other modification of this Agreement will not change these applicable Land Use Regulations unless the amendment or modification expressly provides otherwise. Subsequent Land Use Regulations shall not apply to the Property except as authorized in Section 8.7 of this Agreement, unless the Owner and the City mutually agree in writing that the Project will be subject to one or more Subsequent Land Use Regulations. To the extent of any inconsistency between this Agreement and any provision of the City's subdivision ordinance (comprising Title 7 of the Lake Forest Municipal Code), this Agreement shall control.

Nothing contained in this Section shall be deemed to authorize City to withhold any building permit, approval, and/or certificate of occupancy based on Owner's failure to comply with any Land Use Regulation that is not applicable to the Project because of this Agreement.

8.3 Permitted Uses. Except as otherwise provided within this Agreement, the permitted uses on the Property shall be as provided in the Development Plan.

8.4 Density and Intensity; Requirement for Reservation and Dedication of Land. Except as otherwise provided within this Agreement, the density and intensity of use for all Development on the Property, and the requirements for reservation and dedication of land, shall be as provided in the Development Plan.

8.5 First Tentative Map Consideration. Notwithstanding any contrary provision of the Land Use Regulations or this Agreement, the First Tentative Map shall include the entire Property and must be approved by City Council. In addition to the contents required by the Land Use Regulations, an application for the First Tentative Map(s) approval shall also include the First Tentative Map(s) Submittal Package.

8.6 Unit Counts to be Determined with First Tentative Map Approval. The City Council will, concurrently with the approval of the First Tentative Map(s), determine the specific number of Units which may be built as part of the Project in accordance with Owner's Vested Right set forth in Section 8.1 of this Agreement. In order for the City to make this determination, Owner shall submit the First Tentative Map Submittal Package, concurrently with its application for the First Tentative Map.

8.7 Reservation of Authority. The following Land Use Regulations or Subsequent Land Use Regulations shall apply to the Property and the Project, provided that the City Council's determination in subsection (i) shall be considered an Existing Land Use Regulation implementing the Unit range approved in the General Plan Amendment:

8.7.1 Processing fees and charges imposed by the City to cover the City's estimated or actual costs of reviewing and processing applications for the Project, providing inspections, conducting annual reviews, providing environmental analysis, or for monitoring compliance with this Agreement or any Development Approvals granted or issued, provided such fees and charges are in force and effect on a general basis on the date of filing such applications with the City. This Section shall not be construed to limit the authority of City to charge its then-current, normal and customary application, processing, and permit fees for Subsequent Development Approvals, building permits and other similar permits, which fees are designed to reimburse City's expenses attributable to such application, processing, and permitting and are in force and effect on a City-wide basis at such time as the Subsequent Development Approvals and permits are granted by City, notwithstanding the fact that such fees may have been increased by City subsequent to the Effective Date;

8.7.2 Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals, and any other matter of procedure;

8.7.3 The following, provided that (i) they are uniformly applied to all development projects within the City and (ii) are not applied retroactively to any Development Approval issued before their adoption or amendment:

8.7.3.1 Uniform codes governing engineering and construction standards and specifications adopted by the City pursuant to state law. Such codes include, without limitation, the City's adopted version of the Uniform Administrative Code, California Building

Code, California Plumbing Code, California Mechanical Code, California Electrical Code, and California Fire Code;

8.7.3.2 Local amendments to those uniform codes which are adopted by the City pursuant to state law, provided they pertain exclusively to the preservation of life and safety; and

8.7.3.3 The City's standards and procedures regarding the granting of encroachment permits and the conveyance of rights and interests which provides for the use of or the entry upon public property.

8.7.4 Regulations which may be in conflict with this Agreement, but which are objectively required (and there are no available reasonable alternatives) to protect the public health and safety in the event of a sudden, unexpected occurrence involving a clear and imminent danger, and demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services within the immediate community. Such regulations must be a valid exercise of the City's police power and must be applied and construed so as to provide Owner, to the maximum extent possible, with the rights and assurances provided in this Agreement. To apply to the Property, such regulations must be adopted after a public hearing and must be based upon findings of necessity established by a preponderance of the evidence. Any regulations, including moratoria, enacted by City and imposed on the Property to protect the public health and safety in the circumstances described above shall toll the Term and any time periods for performance by Owner and City set forth in this Agreement;

8.7.5 The City's public improvement engineering ordinances, policies, rules, regulations and standards in effect at the time of the construction of the Public Facilities;

8.7.6 Owner shall be issued building permits for the Project after permit applications are reviewed and approved by City in the City's customary fashion for such review and approval;

8.7.7 The exercise of the power of eminent domain;

8.7.8 The City Council may, concurrently with the approval of: (i) a zone change; (ii) specific plan; and/or (iii) the approval of the First Tentative Map for the Project, determine the specific number of

Units which may be built as part of the Project, within the range of Units allowed in the General Plan Amendment. Such determination shall not constitute an amendment to this Agreement.

8.8 Development Impact and Other Fees. Subject to the limitations of Section 8.9 below, Owner shall pay to the City only (i) those Development Impact Fees imposed by City which are in effect on the Approval Date and are uniformly applied to all development projects within the City ("City Fees" in Exhibit E), (ii) those fees which are specifically created by Exhibit F to this Agreement or stated by Exhibit F to apply to the Project, and (iii) those fees levied by the County or other public agencies other than the City, but which are collected by the City. The Parties have used their best efforts to list on Exhibit E all fees within these three categories. The omission of any fee from Exhibit E shall not invalidate or otherwise affect Owner's obligation to pay that fee.

8.9 Limitation on Fees. Owner shall have no obligation for Development Impact Fees or other City-imposed fees related to traffic, roadways, parks, civic facilities, community centers, affordable housing, open space, trails, or schools, except as expressly provided in this Agreement or the Exhibits thereto.

8.10 County-Mandated Impact Fees. Nothing in this Agreement shall relieve Owner of the responsibility to pay any impact fees established by the County of Orange or associated with any County program and for which Owner is legally responsible. Owner shall pay any such fees the City is required to collect or otherwise collects on behalf of the County of Orange. A summary of County fees anticipated to be owed for the Project, and amounts already paid by Owner, is attached as Exhibit "E". Owner understands and acknowledges that Exhibit "E" reflects only the City's estimate of fees paid and fees owed, and may not accurately reflect Owner's County fee obligations.

8.11 Adequacy of Required Infrastructure. Provided that Owner complies with Owner's Facilities Obligations and subject to the Reservation of Authority, the City acknowledges and agrees that there will be sufficient capacity to accommodate the Project in the infrastructure and services owned, operated, outsourced, controlled, and/or provided by the City, including, without limitation, traffic circulation, storm drainage, trash collection, and flood control. Where City renders or outsources such services or owns such infrastructure, and Owner complies with Owner's Facilities Obligations, City shall serve the Project and there shall be no restrictions placed upon Owner concerning hookups or service for the Project, except for reasons beyond City's control. Notwithstanding the foregoing, City does not warrant the adequacy of and City shall not be responsible or

liable for any infrastructure or services that are not owned, operated, outsourced, controlled, and/or provided by City.

8.12 Vested Rights Upon Termination. Termination of the Agreement shall not invalidate any Land Use Regulations or terminate any Subsequent Development Approvals obtained prior to the date of termination. Upon any termination of this Agreement, Owner's vested rights, if any, shall be determined by this Agreement to the extent development has occurred hereunder, and as to the remainder of the Project, by state and federal statutes and case law and then current factual state of the Development. Subject to that determination of rights and all other applicable law, Owner's right to continue development of the Project pursuant to some or all of the Development Plan shall be subject to the ordinary exercise of the City's police power, including the adoption of a general plan amendment, zoning change, or other Land Use Regulations applicable to the Property. Owner acknowledges that following termination of this Agreement, except as to any development that has vested, City may amend the general plan designation of the Property and/or the zoning designation applicable to the Property.

8.13 Waiver of Density Bonus. While this Agreement is in effect, Owner waives any right Owner may have to a density bonus under Government Code Sections 65915 through 65917.5 or the Lake Forest Municipal Code. Densities vested hereunder include all densities available as density bonuses under the Lake Forest Municipal Code and Government Code Sections 65915 through 65917.5; Owner shall not be entitled to further density bonuses. Owner further waives any right to make a parking ratio request pursuant to Government Code section 65915(p).

8.14 Staffing and Expedited Processing. City shall employ all lawful actions capable of being undertaken by City to (i) promptly receive and, when complete, accept all applications for Subsequent Development Approvals and related environmental analysis, if any (collectively, "Applications"), and (ii) expeditiously process and take action upon the Applications in accordance with applicable law. These actions will include, but are not limited to:

8.14.1 In order to expedite either the processing of Applications or the review and "plan-checking" of Owner's submittals, Owner may request the City to retain a consultant or other third party to supplement the work of City staff. Upon such request, the City shall inform Owner within twenty (20) days of the estimated cost of retaining such assistance. If Owner agrees in writing to pay the full cost of retaining such assistance within ten (10) days after the City informs Owner of that estimated cost, the City shall immediately retain the consultant or other third party to provide

that assistance. Under such circumstances, the City shall continue to use its best efforts to undertake the most accelerated processing of the Applications which the law permits. The City may require Owner to tender deposits against the estimated cost of retaining such assistance, and may further require Owner to make periodic payments of the costs of retaining such assistance.

8.14.2 With respect to the "plan-checking" of Owner's submittals, the City, directly or through its consultant, shall complete the plan-checking process within thirty (30) days of receiving each plan check submittal from Owner.

8.15 Changes in Federal and State Law. The Property may be subject to subsequently enacted state or federal laws or regulations which preempt local regulations or mandate the adoption of local regulations that conflict with the Development Plan. Upon discovery of such a subsequently enacted federal or state law, City or Owner shall provide the other Party with written notice, a copy of the state or federal law or regulation, and a written explanation of the legal or regulatory conflict created. Within ten (10) days thereafter, City and Owner shall meet and confer in good faith in a reasonable attempt to modify this Agreement, as necessary, to comply with such federal or state law or regulation. In such negotiations, City and Owner agree to preserve the terms of this Agreement and the rights of Owner and City as derived from this Agreement to the maximum feasible extent while resolving the conflict. City agrees to cooperate with Owner in resolving the conflict in a manner which minimizes any financial impact of the conflict upon Owner or City. City also agrees to process, in the same expedited manner as set forth for Applications in Section 8.13, Owner's proposed changes to the Development Plan as needed to comply with such federal or state law, and to process those changes in accordance with City procedures. Any delays caused by such changes in state or federal law shall toll the term of this Agreement and the time periods for performance by Owner and City set forth in this Agreement.

8.16 Cooperation in Securing Other Governmental Approvals and Permits. City agrees to make its staff available, at Owner's cost, to assist Owner in securing permits and approvals required by other governmental agencies to assure Owner's ability to (i) implement the Development Plan and (ii) perform its obligations under this Agreement in a timely manner. City does not warrant or represent that any other governmental permits or approvals will be granted.

8.17 Compliance with CEQA. Where the California Environmental Quality Act requires that an environmental analysis be performed in connection with a future discretionary approval granted by the City for the Project, the City,

consistent with Section 8.13, shall provide the cooperation needed to expeditiously complete those actions.

8.18 Timing of Development. Because the California Supreme Court held in Pardee Construction Co. v. City of Camarillo, 37 Cal. 3d 465 (1984), that the failure of the parties in that case to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over the parties' agreement, it is the specific intent of the Parties to provide for the timing of the Project in this Agreement. To do so, the Parties acknowledge and provide that, subject to Section 8.19 below, Owner shall have the right, but not the obligation, to complete the Project in such order, at such rate, at such times, and in as many development phases and sub-phases as Owner deems appropriate in its sole subjective business judgment.

8.19 Conditions, Covenants and Restrictions. Owner shall have the ability to reserve and record such covenants, conditions, and restrictions (CC&Rs) against the Property as Owner deems appropriate, in its sole and absolute discretion. Such CC&Rs may not conflict with this Agreement or the General Plan. Before recording any CC&Rs, Owner shall provide a copy of the CC&Rs to the City for review and approval by the City Attorney. The City Attorney's review shall be limited to determining if the CC&Rs substantially comply with this Agreement. Within thirty (30) days after receiving a copy of the proposed CC&Rs from Owner, the City Attorney shall provide Owner with either (i) a statement that the CC&Rs comply with this Agreement ("CC&R Approval") or (ii) written comments identifying each aspect of the CC&Rs which the City Attorney believes not to be in compliance with this Agreement (a "Statement of Non-Compliance"). If the City Attorney fails to provide Owner with either CC&R Approval or a Statement of Non-Compliance within thirty (30) days following a written request by Owner, City shall be deemed to have approved the CC&Rs and Owner may record the CC&Rs against the Property. If the City Attorney provides a Statement of Non-Compliance, Owner shall have thirty (30) days in which to respond to the Statement of Non-Compliance. Upon submittal of Owner's response, the procedure described above for the initial submittal and City Attorney review of proposed CC&Rs shall again be followed. This procedure shall be followed until Owner either (1) receives CC&R Approval, (2) submits the compliance issues to binding arbitration pursuant to the rules of the American Arbitration Association, (3) files an action for declaratory relief in Orange County Superior Court seeking a judicial determination of the compliance of the proposed CC&Rs, or (4) agreement is otherwise reached between the Parties allowing for the recording of the CC&Rs. The CC&Rs may run with the land and bind Owner's successors and assigns. Except as provided above, any dispute between the Parties regarding the City's approval or

rejection of the CC&Rs shall be subject to immediate and binding arbitration pursuant to the rules of the American Arbitration Association.

9. PUBLIC BENEFITS.

9.1 Intent. This Agreement is entered into by the City in consideration of, and in exchange for, Owner's agreement to contribute to the development of the Public Facilities.

9.2 Public Benefits. Owner's Facilities Obligations are set forth in Exhibit "F."

9.3 Advancement of Funds for City Facilities. Owner acknowledges the importance of making the City Facilities available for use as soon as possible following the effective date of this Agreement, and further acknowledges that the timing and phasing of development within the Opportunities Study Area may not provide the City with adequate funding for the acquisition of land for the City Facilities and design and construction of the City Facilities soon enough to allow the City Facilities to be timely available for use. Therefore, Owner shall make available to the City $112,651 ("Owner's Advancement") to fund acquisition, design, and construction of the City Facilities, at the earlier of issuance of the first building permit for the Project, or 120 days after the effective date of this Agreement. Such advance shall be treated as a non-interest bearing deposit and such deposit shall be eligible for reimbursement pursuant to Sections 9.4 and 9.5 below, or a credit against fees.

9.4 Financing Public Facilities.

9.4.1 At the City's discretion, Owner's Facility Obligations may be financed through the use of one or more Financing Districts, to the extent permitted by the City's Long Term Financing and Land Secured Debt Policy (the "Financing Policy"), which is attached hereto as Exhibit "D," which Financing Policy may be amended or modified at the City's discretion. To the extent that Financing Districts are used, the timing, procedure, and other details of Owner's participation in the Financing Districts shall be addressed in a separate agreement between the City and Owner. Owner is obligated under paragraph A.1 of Exhibit "F" to pay fees to the City for the City Facilities. Subject to the availability of funds from the Financing Districts to do so, Owner may be reimbursed by the Financing Districts for the fees so paid.

9.4.2 Owner shall advance funds to pay all costs for formation of the Financing Districts and the issuance and sale of bonds therein, including, but not limited to, (i) the fees and expenses of any consultants and legal counsel to the City employed in connection with the formation of the Financing Districts and issuance of the bonds, including an engineer, special tax consultant, financial advisor, bond counsel and any other consultant deemed necessary or advisable by the City, (ii) the costs of appraisals, market absorption and feasibility studies and other reports deemed necessary or advisable by the City in connection with the issuance of the bonds, (iii) the costs of publication of notices, preparation and mailing of ballots and other costs related to any hearing, protest election or other action or proceeding undertaken in connection with the formation of the Financing Districts and issuance of the bonds, (iv) reasonable charges for City staff time incurred in connection with the formation of the Financing Districts and issuance of the bonds, including a reasonable allocation of School District staff time related thereto, (v) any and all other actual costs and expenses incurred by the City in connection with the formation of the Financing Districts and issuance of the bonds, and (vi) administrative and other expenses incurred by the County of Orange in connection with any existing Community Facilities District on the Property. Upon completion of the formation of the Financing Districts and successful sale of the bonds, funds advanced for such formation costs by Owner may be reimbursed from the bond proceeds within thirty (30) days of receipt of the bond proceeds.

9.4.3 Owner agrees to submit a petition to the City to form such Financing Districts prior to issuance of the first building permit for the Property. At the City's sole discretion, the City may form such Financing Districts for the purpose of levying a special tax and/or selling bonds in an amount sufficient to pay for the design, acquisition, construction and maintenance of all or part of the facilities described in the Financing Policy, provided however, that market conditions and the City Council permit the City staff to form such Financing Districts and issue bonds therein.

9.4.4 The Owner and the City shall, in good faith, negotiate the rate and method of apportionment of special taxes prior to the formation of the Financing Districts; provided however, that any such special tax rate shall comply with the Financing Policy, which is attached hereto as Exhibit "D."

9.4.5 The issuance of bonds shall comply with the Financing Policy. The bonds may be sold in one or more series. The timing of the

issuance of any series of bonds, and the par amount of the bonds to be issued, shall be determined in the sole discretion of the City.

9.5 Independent Nature of Obligations. Owner's Facilities Obligations are independent of the obligations of any other landowner or any other property which the City intends to participate in providing some or all of the Public Benefits. Provided that Owner satisfies Owner's Facilities Obligations and is not in Material Default, Owner's Vested Right to complete the full development of the Project shall not be limited, diminished, or otherwise adversely affected by the failure of any other landowner or property to participate in providing the Public Benefits as anticipated by the City. Similarly, the City's obligations to Owner and the Property are independent of the City's obligations to any other property or landowner. Owner acknowledges that the provisions of this paragraph shall not apply to any fee the amount of which is not controlled by the City, including but not limited to fees paid to the Saddleback Valley Unified School District, the County of Orange, and/or any other government agency.

9.6 Affordable Housing Obligations. Owner recognizes the policy stated in the Housing Element of the Lake Forest General Plan to encourage the provision of affordable housing in new development. Owner agrees to satisfy its obligation to provide for affordable housing by complying with the terms of the Affordable Housing Implementation Plan attached to this Agreement as Exhibit G, which provides Owner the option of either 1) providing onsite affordable units as part of the Project, or 2) paying to the City a fee of $4.14 Per Square Foot for each Unit constructed as part of the Project (the "Affordable Housing In-Lieu Fee"). The Affordable Housing In-Lieu Fee shall be due concurrently with the issuance of the building permit for each Unit, unless a different schedule is mutually agreed upon by the City and Owner. The Affordable Housing In-Lieu Fee is adjustable each year based on the latest California Consumer Price Index published by the State of California Department of Finance, with the January 2013 Consumer Price Index serving as a baseline.

10. ANNUAL REVIEW.

10.1 Timing of Annual Review. Pursuant to Government Code Section 65865.1, at least once during every twelve (12) month period of the Term, City shall review the good faith compliance of Owner with the terms of this Agreement ("Annual Review").

10.2 Standards for Annual Review. During the Annual Review, Owner shall be required to demonstrate good faith compliance with the terms of this Agreement. "Good faith compliance" shall be established if Owner is in compliance with every term and condition of this Agreement. If the City

Council or its designee finds and determines, based on substantial evidence, that Owner is not in good faith compliance, then City may proceed in accordance with Section 12 pertaining to the potential Default of Owner and the opportunities for cure. City shall establish and Owner shall pay a reasonable fee to cover the costs incurred by City in connection with the Annual Review.

10.3 Procedures for Annual Review. The Annual Review shall be conducted by the City Council or its designee. Owner shall be given a minimum of sixty (60) days' notice of any date scheduled for an Annual Review. Owner shall not be limited in the information it presents to the City Council for the Annual Review and may, if needed, provide information to the City Council in the first instance at the City Council hearing on the Annual Review. Should the City Council designate a party other than itself to conduct the Annual Review, these same notice and procedural requirements shall apply to the conduct by the designee of the Annual Review.

10.4 Certificate of Compliance. At any time during any year that the City Council or its designee finds that Owner is not in Default under this Agreement, City shall, upon written request by Owner, provide Owner with a written certificate of good faith compliance within fifteen (15) days of City's receipt of that request.

11. THIRD PARTY LITIGATION.

11.1 General Plan Litigation. City has determined that this Agreement is consistent with its General Plan. Owner has reviewed the General Plan and concurs with City's determination. Neither Owner nor City shall have any liability under this Agreement or otherwise for any failure of City to perform under this Agreement, or for the inability of Owner to develop the Property as contemplated by the Development Plan or this Agreement, if such failure or inability is the result of a judicial determination that part or all of the General Plan is invalid, inadequate, or not in compliance with law.

11.2 Third Party Litigation Concerning Agreement. Owner shall, at Owner's expense, defend, indemnify, and hold City, its officers, employees and independent contractors engaged in project planning or implementation, harmless from any third-party claim, action or proceeding against City, its agents, officers or employees to attack, set aside, void, or annul the approval of this Agreement. City shall promptly notify Owner of any such claim, action or proceeding, and City shall cooperate in the defense. City may in its discretion participate in the defense of any such claim, action or proceeding.

11.3 Indemnity. In addition to the provisions of Section 11.2, Owner shall indemnify and hold City, its officers, agents, employees and independent contractors, engaged in project planning or implementation, free and harmless from any third-party liability or claims based or alleged upon any act or omission of Owner, its officers, agents, employees, subcontractors and independent contractors, for property damage, bodily injury or death (Owner's employees included) or any other element of damage of any kind or nature, relating to or arising from development of the Project, except for claims for damages arising through active negligence or willful misconduct of City, its officers, agents, employees and independent contractors. Owner shall defend, at Owner's expense, including attorneys' fees, City, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions of Owner. City may in its discretion participate in the defense of any such legal claim, action, or proceeding.

11.4 Environmental Contamination. Owner shall indemnify and hold City, its officers, agents, and employees free and harmless from any liability, based or alleged, upon any act or omission of Owner, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns, and independent contractors, resulting in any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under, or about the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including attorneys' fees, City, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. City may in its discretion participate in the defense of any such claim, action, or proceeding, but must assume its own costs in participating in the defense. Notwithstanding anything to the contrary set forth in this Section, Owner shall not be responsible for clean-up and removal of groundwater contamination migrating to or from an adjacent property not owned by Owner.

11.5 City to Approve Counsel; Conduct of Litigation. With respect to Sections 11.2 through 11.4, City reserves the right either (a) to approve the attorney(s) that Owner selects, hires, or otherwise engages to defend City, which approval shall not be unreasonably withheld or delayed, or (b) if Owner is not agreeable to City's disapproval of counsel, to conduct its own defense. If City elects to conduct its own defense, Owner shall reimburse City. To the extent that Owners does not timely pay its full share of attorneys' fees and court costs, the City reserves the right to reduce or abandon its defense of any litigation. Owner shall have the right to audit all billings for such fees and expenses. City shall not have the right to approve counsel selected by Owner to represent Owner's interests in any litigation. In any joint defense between the City and Owner of matters arising under this Agreement, City shall cooperate fully with Owner's

counsel. To the extent that Owner has failed to timely pay its full share of attorneys' fees and court costs under this section, Owner shall be deemed to have waived any right to participate in the selection of counsel and/or be involved in establishing and implementing litigation strategy, and Owner's rights under this Agreement shall be suspended until Owner has fully reimbursed the City to make up a funding shortfall created by Owner's failure to timely pay.

11.6 Processing During Third Party Litigation. The filing of any third party lawsuit(s) against City or Owner relating to this Agreement, the General Plan, any Development Approvals, including Subsequent Development Approvals, or other development issues affecting the Property shall not delay or stop the development, processing, or construction of the Project, approval of Subsequent Development Approvals, or issuance of "Ministerial Approvals," unless the third party obtains a court order preventing the activity or invalidating this Agreement or any provision thereof. City shall not stipulate to the issuance of any such order without Owner's prior written consent. For purposes of this Section, the term "Ministerial Approvals" shall mean the issuance of approvals or permits requiring the determination of conformance with Land Use Regulations and Development Approvals, including, without limitation, site plans, site development permits, area plans, design review, development plans, land use plans, grading plans, improvement plans, building plans and specifications, ministerial issuance or approval of one or more final maps, zoning clearances, grading permits, improvement permits, stormwater management plans, wall permits, building permits, lot line adjustments, conditional and temporary use permits, certificates of use and occupancy, approvals, entitlements, and related matters as may be necessary for the completion of the Project.

11.7 Survival. The provisions of Sections 11.1 through 11.7 inclusive, shall survive the termination, cancellation, or expiration of this Agreement.

12. DEFAULTS AND REMEDIES.

12.1 Major Default Defined. A Major Default, as defined in Section 5.34 of this Agreement, may establish cause for early termination of this Agreement. This provision does not limit the right of either Party to pursue other non-termination remedies permitted by this Section 12 for Minor Defaults.

12.2 Notice and Termination. Before either Party may declare a Major Default or termination of this Agreement or bring a legal action to terminate this Agreement, the procedures of this Section must be followed. In the case of a Major Default arising from the conduct of an Annual Review, the

procedures of this Section shall be strictly followed and shall constitute a second and independent review of the good faith compliance of Owner.

The Party asserting a Default (the "Non-Defaulting Party") may elect to do so by providing written notice to the Party alleged to be in Default (the "Defaulting Party") setting forth the nature of the Default and the actions, if any, required by the Defaulting Party to cure the Default. The Defaulting Party shall be deemed in Default if the Defaulting Party fails to cure the Default within thirty (30) business days after the date of such notice (for monetary defaults) or within sixty business (60) days after the date of such notice (for non-monetary defaults)("cure periods"). If the nature of the alleged Default is such that it cannot reasonably be cured within the applicable cure period, the Defaulting Party shall not be deemed to be in Default if it has commenced efforts to cure the Default within the applicable cure period and continues to diligently pursue completion of the cure.

12.3 Default Remedies. A Party who complies with the notice of Default and opportunity to cure requirements of Section 12.2 may, at its option, institute legal action to cure, correct, or remedy the alleged Default, enjoin any threatened or attempted violation, enforce the terms of this Agreement by specific performance, or pursue any other legal or equitable remedy. These remedies shall be cumulative rather than exclusive, except as otherwise provided by law.

Furthermore, the City, after first following the procedures set forth in Section 12.2, may give notice of its intent to terminate or modify this Agreement for an uncured Major Default, in which event the matter shall be scheduled for consideration and review by the City Council, using the notice and procedure provisions set forth in Section 10.3 for an Annual Review. The "preponderance of evidence" standard of review set forth in Section 12.4, however, shall be employed rather than the substantial evidence standard set forth in Section 10.2.

12.4 Standard of Review. Any determination by City that Owner is in Default shall be based on the preponderance of evidence before the City. In any legal action by Owner challenging the City's determination of Default, the court shall conduct a de novo review of Owner's compliance based on the administrative record and determine if the preponderance of evidence supports the City's determination.

12.5 Owner's and City's Exclusive Remedy. City and Owner acknowledge that neither City nor Owner would have entered into this Agreement if it were to be liable in damages under or with respect to all or any part of the Development Plan. Accordingly, except as stated below, neither Party shall sue the other for damages or monetary relief for any matter related to

the Development Plan. City may, however, sue Owner for the payment of sums due from Owner to City under provisions of this Agreement which are expressly stated to survive termination of this Agreement. With these exceptions, Owner's and City's litigation remedies shall be limited to declaratory and injunctive relief, mandate, and specific performance.

12.6 Waiver; Remedies Cumulative. All waivers of performance must be in a writing signed by the Party granting the waiver. There are no implied waivers. Failure by City or Owner to insist upon the strict performance of any provision of this Agreement, irrespective of the length of time for which such failure continues, shall not constitute a waiver of the right to demand strict compliance with this Agreement in the future.

A written waiver affects only the specific matter waived and defines the performance waived and the duration of the waiver. Unless expressly stated in a written waiver, future performance of the same or any other condition is not waived.

A Party who complies with the notice of Default and opportunity to cure requirements of Section 12.2, where applicable, and elects to pursue a legal or equitable remedy available under this Agreement does not waive its right to pursue any other remedy available under this Agreement, unless prohibited by statute, court rules, or judicial precedent.

Delays, tolling, and other actions arising under Section 14.10 shall not be considered waivers subject to this Section 12.6.

12.7 Alternative Dispute Resolution. Any dispute between the Parties may, upon the mutual agreement of the Parties, be submitted to mediation, binding arbitration, or any other mutually agreeable form of alternative dispute resolution. While an alternative dispute process is pending, the statute of limitation shall be tolled for any claim or cause of action which either of the Parties may have against the other.

13. ENCUMBRANCES, ASSIGNMENTS, AND RELEASES.

13.1 Discretion to Encumber. This Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering some or all of the Property or any improvement on the Property by any mortgage, deed of trust, or other security device to secure financing related to the Property or the Project.

13.2 Mortgagee Protection. City acknowledges that the Lender(s) providing financing secured by the Property and/or its improvements may require certain Agreement interpretations and modifications. City shall, at any time requested by Owner or the lender, meet with Owner and representatives of such lender(s) to negotiate in good faith any such interpretation or modification. City will not unreasonably withhold or delay its consent to any requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

13.2.1 Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust on the Property made in good faith and for value.

13.2.2 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 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 remaining cure period allowed Owner under Section 12.2 of this Agreement.

13.2.3 Except as otherwise provided within this Agreement, any Mortgagee who comes into possession of some or all of the Property pursuant to foreclosure of a mortgage or deed of trust, or deed in lieu of such foreclosure or otherwise, shall:

13.2.3.1 Take that property subject to the terms of this Agreement and as Owner's successor;

13.2.3.2 Have the rights and obligations of an Assignee as set forth in Sections 13.3 and 13.4;

13.2.3.3 Have the right to rely on the provisions of Section 8 of this Agreement, provided that any development proposed by the Mortgagee is in substantial conformance with the terms of this Agreement; and

13.2.3.4 Not be liable for any defaults, whether material or immaterial, or monetary obligations of Owner arising prior to acquisition of title to the Property by the Mortgagee, except that the Mortgagee may not pursue development pursuant to this Agreement until all delinquent and current fees and other monetary

obligations due under this Agreement for the portions of the Property acquired by the Mortgagee have been paid to City.

13.3 Transfer or Assignment. Subject to Section 13.5, Owner shall have the right to sell, transfer, or assign its rights and obligations under this Agreement (collectively, an "Assignment") in connection with a transfer of Owner's interest in all, any portion of, or any interest in the Property (the "Transferred Property"). No Assignment shall be made unless made together with the sale, transfer, or assignment of all or any portion of Owner's interest in the Property.

Within fifteen (15) business days after any Assignment, Owner shall notify City in writing of the Assignment and provide City with an Assignment and Assumption Agreement, in a form substantially similar to Exhibit "I", executed by the purchaser, transferee, or assignee (collectively, the "Assignee") to expressly and unconditionally assume all duties and obligations of Owner under this Agreement remaining to be performed at the time of the Assignment.

13.4 Effect of Assignment. Subject to Section 13.5 and unless otherwise stated within the Assignment, upon an Assignment:

13.4.1 The Assignee shall be liable for the performance of all obligations of Owner with respect to Transferred Property, but shall have no obligations with respect to the portions of the Property, if any, not transferred (the "Retained Property").

13.4.2 The owner of the Retained Property shall be liable for the performance of all obligations of Owner with respect to the Retained Property, but shall have no further obligations with respect to the Transferred Property.

13.4.3 The Assignee's exercise, use, and enjoyment of the Transferred Property shall be subject to the terms of this Agreement to the same extent as if the Assignee were the Owner.

13.5 City's Consent. The City's consent shall not be required to an Assignment unless, at the time of the Assignment, Owner has been determined to be in Major Default pursuant to Section 12 and the Major Default has not been cured. If Owner is in Major Default, City shall consent to any Assignment which provides adequate security to City, in the reasonable exercise of City's discretion, to guarantee the cure of the Major Default upon completion of the Assignment.

14. MISCELLANEOUS PROVISIONS.

14.1 Rules of Construction. The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.

14.2 Entire Agreement. This Agreement constitutes the entire understanding and agreement of City and Owner with respect to the matters set forth in this Agreement. This Agreement supersedes all negotiations or previous agreements between City and Owner respecting the subject matter of this Agreement including, without limitation, the Original City Agreement.

14.3 Recorded Statement Upon Termination. Upon the completion of performance of this Agreement or its cancellation or termination, a statement evidencing completion, cancellation, or termination signed by the appropriate agents of City, shall be recorded in the Official Records of Orange County, California.

14.4 Project as a Private Undertaking. It is specifically understood by City and Owner that (i) the Project is a private development; (ii) City has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property unless City accepts the improvements pursuant to the provisions of this Agreement or in connection with subdivision map approvals; and (iii) Owner shall have the full power and exclusive control of the Property, subject to the obligations of Owner set forth in this Agreement.

14.5 Incorporation of Recitals. Each of the Recitals set forth at the beginning of this Agreement are part of this Agreement.

14.6 Captions. The captions of this Agreement are for convenience and reference only and shall not define, explain, modify, construe, limit, amplify, or aid in the interpretation, construction, or meaning of any of the provisions of this Agreement.

14.7 Consent. Where the consent or approval of City or Owner is needed to implement Development under this Agreement, the consent or approval shall not be unreasonably withheld, delayed, or conditioned.

14.8 Covenant of Cooperation. City and Owner shall cooperate and deal with each other in good faith and assist each other in the performance of the provisions of this Agreement.

14.9 Execution and Recording. The City Clerk shall cause a copy of this Agreement to be signed by the appropriate representatives of the City and recorded with the Office of the County Recorder of Orange County, California, within ten (10) days following the effective date of Ordinance No. 255, the ordinance adopting this Agreement. The failure of the City to sign and/or record this Agreement shall not affect the validity of and binding obligations set forth within this Agreement.

14.10 Delay for Events Beyond the Parties' Control. Performance by either Party of its obligations under this Agreement shall be excused, and the Term shall be extended, for periods equal to the time during which (1) litigation is pending which challenges any matter, including compliance with CEQA or any other local, state, or federal law, related in any way to the approval or implementation of all or any part of the Development Plan. Any such extension shall be equal to the time between the filing of litigation, on the one hand, and the entry of final judgment or dismissal, on the other. All such extensions shall be cumulative; (2) any application by Owner for state or federal regulatory permits and/or approvals required for the Project has been pending more than one year after its submittal; or (3) a delay is caused by reason of any event beyond the control of City or Owner which prevents or delays performance by City or Owner of obligations under this Agreement. Such events shall include, by way of example and not limitation, acts of nature, enactment of new conflicting federal or state laws or regulations (example: listing of a species as threatened or endangered), judicial actions such as the issuance of restraining orders and injunctions, delay in the issuance of bonds or formation of any Financing Districts, and riots, strikes, or damage to work in process by reason of fire, mud, rain, floods, earthquake, or other such casualties.

If City or Owner seeks excuse from performance, it shall provide written notice of such delay to the other within thirty (30) days of the commencement of such delay. If the delay or default, whether material or immaterial, is beyond the control of City or Owner it shall be excused, and an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon. Any disagreement between the Parties with respect to whether this Section 14.10 applies to a particular delay or default is subject to the filing by either Party of an action for judicial review of the matter, including requests for declaratory and/or injunctive relief.

14.11 Interpretation and Governing Law. In any dispute regarding this Agreement, the Agreement shall be governed and interpreted in accordance with the laws of the State of California. Venue for any litigation concerning this Agreement shall be in Orange County, California.

14.12 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

14.13 Estoppel Certificate. Within ten (10) business days following a written request by either of the Parties, the other Party shall execute and deliver to the requesting Party a statement certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full

force and effect as modified; and (ii) either there are no known current uncured Major Defaults under this Agreement or that the responding Party alleges that specified (date and nature) Major Defaults exist. The statement shall also provide any other reasonable information requested. The failure to timely deliver this statement shall constitute a conclusive presumption that this Agreement is in full force and effect without modification, except as may be represented by the requesting Party and that there are no uncured Major Defaults in the performance of the requesting Party, except as may be represented by the requesting Party. Owner shall pay to City all reasonable administrative costs incurred by City in connection with the issuance of estoppel certificates under this Section 14.13 prior to City's issuance of such certificates.

14.14 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

14.15 Future Litigation Expenses.

14.15.1 Payment to Prevailing Party. If either Party brings a legal or equitable proceeding against the other Party which arises in any way out of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and all other reasonable costs and expenses incurred in that proceeding.

14.15.2 Scope of Fees. Attorneys' fees under this Section shall include attorneys' fees on any appeal and in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the termination of this Agreement.

14.15.3 Limitation of Liability. Owner's obligations under this Agreement are solely those of Owner. In no event shall any present, past or future officer, director, shareholder, member, employee, partner, affiliate, manager, representative or agent of Owner (a "Related Party") have any personal liability, directly or indirectly, under this Agreement. Recourse in any way connected with or arising from this Agreement shall not be available against any Related Party.

Owner and City have executed this Agreement on the dates set forth on the following page.

(Signature page to Development Agreement between the City and Foothill Village, LLC)

CITY

City of Lake Forest

By: _____
Scott Voigts
Mayor

Date: 2/5/2014

OWNER

Foothill Village, LLC, a Delaware limited liability company

By: _____
Jason G. Kliewer, Manager

By: _____
Mark L. Frazier, Manager

Date: 2/5/2014

ATTEST:

By: _____
Stephanie D. Smith, CMC
City Clerk

APPROVED AS TO FORM:

By: _____
Scott C. Smith
City Attorney

STATE OF CALIFORNIA
COUNTY OF ORANGE

On January 8, 2013, before me, Vivian Fernández NOTARY PUBLIC, (here insert name and title of the officer), personally appeared Jason G. Kliewer, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.

VIVIAN FERNANDEZ
Commission # 1923836
Notary Public - California
Orange County
My Comm. Expires Jan 30, 2015

Signature Vivian Fernández (seal)

STATE OF CALIFORNIA
COUNTY OF ORANGE

On _____, 2013, before me, _____, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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)

STATE OF CALIFORNIA
COUNTY OF ORANGE

On January 10, 2014, before me, Parker Lind Bohls, Notary Public, (here insert name and title of the officer), personally appeared Mark L. Frazier, who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose names(~~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.

PARKER LIND BOHLS
Commission # 1998082
Notary Public - California
Orange County
My Comm. Expires Nov 12, 2016

Signature _____ (seal)

STATE OF CALIFORNIA
COUNTY OF ORANGE

On _____, 2014, before me, _____, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF LAKE FOREST, COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCELS 3 AND 4 OF PARCEL MAP NO. 95-177, IN THE CITY OF LAKE FOREST, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 292, PAGES 13 TO 17 INCLUSIVE, OF PARCEL MAPS, AND AS CORRECTED BY CERTIFICATE OF CORRECTION RECORDED JULY 23, 2002, AS INSTRUMENT NO. 20020609954, OF OFFICIAL RECORDS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ALL OIL, MINERALS, NATURAL GAS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL RESOURCES, METALLIFEROUS OR OTHER ORES, AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND HEREINABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR, AND STORING IN AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE HEREINABOVE DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES, WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AS RESERVED IN THE DEED FROM FOOTHILL RANCH COMPANY RECORDED MARCH 11, 1996 AS INSTRUMENT NO. 19960116968 OF OFFICIAL RECORDS.

APN: 612-163-03

EXHIBIT "B"
GENERAL PLAN AMENDMENT
(Attached Hereto)

RESOLUTION NO. 2013-30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT 1-12-2377 AMENDING THE LAND USE DESIGNATION AT 70 AUTO CENTER DRIVE, LOCATED SOUTH OF AUTO CENTER DRIVE AND NORTH OF TOWNE CENTRE DRIVE (APN 612-163-03) IN ORDER TO ALLOW FOR LOW-MEDIUM DENSITY RESIDENTIAL DEVELOPMENT

WHEREAS, Article 5 of Chapter 3 of Division 1 of Title 7 (commencing with Section 65300) of the Government Code requires the City to prepare and adopt a comprehensive, long-term general plan for the physical development of the City; and

WHEREAS, on June 21, 1994, the City of Lake Forest adopted its General Plan, which has since been amended from time to time; and

WHEREAS, the applicant, Foothill Village LLC, on behalf of Trumark Homes, filed applications for the approval of a General Plan Amendment, Zone Change, Site Development Permit and Tentative Tract Map on January 27, 2012; and

WHEREAS, Foothill Village LLC submitted an Application to amend the land use designation from Commercial to Low-Medium Density Residential; and

WHEREAS, this General Plan Amendment would make the land use designations on this property consistent with other residential developments within the Foothill Ranch Planned Community; and

WHEREAS, a Mitigated Negative Declaration for development and use of the proposed residential development was circulated between January 22, 2013 and February 21, 2013; and

WHEREAS, the Draft Mitigated Negative Declaration analyzed the impacts related to re-designation of land uses on a portion of the previous auto center site; and

WHEREAS, the City invited recognized Native American tribes to engage in consultation regarding the proposed General Plan Amendment pursuant to Government Code Section 65352.3; and

WHEREAS, on June 28, 2013, the City gave public notice of the Planning Commission public hearing for consideration of General Plan Amendment 1-12-2377 by advertising in a newspaper of general circulation and posting notices at City Hall, and the El Toro and Foothill Ranch branches of the public library and by mailing to property owners within 300 feet; and

WHEREAS, on July 11, 2013, the Planning Commission held a duly-noticed public hearing and considered evidence prepared by staff and the City Attorney's office concerning the proposed project; and

WHEREAS, on August 9, 2013 the City gave public notice of the City Council public hearing for consideration of General Plan Amendment 1-12-2377 by advertising in a newspaper of general circulation and by posting notices at City Hall, and the El Toro and Foothill Ranch branches of the public library and by mailing to property owners within 300 feet on August 8, 2013; and

WHEREAS, the City Council has held a duly-noticed public hearing and considered evidence prepared by staff, City Attorney, and the applicant concerning the proposed General Plan Amendment; and

WHEREAS, the City Council, after carefully considering all pertinent testimony, documentation, and the staff report offered in the case as presented at the public hearing, now intends to approve General Plan Amendment No. 1-12-2377.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. GENERAL PLAN AMENDMENT. The General Plan Amendment consists of an amendment to Land Use Element Figure LU-1 and Table LU-3, shown in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 2. CEQA. The proposed General Plan Amendment is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), in that:

1. Review Period: The City provided a 30-day public review period for the Initial Study, Mitigated Negative Declaration (IS/MND) as required under CEQA Guidelines section 15073; and

2. Compliance with Law: The MND was prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), the State CEQA Guidelines (14 California Code of Regulations Section 15000 *et seq.*) and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Lake Forest; and

3. Independent Judgment: The MND reflects the independent judgment and analysis of the City; and

4. Mitigation Monitoring Program: The MND recommends adoption of mitigation measures to reduce significant impacts of the Project. Therefore, the City Council has adopted a Mitigation Monitoring Program pursuant to State CEQA Guidelines section 15097. The Mitigation Monitoring Program is designed to ensure compliance during project implementation in that changes to the project and/or mitigation measures have been incorporated into the project and are fully enforceable through permit conditions, agreements or other measures as required by Public Resources Code Section 21081.6;

5. Custodian of Records: A copy of the documents are on file with the City and available for public review at Lake Forest City Hall, 25550 Commercentre Drive, Lake Forest, CA 92630. The Director of Development Services is the custodian of the record of proceedings.

SECTION 3. LOCATION OF DOCUMENTS. The General Plan Amendment and related documents are on file and available for public review at Lake Forest City Hall, 25550 Commercentre Drive, Suite 100, Lake Forest, California 92630. The Director of Development Services is the custodian of these documents.

SECTION 4. WILDLIFE RESOURCES. Pursuant to Title 14, California Code of Regulation Section 711.4(c), all project applicants and public agencies subject to the California Environmental Quality Act shall pay a filing fee for each proposed project, as specified in subdivision 711.4(d) for any adverse effect on wildlife resources or the habitat upon which wildlife depends unless a "no effect" finding is made by the California Department of Fish and Game.

SECTION 5. GENERAL PLAN CONSISTENCY. Based on the entire record before the City Council, including all written and oral evidence presented to the City Council, the City Council hereby finds that the General Plan Amendment is compatible with the objectives, policies, and general plan land use

programs specified in the General Plan for the City of Lake Forest in that:

1. The City of Lake Forest has officially adopted a General Plan.

2. The land uses authorized by the General Plan, and the General Plan Amendment itself, are compatible with the objectives, policies, general land uses, and programs specified in the General Plan, for the following reasons:

   a) The General Plan Amendment is internally consistent with itself, because the amendments to Figure LU-1 and Table LU-3 are interrelated and are intended to work together.

   b) The General Plan Amendment complies with Policy 2.2 of the Land Use Element to promote high quality in the design of all public and private development projects, because development anticipated by the General Plan Amendment will be controlled through a Site Development Permit, allowing the City to ensure the quality of the development.

   c) Goal 1.0 of the Land Use Element encourages "a balanced land use pattern that meets existing and future needs for residential, commercial, industrial, and community uses." The General Plan Amendment is consistent with this goal because it will add needed housing to the City's inventory.

   d) Policy 3.1 of the Land Use Element seeks to ensure that new development fits within the existing setting and is compatible with the physical characteristics of available land, surrounding land uses, and public infrastructure availability. The General Plan Amendment is consistent with this policy because the proposed residential development will be carefully designed to avoid impacts to the surrounding uses and to be a compatible use with the adjacent office, retail, medical and services uses in this area.

   e) The General Plan Amendment complies with Land Use Element Policy 3.2 preserving and enhancing the quality of Lake Forest residential neighborhoods by avoiding or abating the intrusion of disruptive, non-conforming buildings and uses. A change to residential zoning allows a compliment to the

commercial, retail, office, service, and medical land uses immediately adjacent.

f) The General Plan Amendment complies with Policy 3.3 of the Land Use Element ensuring the affected public agency can provide necessary facilities and services to support the impact and intensity of development in Lake Forest and in areas adjacent to the City. The proposed development has been reviewed and is not anticipated to overtax the existing resources of the City. Adequate water, public services, sewer capacity, and other services exist and will be available for this project as well as the existing and planned projects in this area and adjacent.

3. The proposed General Plan Amendment will not adversely affect the public health, safety, and welfare in that it does not create nonconformities within remaining portions of the City.

SECTION 6. CITY COUNCIL ACTIONS. The City Council hereby takes the following actions:

1. The City Council hereby directs that, subject to compliance with the Mitigation Monitoring Program in the Mitigated Negative Declaration, the Land Use Element of the Lake Forest General Plan be amended to reflect the changes set forth in Exhibit A attached hereto and incorporated herein.

2. The General Plan Amendment shall not take effect unless and until Zone Change 1-12-2376, Tentative Tract Map 17439, and Site Development Permit 1-12-2378 are each approved by the City Council, and the associated Development Agreement is approved by the City Council and executed by all parties thereto.

PASSED, APPROVED AND ADOPTED this 20th day of August 2013.

SCOTT VOIGTS
MAYOR

ATTEST:

STEPHANIE D. SMITH, CMC
CITY CLERK

APPROVED AS TO FORM:

SCOTT C. SMITH
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF LAKE FOREST)

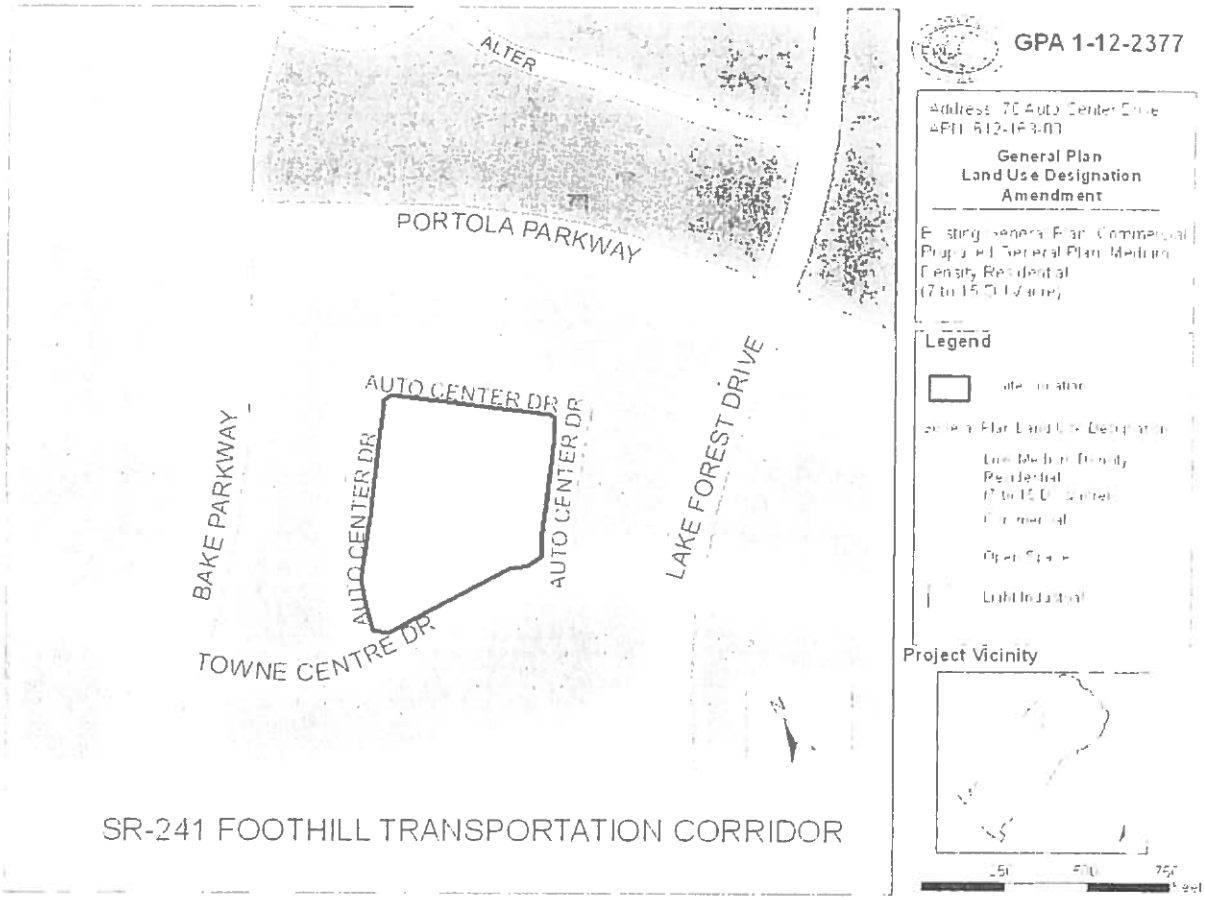
I, Stephanie D. Smith, City Clerk of the City of Lake Forest, California, do hereby certify that the foregoing Resolution No. 2013-30 was duly passed and adopted at a regular meeting of the Lake Forest City Council on the 20th day of August, 2013 by the following vote, to wit:

AYES:	COUNCIL MEMBERS:	NICK, ROBINSON, VOIGTS
NOES:	COUNCIL MEMBERS:	HERZOG, MCCULLOUGH
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE

STEPHANIE D. SMITH, CMC
CITY CLERK

EXHIBIT "A"

Amendment to Land Use Element Figure LU-1



Amendment to Land Use Element Table LU-3

Table LU-3 Land Use Plan Development Capacity Summary

Land Use Designations	Total Acres[a]	Total Dwelling Units	Total Square Footage (000s)	Average Persons per Dwelling Unit[b]	Total Population
Residential Designations					
Very Low Density Residential (0–2 du/ac)	0 0	0		2 91	0
Low Density Residential (2–7 du/ac)	2 307	15,687		2.91	45,649
Low-Medium Density Residential (7–15 du/ac)	[illegible]	9,537		2.91	27,754
Medium Density Residential (15–25 du/ac)	420	9,780		2 91	28,721
High Density Residential (25–43 du/ac)	16	681		2.91	1,981
Subtotal	*3,618*	*35,685*			*104,105*
Effective Development Based on OSA DAs		*31,864**			*92,724**
Nonresidential Designations					
Commercial	[illegible]		12,109		
Professional Office	32		696		
Mixed-Use	139	1,090*	1,037	2 91	3,172*
Business Park	279		4,254		
Light Industrial	807		12,303		
Subtotal	*1,952*	*1 090*	*30,399*		*3 172*
Public Facility	325		2,831		
Community Park/Open Space	237		1,031		
Regional Park/Open Space	2 000		80		
Open Space (with Lake)	1 074		2 339		
Mineral Resource Overlay	c		c		
Business Development Overlay	d		d		
Public Facilities Overlay	e		e		
Subtotal	*3 636*		*6,281*		
Total	***9,206***	***32,954****	***36,680***		***95,896***

Source GPA 2008-02, GPA 5-10-1233-PEIR Alternative 7*, GPA 2-11-1729 [illegible]

a. Estimated number of dwelling units and square feet of development based on effective intensity of development for each land use type (see Table LU-2).

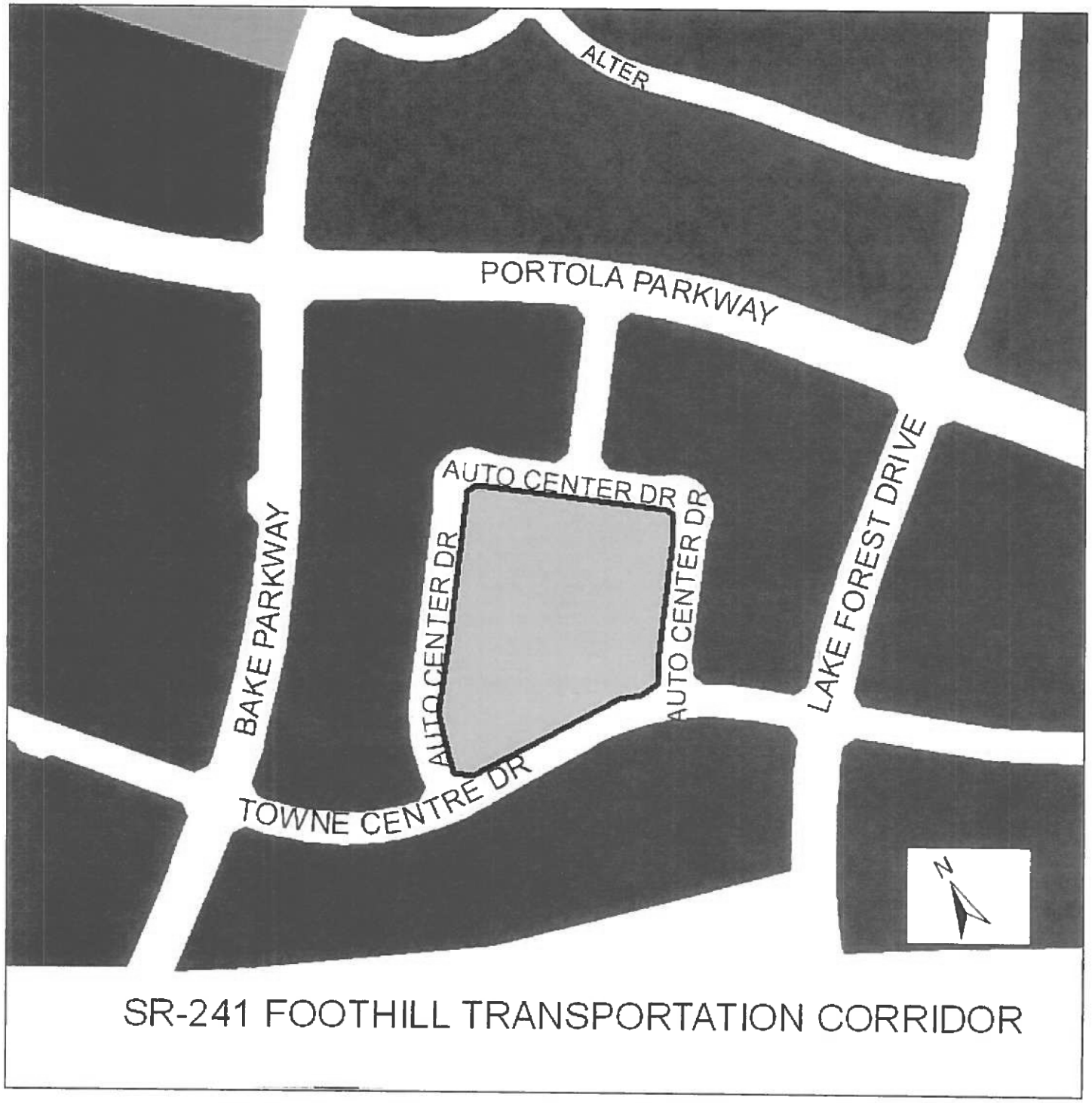
b. Based on 2000 Census estimates.

c. Approximately 62 acres of land is designated as an important Mineral Resource Zone (MRZ-2) under this overlay. The underlying future planned use is commercial and Business Park and the acreage is reflected under these land use designations.

d. Approximately 2,100 acres of land are designated as Business Development Overlay (BDO). The underlying future planned land use is Commercial, Professional Office, Business Park, and Light Industrial and the acreage is reflected under these land use designations.

e. Approximately 73 acres of land are designated for potential future public facilities as part of the Opportunities Study. The underlying future planned uses are Commercial, Business Park, and Residential.

* Actual development is capped by Development Agreements for GPA 2008-02 and GPA 5-10-1233 as analyzed in the Opportunities Study Program FEIR, certified June 3, 2008.



GPA 1-12-2377

Address: 70 Auto Center Drive
APN: 612-163-03

General Plan Land Use Designation Amendment

Existing General Plan: Commercial
Proposed General Plan: Medium Density Residential
(7 to 15 DUs/acre)

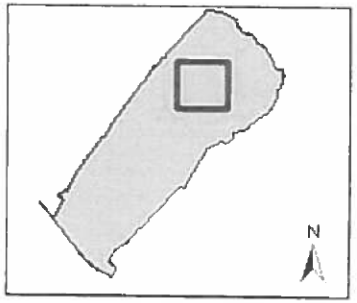
Legend

Site Location

General Plan Land Use Designations

- Low-Medium Density Residential (7 to 15 DUs/acre)
- Commercial
- Open Space
- Light Industrial

Project Vicinity



0 250 500 750 Feet

Table LU-3 Land Use Plan Development Capacity Summary

Land Use Designations	Total Acres[2]	Total Dwelling Units	Total Square Footage (000s)	Average Persons per Dwelling Unit[b]	Total Population
Residential Designations					
Very Low Density Residential (0–2 du/ac)	0.0	0		2.91	0
Low Density Residential (2–7 du/ac)	2,307	15,687		2.91	45,649
Low-Medium Density Residential (7–15 du/ac)	~~875~~882	9,537		2.91	27,754
Medium Density Residential (15–25 du/ac)	420	9,780		2.91	28,721
High Density Residential (25–43 du/ac)	16	681		2.91	1,981
Subtotal	*3,618*	*35,685[a]*			*104,105[a]*
Effective Development Based on OSA DAs		*31,864**			*92,724**
Nonresidential Designations					
Commercial	~~695~~688		12,109		
Professional Office	32		696		
Mixed-Use	139	1,090*	1,037	2.91	3,172*
Business Park	279		4,254		
Light Industrial	807		12,303		
Subtotal	*1,952*	*1,090*	*30,399*		*3,172*
Public Facility	325		2,831		
Community Park/Open Space	237		1,031		
Regional Park/Open Space	2,000		80		
Open Space (with Lake)	1,074		2,339		
Mineral Resource Overlay	c		c		
Business Development Overlay	d		d		
Public Facilities Overlay	e		e		
Subtotal	*3,636*		*6,281*		
Total	***9,206***	***32,954****	***36,680***		***95,896***

Source: GPA 2008-02, GPA 5-10-1233-PEIR Alternative 7*, GPA 2-11-1729, GPA 1-12-2377

a. Estimated number of dwelling units and square feet of development based on effective intensity of development for each land use type (see Table LU-2).

b. Based on 2000 Census estimates.

c. Approximately 62 acres of land is designated as an important Mineral Resource Zone (MRZ-2) under this overlay. The underlying future planned use is commercial and Business Park and the acreage is reflected under these land use designations.

d. Approximately 2,100 acres of land are designated as Business Development Overlay (BDO). The underlying future planned land use is Commercial, Professional Office, Business Park, and Light Industrial and the acreage is reflected under these land use designations.

e. Approximately 73 acres of land are designated for potential future public facilities as part of the Opportunities Study. The underlying future planned uses are Commercial, Business Park, and Residential.

* Actual development is capped by Development Agreements for GPA 2008-02 and GPA 5-10-1233 as analyzed in the Opportunities Study Program FEIR, certified June 3, 2008.

EXHIBIT "C"

[Reserved]

EXHIBIT "D"

CITY OF LAKE FOREST

LONG TERM FINANCING AND LAND SECURED DEBT POLICY

SEE ATTACHED

CITY OF LAKE FOREST
LONG-TERM FINANCING POLICY

INTRODUCTION

The following policies and procedures are enacted in an effort to standardize the issuance and management of debt by the City of Lake Forest, the Lake Forest Redevelopment Agency, the Rancho Cañada Financing Authority, any other component units of the City (hereinafter referred to as "City"). The primary objective is to establish conditions for the use of debt, to minimize the City's debt service requirements and cost of issuance, to retain the highest practical credit rating, maintain full and complete financial disclosure and reporting and to maintain financial flexibility for the City. The policies apply to all debt issued by the City including capital leases, special tax and assessment debt and conduit debt.

PURPOSE

The purpose of this Policy is to establish guidelines and procedures for the issuance of bonds and the incurrence of debt by the City and on related issues. Typically, debt is incurred as a result of issuing bonds for public purposes. Generally, these bonds are tax-exempt, meaning that investors (purchasers of the bonds) do not have to pay federal or state income taxes on the interest they earn from the bonds. There are also debt obligations in forms other than bonds. Certificates of participation and secured loans are examples of other forms of debt obligations.

The policies set forth herein reflect the minimum standards under which the City will make use of long-term debt, including Community Facilities Districts and Assessment Districts, to finance public facilities and fund services permitted by the applicable laws of the State of California. The City may, in its discretion, require additional measures and procedures, enhanced security and higher standards in particular cases.

The City may, in its discretion and to the extent permitted by law, waive any of the policies set forth herein in particular cases. Exceptions to such policies will be considered that are consistent with current public financing practices when structuring bond refundings, when considering unique bond structures (e.g., escrowed bond proceeds or variable rate bonds) or when additional credit enhancements (e.g., bond insurance or credit supports) are present.

The goals and policies set forth herein may be amended at any time and from time to time by the City.

USE OF LONG-TERM FINANCING

The City will consider the use of debt financing only for its one-time capital improvement projects and only under the following circumstances:

1. When the project's useful life will exceed the term of the financing.

2. When the projected revenues or funding sources will be sufficient to service the long-term debt.

Debt financing will not be considered appropriate for any recurring purpose such as current operating and maintenance expenditures, however, the City may use assessments and other special taxes to pay costs of ongoing maintenance and special services. The issuance of short-term cash-flow instruments (tax anticipation notes, revenue anticipation notes, tax/revenue anticipation notes) are permitted only when available cash is or will be insufficient to meet working capital requirements. Such cash-flow instruments are not permitted for the purpose of arbitrage earnings.

The City will consider the following criteria to evaluate pay-as-you-go financing:

1. Current revenues and adequate fund balances are available so project phasing can be accomplished.

2. Additional debt service would adversely affect the marketability of existing debt.

3. Market conditions are unstable or present difficulties in marketing debt instruments.

The City will consider the following criteria to evaluate long-term financing:

1. Revenues available for debt service are deemed to be sufficient and reliable so that long-term financing can be marketed with investment grade credit ratings.

2. Market conditions present favorable interest rates and demand for City financing.

3. The project is mandated by state and/or federal requirements and current resources are insufficient or unavailable.

4. The project is immediately required to meet or relieve capacity needs and current resources are insufficient or unavailable.

5. The life of the project or asset to be financed is 10 years or longer.

DIRECT AND INDIRECT DEBT

Bonds may be classified as either direct or indirect obligations. For purposes of this Policy, a "direct" obligation exists when the City and the General Fund are directly liable for debt repayment. An "indirect" obligation exists when the City, or one of its subordinate entities, has issued the debt, but neither the City nor the General Fund revenues are directly liable for debt repayment. In other words,

the debt agreements are structured so that the bond obligation does not provide that the City will be liable for repayment of the debt, nor does the obligation include a pledge of the City's General Fund revenues to secure the debt. Indirect debt obligations are recorded within the City's financial statements, however, and the City may have complete administrative oversight responsibility for the debt.

Examples of typical indirect obligations include tax allocation bonds issued by the Lake Forest Redevelopment Agency (when only the tax increment revenue is pledged to repay the debt); lease-revenue bonds (when only the revenues received under the lease agreements are pledged to repay the debt, although the title to the leased property may be pledged to secure the debt), certificates of participation and revenue bonds (when secured entirely by revenues from enterprise fund operations). Note, however, that any of these types of obligations may be structured as direct debt, if the debt agreements include promises by the City to repay the debt, or pledges General Fund revenues.

SPECIAL ASSESSMENT AND COMMUNITY FACILITIES DISTRICT BONDS

Non-obligatory debt is debt in which the City has no obligation to repay, but issues the debt to facilitate a project that has public benefits. Some examples of this category of debt include special assessment districts, Community Facilities Districts ("CFDs"), business improvement districts and parking districts. For those bonds in this category that contain value-to-lien ratio, they should be equal to or greater than 4:1, unless additional security is provided as further described in this policy statement.

CONDUIT FINANCING

Another category of bonds or debt is commonly referred to as "conduit bonds." Conduit financing bonds are bonds issued by a public agency for a public purpose, often as tax-exempt bonds, but the proceeds are loaned to a third party "borrower" who is responsible for debt repayment. Conduit bonds typically are used for housing or industrial development, or to construct facilities or to provide capital to operate or manage programs of non-profit corporations. A public hearing pursuant to the Tax Equity and Fiscal Responsibility Act (TEFRA) usually is required when conduit bonds are issued. Some examples of this category of debt include industrial development bonds, mortgage revenue bonds and hospital revenue bonds.

REFUNDING

Refunding (also referred to as refinancing) of existing bonds can occur for a number of reasons, such as, to achieve savings on debt service costs, restructure outstanding debt, in conjunction with issuance of additional debt and/or to change burdensome bond covenants. The City shall evaluate each proposed refunding and determine if the refunding is in the best interest of the City. In the case of a refunding to achieve savings on debt service costs, the minimum savings shall be three percent (3%) on a present value basis. The City Council may approve a refunding of bonds for other reasons than debt service savings, such as changing out dated or burdensome bond covenants, and restructuring for the purpose of leveling debt service payments.

PERMITTED/PARTIALLY PERMITTED TYPES OF BONDS

Permitted

Revenue Bonds
Certificates of Participation
Business Improvement Bonds
Redevelopment Agency Bonds
Conduit Financing
Lease/Purchase Agreements

Partially Permitted

Community Facilities District Bonds: Permitted only for residential and commercial projects and when requested by the land owner(s).

Special Assessment: Permitted only for residential and commercial projects and when requested by the land owner(s).

Tax Anticipation Notes: Permitted only when available cash is or will be
Revenue Anticipation Notes: insufficient to meet working capital requirements.
Tax and Revenue Anticipation Notes Not permitted for purpose of arbitrage earnings.

General Obligation Bonds: Permitted upon an approval of 2/3 of the qualified electors of the City of Lake Forest.

THE POLICY

This Policy includes a number of separate policy and procedure statements organized into a general category and specific categories of bonds based upon the nature of the debt. These categories area:

I. General Policies – All Debt Bond Obligations
II. Direct Debt Obligations
III. Indirect Debt Obligations
IV. Community Facilities District Special Tax and Special Assessment Bonds
V. Conduit Bond Obligations
VI. Bond Debt Issued by Statewide Financing Authorities

I. GENERAL POLICIES – ALL DEBT BOND OBLIGATIONS

These policies and procedures apply to all categories of debt issuance, regardless of the nature of the debt or bonds issued. They are necessary to assure adequate control by the City Council to manage debt liability properly and to keep risk exposure to a minimum. They are applicable to all categories of debt and are organized into the following nine sub-categories:

A. Competitive Versus Negotiated Bond Sales
B. Formation of the Financing Team
C. Rating Agencies
D. Bond Insurance
E. Cost of Debt and Optimum Pricing
F. Full Disclosure Obligation
G. Continuing Disclosure Obligation
H. Authorized City Representatives on Matters Concerning Debt Issues
I. Authority and Responsibility for Evaluation and Recommendations Respecting Bond Issuance and Debt Incurrence

A. Competitive Versus Negotiated Bond Sales

Policy:

All bonds issued by the City shall be sold through either a competitive or negotiated procedure according to the following criteria:

1. Competitive sale procedures shall be used when the transaction is expected to have adequate market interest to assure competitive pricing.

Explanation:

Negotiated sales should be used whenever the financing structure may not be sufficiently understood by the market place to ensure adequate competition, or if there is some credit risk. Negotiated sales are also often used for refunding (refinancing) transactions to enable the issuer to move in and out the market until the desired interest rate savings can be achieved.

In a competitive bid sale, the procedures for advertising and opening bids are precise as to a time schedule, and the City does not have the flexibility to move in and out of the market place. As a result, competitive sales may not be efficient for refunding transactions, although they may work very effectively under certain circumstances; i.e., where the economy and interest rates are stable and a familiar financing transaction is proposed.

2. Negotiated sale procedures shall be used whenever the transaction possesses characteristics which are not readily understood by the market so that competitive pricing is not anticipated, and generally should be used for most refunding transactions.

Negotiated sales are also appropriate for use in issuing tax allocation bonds, certain types of special tax and assessment bonds and revenue bonds having complex financing structures. This type of financing transaction may involve complex characteristics such as fluctuating real estate values, concentrated revenue flow; i.e., not diversified, unusual dependence upon a new or unproven revenue flow.

B. Formation of the Financing Team

The City Manager may recommend and the City Council shall approve all members of the City's financing team. Members of the City's financing team shall be selected in accordance with the City's purchasing and contract guidelines then in effect pursuant to the City's Municipal Code, as may be amended from time to time.

Members of the financing team may include, but not be limited to, the following:

1. Bond Counsel;
2. Disclosure Counsel;
3. Financial Advisor;
4. Underwriter;
5. Trustee/Fiscal Agent;
6. Debt/Special Tax/Assessment Administrator;
7. Continuing Disclosure Agent;
8. Appraiser;
9. Absorption Consultant;
10. Investment Advisor; and
11. Arbitrage Rebate Consultant.

Bond Counsel: Bond Counsel is the attorney that structures the legal documents and legislative approval for the financing. The City will only select Bond Counsel from firms which are listed in the "Red Book" and which may issue tax-exempt opinions which are nationally recognized.

Disclosure Counsel: Disclosure Counsel prepares the offering statement relating to the financing and conducts due diligence to ensure that the City has met the standard of disclosure required under the securities laws.

Financial Advisor: The Financial Advisor generally will assist the City in selecting the appropriate method of financing, assist the City in preparing presentations to rating agencies and bond insurers, determine the credit quality of the issue for offering on a competitive or negotiated sale, and assist the City with determining fair offering prices for the bonds at a negotiated sale.

Underwriter: The Underwriter purchases the bonds from the City and places the bonds with purchasers which are suitable for the type of credit. The Underwriter will assist with the preparation of the City's credit evaluations, and will participate in due diligence and preparation of the offering statement.

Trustee/ Fiscal Agent: The Trustee/Fiscal Agent is the corporate trust bank that holds all of the funds and accounts related to the payment of the bonds. The Trustee/Fiscal Agent makes regularly scheduled payments on the bonds and maintains records of payment on the City's bonds.

Debt/Special Tax/Assessment Administrator: This consultant will prepare an annual report of special taxes/assessments to be levied against real property and needed to pay debt service on bonds. This consultant will ensure that the special taxes/assessments are properly enrolled with the County Treasurer/Tax Collector.

Continuing Disclosure Agent: This consultant prepares and disseminates the annual continuing disclosure report required in each year so long as the bonds are outstanding.

Appraiser: Some financings require the appraisal of property to determine the credit quality of the bonds. The appraiser will prepare the appropriate report to determine the value of the asset securing the bonds.

Absorption Consultant: This consultant will help assess the marketability of residences in a given area and assess the proposed prices of homes in the competing market.

Investment Consultant: This consultant helps the City determine the most effective method of investing bond funds.

Arbitrage Rebate Consultant: Reviews investment earnings on invested bond proceeds and calculates rebate liability of excess investment earnings which are payable to the I.R.S. under the provisions of the Internal Revenue Code.

C. Rating Agencies

1. Every effort shall be made to obtain an investment grade rating; i.e., "A-" or better, for any bond issue whereby the general fund or any other special fund of the City is the primary credit. For conduit borrowing, the City will obtain such ratings as is recommended by the financial advisors and underwriter. The City may issue non-rated

Three major credit rating agencies currently evaluate and rate municipal debt for the benefit of their clients and prospective investors. These include Standard and Poor's, Moody's Investors Services and Fitch Investor's Services. Generally, the higher the bond rating ("AAA" is the highest), the lesser will be the implied credit risk to the investor and, thus, the lower the rate of interest which will be required to sell the bonds. Therefore, maintaining a high credit rating has significant public benefits of: (1) assuring continued access of the City to the tax-exempt credit market, and

debt in the case of assessment or special tax bonds.

2. Rating agencies for City bonds should be selected based upon the criteria of: (1) market acceptance of the rating agency; (2) the experience of the rating agency with particular type of financing transaction; (3) the quality of the methods used for research and analysis by the rating agency.

3. Non-rated debt, other than land secured obligations, may be issued by the City on a case by case basis with the concurrence of the City Council.

D. Bond Insurance

Provided the ratio of the cost of premiums to interest rate savings are favorable, every effort shall be made to insure bonded indebtedness of the City.

E. Cost of Debt and Optimum Pricing

Whenever the issuance of bonds or incurrence of debt are proposed, the full cost of the issuance and debt service shall be identified and disclosed. At, or prior, to presenting

(2) realizing substantial savings in the cost of bonded debt. Under current market conditions, non-rated debt or ratings below "A-"; i.e., "B+" or "B" will typically result in having to pay the highest interest rates in the market in order to sell the bonds.

Unusual and/or innovative transactions may lend themselves to a rating agency who performs much in depth research and approaches each financing on a case-by-case basis. Routine and straight-forward transactions lend themselves to a rating style which is very structured and standardized.

Bond insurance provides a guarantee to the investors that their principal and interest payments will be paid in the event of default by the bond issuer or borrower. Bonds which are insured usually expect to receive the highest credit ratings available ("AAA," or equivalent to the rating of the insuring entity). The analysis regarding whether or not to purchase bond insurance should focus on two factors: (1) does the bond issue qualify for insurance and, if so, (2) will the anticipated interest rate savings justify the added cost of insurance. If the present value calculation for the anticipated interest savings exceeds the cost of the insurance, the insurance would be considered "cost effective" and should be included in the transaction.

While the goal of achieving the lowest available interest rates and costs of issuance for City debt is implied elsewhere in this Policy, a specific policy statement is established. When a competitive bond sale procedure is used properly, that procedure generally assures optimum pricing. For negotiated

recommendations for final approval or authorization of any bond or debt, the City Council shall be fully informed of the anticipated and maximum amounts of debt, costs of issuance, net interest costs and total debt service obligation over the term of the debt. Bonds or debt authorized by the City Council shall not be sold or issued when the net interest costs or cost of issuance materially exceeds the prevailing market conditions for similar debt. The City shall seek to obtain the lowest available bond and debt interest cost and cost of issuance available, under current market conditions.

sales, the financial advisor should be relied upon to provide guidance and advice to the City on the competitiveness of the anticipated net interest cost and costs of issuance.

F. Full Disclosure Obligation

Whenever City debt or bonds are issued, City officials, agents and representatives shall make full and complete disclosure of all material facts relating to the issuance in order to comply fully with applicable state and federal disclosure laws and regulations.

The disclosure counsel should be made fully aware of all relevant matters which must be disclosed in the official statement. City staff and officials should cooperate fully and make diligent efforts to provide complete, timely and accurate information to the disclosure counsel.

For the purposes of issuing debt or bonds, "full and complete disclosure" shall comply with the following statement: The information contained in the official statement (to the extent such information related to the issuer) is true and correct in all material respects and such information does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they are made, not misleading.

G. Continuing Disclosure Obligation

City officials shall, at all times, comply fully with the continuing disclosure requirements of

As a result of the 1994 Orange County financial crises and other debt-related problems of local government, the Securities and Exchange

the Securities and Exchange Commission, and any other regulatory agencies.

Commission adopted Rule 15c2-12 which imposes a continuing disclosure requirement upon all issuers of tax-exempt bonds and other debt, similar to the obligations imposed upon officers of publicly traded corporations. Rule 15c2-12 requires that an annual disclosure filing be made of eleven specified financial factors relating to any bonds issued after July 1, 1995, and an immediate disclosure filing upon the occurrence of any material events which cold affect the credit ratings or marketability of the bonds. This requirement is intended to protect investors who purchase bonds on the secondary market (often, years after the original bond issue).

Because of the importance of Rule 15c2-12, and due to the effort required to gather data for the annual filings, it is prudent and efficient for the City to contract with professional services who are qualified and experienced to perform this function. Such services would be especially appropriate for conduit bond issues.

H. Authorized City Representatives on Matters Concerning Debt Issues

The City Manager, Director of Finance and City Attorney (or their respective designees, when expressly authorized in writing) are the only representatives of the City, except for the City Council acting as the governing body, who are authorized to represent the City on matters related to the issuance or incurrence of debt. All other City officials and staff shall refrain from making or giving comments, statements or information related to the policies, practices or position of the City regarding any debt issued or contemplated by the City, and shall refer any inquiries,

Because of the unusually complex and highly sensitive nature of debt issued or contemplated by the City, officials, staff and employees should refrain from making any statements or comments to members of the public regarding such matters unless expressly authorized under this Policy. Casual or uninformed comments or remarks made by City officials or employees may have unintended impacts upon the City's credit rating or may cause concern or uncertainty among holders or investors of City bonds. Prospective borrowers interested in conduit financing debt issuance by the City may be misinformed or misled by casual statements. The limiting effect of this Policy shall be broadly construed and, in particular, shall apply to inquiries or comments received from, appearances before, or representations made to any representatives, agents or employees of federal or state regulatory bodies, statewide or regional financing authorities, credit

questions or comments from any members of the public to one or more of the authorized representatives.

I. Authority and Responsibility for Evaluation and Recommendations Respecting Bond Issuance and Debt Incurrence

The City Manager, Director of Finance and City Attorney (or their respective designees, when expressly authorized in writing) are hereby designated as a committee and are authorized and directed to review and recommend upon any inquiries, requests or proposals made to the City for any bond issuance or debt incurrence, including conduit financing, bond or debt refunding or re-issuance, or new issues. Any such inquiries, requests or proposals received by or presented to any City official shall immediately be referred to the City Manager who shall inform and consult with both the Director of Finance and City Attorney.

rating agencies, investment or financial institutions and interested or prospective conduit borrowers.

In order to properly coordinate and evaluate proposals or suggestions for issuance of any bonds or incurrence of any debt by the City, the City Manager shall be responsible and accountable for recommendations made to the City Council. The City Manager shall consult with and rely upon the advice of both the Director of Finance and the City Attorney. The City Manager, Director of Finance and City Attorney may rely upon advice and information received from the financing team and other sources, including sources outside the City organization. However, any such reliance will be held subject to the duty and responsibility of "due diligence." In evaluating any proposals received or recommendations made regarding the issuance of bonds or the incurrence of debt by the City, the City Manager, Director of Finance and City Attorney should be concerned exclusively with the highest and best interest of the City and with particular concern for the City's financial well-being, credit rating and the accomplishment of the City goals and objectives as approved and authorized by the City Council.

II. DIRECT DEBT OBLIGATIONS

Revenues of the General Fund of the City of Lake Forest may be pledged to secure bonded debt only when necessary to finance essential and worthwhile public projects. Before determining to issue direct debt, all reasonable alternatives and options should be evaluated to determine if other funds or entities may reasonably incur the debt.

Because of the risk that the direct debt service obligation upon the City's General Fund could severely impact the City's ability to maintain essential public services, given the limitations imposed by California laws and Constitutional amendments against raising General Fund revenues, issuance of direct debt obligations of the City should be avoided whenever other reasonable alternatives are available. Under certain limited circumstances, it will be appropriate to issue direct General Fund debt, such as for Certificates of Participation (COPs) or certain lease revenue bonds, used to acquire or construct necessary capital improvements of citywide benefit.

III. INDIRECT DEBT OBLIGATIONS

Indirect debt shall be issued or incurred by the City: (1) only for worthwhile public purposes; (2) shall be adequately secured by sources of revenue or assets independent from the General Fund; and (3) shall be structured so that revenues of the City's General Fund are not legally obligated for payment of principal or interest.

Tax-exempt bond financing and other forms of indirect debt which may be issued by the City often provided needed capital and a means of financing worthwhile public projects. The City may reap substantial benefits from this form of debt financing. Indirect tax-exempt bonds and other forms of debt are appropriate for redevelopment projects, when secured by adequate tax increment or other revenues; and for utility and other enterprise improvements, when adequate revenues to be derived from such improvements are available. The City shall exercise administrative control over, and is held responsible for such debt, but the City should not be legally obligated for repayment of the debt or annual interest cost from the General Fund. When reasonable, revenues from annual appropriations of the City's General Fund may be used for debt service or principal retirement of indirect debt, if the authorization for such appropriations remains at the discretion of the City Council.

This Policy declares the intent of the City Council to avoid any commitment or obligation of General Fund revenues in the future for securing indirect debt. All indirect debt must be adequately secured by resources other than those of the General Fund.

IV. COMMUNITY FACILITIES DISTRICT SPECIAL TAX AND SPECIAL ASSESSMENT BONDS

A. The City will consider the use of community facilities districts pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), or fixed lien special assessments districts as well as other methods of public financing to assist residential and commercial/retail projects.

B. The use of community facilities districts or assessment districts will be permitted to finance public facilities whose useful life will be equal to or greater than the term of the bonds, including fees associated with such public facilities. Facilities which are, upon completion, owned, operated or maintained by public agencies shall be considered public facilities. The City will not finance facilities to be owned and maintained by private utilities. The City will also consider the use of community facilities districts or assessment districts to pay for police protection services, additional fire protection and suppression services that are necessary to meet increased demands placed upon the City as a result of development, the costs of maintenance of streets, roads and median landscaping within the City's boundaries, and the costs of maintenance of parks, parkways and open space.

Tax-exempt bond financing, which may be issued by the City, often provides lower cost needed capital for a variety of public projects associated with private development. The City may greatly benefit from this form of debt financing. The use of tax-exempt financing for public project portions of the project are appropriate and permitted by law. The City shall exercise administrative control over the debt issuance and debt service, but shall not be obligated for the payment of principal and/or interest from funds other than those collected specifically for the payment of principal and interest. In most cases, the City has an obligation to set the special tax rate or levy the special assessment, receive the special taxes or special assessments from the County Treasurer-Tax Collector, forward the amounts received from the County Treasurer-Tax Collector to the fiscal agent and to make reasonable efforts to collect delinquent special taxes or special assessments.

The City will finance facilities through a community facilities district or assessment district which have a substantial benefit to the community and which are necessitated as a result of the new development. The City will finance intract facilities only to the extent that the intract facilities support the community-wide facilities. Such improvements should include, but not be limited to, the acquisition of land, and construction of facilities appurtenant to the following:

1. Community Sports Park;
2. Community Center;
3. City Hall;
4. Neighborhood Parks;

C. The City is concerned that the proposed project that is to be financed is not premature for the area in which it is to be located. The proposed project must be consistent with the City's General Plan.

D. Economic Viability of the Financing

In evaluating the application and the proposed debt issue, the City may require any or all of the following to determine the economic viability of the proposed project and the timing of the sale of any bonds or series thereof.

1. Absorption Study

Unless waived by the City Manager and Director of Finance, an absorption study of the proposed project shall be required for land secured financing. The absorption study shall be used as a basis to verify that the assumptions supporting price points used to set the assessment spread or the special tax formula are appropriate and sufficient revenues can be collected to support the bonded indebtedness to be incurred.

The absorption study will also be used to evaluate the timing considerations identified by the applicant and the financing team. The absorption study will be provided to the appraiser and the appraisal required below in Section IV.4.B. is to reflect consideration of the absorption study.

5. Public Schools (K-12), academic, athletic, administration and transportation facility;

6. Traffic mitigation, arterial street improvements;

7. Water storage, treatment and delivery facilities;

8. Wastewater transfer and treatment facilities; and

9. Such other public capital facilities and services as may be permitted by the Act and approved by the City Council.

2. Appraisal

A current appraisal will be required of the property that comprises the financing district against which a lien will be placed to secure the bonded indebtedness to be incurred. The appraisal will be made by an appraiser retained by the City. It is to be made consistent with the guidelines prepared by the California Debt and Investment Advisory Commission ("CDIAC") and as stated in the right-hand column. An appraisal may be waived by the City Manager and Director of Finance for any properties that have been developed with residential units and sold to individuals. These properties may be valued at (1) the then current assessed value or (2) if the sale transaction is not yet recorded on the County Assessor's tax roll, the documented sale price.

The "Bulk Land Value" will serve as the basis for establishing the land value to lien ratios described herein for vacant and unimproved land.

CRITERIA FOR APPRAISALS

Definition of Appraisal

An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of fair market value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Standards of Appraisal

The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. A detailed appraisal will be prepared for complex appraisal problems. A detailed appraisal will reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Land Acquisition and the CDIAC Appraisal Guidelines (published in 1994 and updated in 2004). An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of the data, to support his or her opinion of value. At a minimum, the appraisal shall contain the following:

1. The purpose and/or function of the appraisal, a description of the property being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.
2. An adequate description of the physical characteristics of the property being appraised, location, zoning, present use, and an analysis of the highest and best use.

3. All relevant and reliable approaches to arrive at the value consistent with commonly accepted professional appraisal practices. If a discounted cash flow analysis is used, it should be supported with at least one other valuation method such as a market approach using sales that are at the same stage of land development. If more than one approach is utilized, there must be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.
4. A description of comparable sales, including a description of all relevant physical, legal and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
5. A statement of the value of the real property.
6. The date of appraisal, signature and certification of the appraiser.

Conflict of Interest

No appraiser or review appraiser will have any interest, direct or indirect, in the real property being appraised for the City that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal will not be based on the amount of the valuation.

Appraisal Premises

The valuation of the proposed district should be based on three premises:

1. Raw Land Value - (Premise #1): The total land within the project is valued "as is".

a. With any existing infrastructure.
b. Without proposed infrastructure being financed.
c. With existing parcel configuration.
d. Considering planned densities allowed by the specific site plan of the project.

3. Financial Information Required of Applicant

Both at time of application and prior to the sale and issuance of any bonds, the applicant for a land secured debt issue and all property owners owning within the boundaries of the proposed financing district that will be responsible for twenty percent (20%), or more of the debt service on the bonded indebtedness to be incurred shall provide financial statements (preferably audited) for the current and prior

This is a typical type of land valuation.

2. Project Build out Value - (Premise #2): The total land within the project is valued under projected conditions.

a. With proposed infrastructure being financed completed.
b. At the planned densities allowed by the specific plan.
c. Land development is at the stage of being marketed to merchant builders or tentative tract maps ready to be filed.

This is a projected value based on the project plans predicated on the market conditions continuing as projected.

3. Bulk Land Value - (Premise #3): The total land within the project is valued under projected conditions.

a. With proposed infrastructure being financed completed.
b. With existing parcel configurations.
c. Considering planned densities allowed by the specific plan of the project.

This premise should consider a discounted or "quick sale" valuation considering time, cost and the possibility of a per unit value based on the total size of the project.

two fiscal years. The applicant shall also provide all other financial information related to the proposed project that may be requested by the City. Such information shall be submitted to the City or its designee.

Subsequent to the sale and issuance of the bonds, federal and state statutes and/or regulations regarding the particular type of financing may require the preparation of periodic reports. The applicant and all major participants in the project will be required to provide information needed to complete such statutorily required reports. In addition, the City department or related district or agency responsible for the administration of the bonds may require information of the applicant or the major participants in the project to satisfy reporting demands for rating agencies or institutional buyers.

4. Land Use Approvals

For land secured financing the City will require, at a minimum, that the proposed project must:

a. be consistent with the City's Comprehensive General Plan; and

b. have had the service levels for the required public facilities established or the exact public facilities required for the project identified.

A proposed project that requires: (i) a General Plan amendment, (ii) a change of zone that increases the density or intensity of land use, (iii) a specific plan, or (iv) a specific plan amendment that increases the density or intensity of land use will be referred to the City's Planning Department for evaluation as to whether the City is willing to initiate the General Plan Amendment.

An appropriate environmental review of the proposed project is to have been completed that will have addressed all of the public facilities that are to be constructed through the proposed financing.

5. Equity Participation by Applicant and Major Participants

In evaluating the proposed debt issuance, the City will consider the equity participation of the applicant and the major participants in the proposed project. At the time the application for the proposed financing is received, an analysis will be made as to the equity interest that the applicant has in the proposed project. It will also be required of the applicant that in addition to the financing, the applicant will fund in tract infrastructure and may be expected to contribute to other public improvements related to the proposed project.

E. Revenue Supporting the Financing

Land secured bonds are termed "limited obligations" whose primary repayment is secured, in the case of community facilities district, by a special tax, or in the case of assessments districts, by a confirmed assessment lien. The following are the criteria that will be applied in evaluating the revenue stream that will be supporting a proposed land secured bond financing.

1. Community Facilities Districts

(a) The rate and method of apportionment of the special tax must be both reasonable and equitable in apportioning the costs of the public facilities to be financed to each of the parcels within the boundaries of the proposed district. The City prefers that this apportionment of costs be based on the benefit that each parcel is to receive from the public facilities.

(b) The rate and method of apportionment of the special tax is to provide for the administrative expenses of the proposed district, including, but not limited to, those expenses necessary for the enrollment and collection of the special tax and bond administration.

(c) All property not otherwise exempted by the Act from taxation shall be subject to the special tax; provided, however, that the special tax will

The maximum annual special tax, together with ad valorem property taxes, special assessments or taxes for any overlapping financing district, or any other charges, taxes or fees payable from and secured by the property, including potential charges, taxes or fees relating to authorized but unissued debt of public entities other than the City, in relation to the expected assessed value of each parcel upon completion of the private improvements to the parcel is of great importance to the City in evaluating the proposed financing.

exempt residential housing units designated as very low and low income housing. The rate and method of apportionment may provide for exemptions to be extended to parcels that are to be dedicated at a future date to public entities, held by a home owner's association, or designated open space.

(d) The City will allow an annual escalation factor, not to exceed two percent (2%) of the annual special tax levy on each residential or commercial property parcel developed to its final land use.

(e) The objective of the City, whenever possible, is to limit the "overlapping" debt burden on any parcel such that the assigned special tax, together with levy of ad valorem taxes, other taxes and assessments, is not greater than two percent (2%) of the expected assessed value of the parcel upon completion of the private improvements. In evaluating whether this objective can be met, the City will consider:

i) what public improvements the applicant is proposing to be financed in relation to these aggregate needs;

ii) the purpose of the proposed financing and/or refinancing;

iii) the existing special assessments or special taxes

The City will decide what is an appropriate amount to extend with public financing on the identified public improvements.

This evaluation will be based on information obtained from other affected taxing entities that have jurisdiction to impose a levy on the proposed project.

(f) The total maximum special taxes that can be collected from taxable property in a district, taking into account any planned changes in land use or development density or rate, and less all projected annual administrative expenses, must be equal to at least one hundred ten percent (110%) of the gross annual debt service on any bonds issued by or on behalf of the district in each year that bonds will remain outstanding.

(g) The rate and method of apportionment of the special tax shall include a provision relating to replenishment of the reserve fund.

(h) The rate and method or apportionment of the special tax shall include a provision for a back up tax to protect against any changes in development that would result in insufficient special tax revenues to meet the debt service requirements of the district. Such back up tax shall be structured in such a manner that it shall not violate any provisions of the Act

regarding cross collateralization limitations for residential properties.

(i) A formula to provide for the full or partial prepayment of the special tax may be provided; however, neither the City nor the community facilities district shall be obligated to pay for the cost of determining the prepayment amount which is to be paid by the applicant.

2. Assessment District

(a) The apportionment of the assessment lien among the parcels comprising the proposed assessment district shall be based upon the direct and special benefit each parcel received from the public facilities to be financed.

(b) The assessment lien is to provide for the administrative expenses of the assessment district including, but not limited to, those expenses necessary for the enrollment and collection of the annual assessment installments and bond administration.

(c) All property within the boundaries of the proposed assessment district not statutorily exempted by the applicable provision of the California Streets and Highways Code will be subject to an assessment lien.

(d) The annual assessment installment levied on each parcel developed to its final land use shall

be approximately equal each year, except that a variation for administrative expenses will be allowed.

(e) The annual assessment installment, together with ad valorem property taxes, special assessments or taxes for an overlapping financing district, or any other charges, taxes or fees payable from and secured by property; including potential charges, taxes, or fees relating to authorized but unissued debt of public entities other than the City, in relation to the expected assessed value of each parcel upon completion of the private improvements to the parcel is of great importance to the City in evaluating the proposed financing.

The objective of the City is to limit the "overlapping" debt burden on any parcel to two percent (2%) of the expected assessed value of the parcel upon completion of the private improvements. In evaluating whether this objective can be met, the City will consider what public improvements the applicant is proposing be financed in relation to these aggregate needs and decide what is an appropriate amount to extend in public financing to the identified public improvements.

This evaluation will be based on information obtained from other affected taxing entities that have jurisdiction to impose a levy on the proposed project.

(f) Consistent with the applicable statutory provisions of the California Streets and Highways Code, a property owner shall have the right to prepay all or a part of the assessment lien.

3. Reimbursement Revenues

Full or partial reimbursement revenue received from a public agency or entity for construction by the financing district of identified public facilities required to be sized to exceed the service needs of the properties within the financing district shall be considered revenues of the financing district. These reimbursements shall, depending on date of receipt, be used to either augment construction proceeds or to reduce the outstanding bonded indebtedness of the financing district as determined appropriate by the City.

F. Capitalized Interest

In land secured financing, the City is concerned with the degree to which property ownership, and therefore the responsibility for payment of the special tax or annual assessment installments, is concentrated in one or more individuals or entities. Capitalized interest is considered a means by which the City can assure itself and bond owners that debt service obligations will be met during the initial year(s) of the financing district.

However, the amount of capitalized interest should be balanced against the annual levy on future landowners.

The amount of capitalized interest that will be required to be funded from bond proceeds in a particular land secured financing shall be based on the degree to which the property ownership is concentrated in one individual or entity. Whenever one individual or entity whose land holdings within the financing district is responsible for ten percent (10%) or more of the debt service on the bonds, then twenty-four (24) months of capitalized interest, or an amount determined by the financing team to be adequate, will be required.

G. Value-to-Lien Ratios

1. If the value-to-lien ratio is 4:1 or greater for the entire CFD or Assessment District ("AD") and if there is a value-to-lien ratio of 4:1 on at least ninety (90%) percent of vacant land in the CFD or AD, the City will not require letters of credit or other security to secure payment of the special taxes to be levied annually on properties within the CFD or AD.

2. The value-to-lien ratio may be less than 4:1 for the CFD or AD as a whole if the landowner posts a letter of credit securing one year's payment of special taxes or assessments, or the overall value to lien may be less than 4:1 if assessments or special taxes levied on

developed property secures 80% of the debt service on the bonds. The City Council may consider other circumstances for the issuance of bonds with a value to lien of less than 4:1 upon finding significant public benefits to the City.

H. Deposits

Except for those proposed CFDs and AD where the City is the sponsor, all City and consultant costs incurred in the evaluation of any CFD and AD proposal, the pre-formation activities and the proceedings to form a CFD or AD and issue CFD or AD bonds will be paid by the proponent by advance deposits with the City of moneys sufficient to pay all such costs.

Each request for the formation of a CFD or AD shall be accompanied by an initial deposit in an amount to be determined by the City to be adequate to fund the evaluation of any CFD or AD proposal and to undertake the proceedings to form the CFD or AD and issue the CFD or AD bonds. The City may, in its sole discretion, permit the proponent to make periodic deposits to cover the CFD or AD formation and bond issuance costs rather than a single lump sum deposit; provided, however, no such costs shall be incurred by the City in excess of the amount then on deposit for such purposes. If additional funds are required to pay the CFD or AD formation and bond issuance costs, the City

Community Facilities Districts and Assessment District permit the applicant to receive certain financial benefits (primarily reduced debt service costs due to tax exempt status of bonds). Therefore, the City should not incur costs which are not reimbursed by the applicant. With this Policy provision, the City will be fully reimbursed for its costs from funds deposited by developers of land.

may make written demand upon the proponent for such additional funds and the proponent shall deposit such additional funds with the City within five (5) working days of the date of receipt of such demand. Upon the depletion of the funds deposited by the proponent for CFD or AD formation and bond issuance costs, all proceedings to form the CFD or AD and/or issue the CFD or AD bonds shall be suspended until receipt by the City of such additional funds as the City may demand.

The deposits shall be used by the City to pay for CFD or AD formation and bond issuance costs incurred by the City incident to the evaluation of proposed CFD or AD, the pre-formation activities and the proceedings for the formation of the CFD or AD and the issuance of the CFD or AD bonds therefore, including, but not limited to, legal, special tax consultant, engineering, appraisal, market absorption, financial advisor, administrative and staff costs and expenses, required notifications, printing and publication costs.

The City shall refund any unexpended portion of the deposits, after payment or provision for payment of all CFD or AD evaluation, pre-formation, formation and bond issuance costs previously incurred, upon the occurrence of one of the following events:

(a) The formation of the CFD or AD and the issuance of the CFD or AD bonds;

(b) The formation of the CFD or AD or the issuance of the CFD or AD bonds is disapproved by the City Council;

(c) The proceedings for the formation of the CFD or AD and the issuance of the CFD or AD bonds are abandoned at the written request of the proponent; or

(d) The CFD or AD bonds may not be issued and sold.

Except as otherwise provided herein, the proponent shall be entitled to reimbursement of all amounts deposited with the City to pay for CFD or AD evaluation, pre-formation, formation and bond issuance costs upon the formation of the CFD or AD and the successful issuance and sale of the CFD or AD bonds for the CFD or AD. Any such reimbursement shall be payable solely from the proceeds of the CFD or AD bonds in the time and manner to be agreed upon by the proponent and the City.

The City shall not be required to accrue or pay interest on any moneys deposited with the City.

I. Continuing Disclosure

By being allowed to participate for a Community Facilities District or Assessment District proceeding, each owner of land therein must be willing to provide information deemed by the City and its financing team to be needed in order for the City and the underwriter to comply with applicable Federal and State securities laws, including continuing disclosure requirements imposed by S.E.C. Rule 15c2-12. Continuing Disclosure shall be the obligation of owners of land which are responsible for more than 20% of the special tax obligation of the CFD or Assessment District.

J. Disclosure to Prospective Purchasers and Purchasers

1. Sales Office Information Sheet and Sample Property Tax Bill

Each Property Owner within a Community Facilities District and merchant builders shall provide prospective purchasers of homes an information sheet in the sales office which discloses the maximum special taxes to be levied on the homes within the Community Facilities District. The form of the information sheet will be mutually agreed upon by the City and the Property Owner. Additionally, purchasers of homes within the Community Facilities District shall be provided a sample tax bill in a form approved by the City.

2. Notice of Special Tax

Property Owners, and any merchant builders, shall provide a "Notice of Special Tax" to each prospective purchaser of property in the Community Facilities District and shall deliver a fully executed copy of each notice to the City. Property Owner shall maintain records of each executed Notice of Special Tax for a period of five years and shall include the Notice of Special Tax in its applications for final Subdivision Reports required by the Department of Real Estate.

With respect to any parcel within a Community Facilities District, the term "Notice of Special Tax" means a notice in the form prescribed by California Government Code Section 53341.5 which is calculated to disclose to the purchaser thereof (i) that the property being purchased is subject to the special taxes; (ii) the land use classification of such property; (iii) the maximum annual amount of the special tax and the number of years for which it will be levied; (iv) if available at the time such notice is delivered, an indication of the amount of special tax to be levied on such property for the following fiscal year; and (v) the types of facilities or services to be paid or with the proceeds of the special tax.

V. CONDUIT BOND OBLIGATIONS

1. The City may sponsor privately-owned projects qualifying for tax-exempt financing under state and federal laws and regulations, and may act as a conduit for financing such projects by issuing tax-exempt bonds, provided that: (1) the proceeds of such bonds shall be used solely for qualified projects that promote the attainment, and are wholly consistent with, the City's approved development goals, policies and regulations; and (2) the borrower of the proceeds of such bonds, or the developer, adequately and completely indemnifies and holds the City harmless from all risk and liability and provides adequate security for such indemnity.

State and local governments (including counties and cities) are authorized under federal and state law to issue bonds and other forms of debt in order to provide funding for private projects serving recognized public purposes such as housing or economic development. Such bond issues are subject to requirements for public hearings to be held in the community in which the project is to be developed, under federal legislation known as "TEFRA." TEFRA supports the principal that tax-exempt financing of private development should be authorized only for private projects that further the development goals and policies of the community, and which comply fully with all applicable development regulations.

Typically, the proceeds of the government bond issue are loaned to the private developer which then repays the bond principal and provides for the annual debt service obligation through loan repayments. Thus, "sponsoring" local government; i.e., City, acts as a "conduit" for the "third party" borrower. However, third party borrowers frequently desire to designate their own financing team to arrange for the issuance of the bonds or debt. Under the City's general policies, this practice is not authorized for the City. The City reserves the right in all instances to approve and appoint its own financing team for conduit financing.

Although the City requires the third party borrower to fully indemnify and hold the City harmless against any liability, certain risks remain. In the event of a default in payment, the City's credit rating may be affected. In the event a violation of Internal Revenue Code requirements or IRS regulations occurs during the life of the bonds, the City, as issuer, will be held responsible and liable for tax payments by the IRS, and possibly the bond investors. Thus, the indemnification and hold harmless provisions protecting the City should be adequately secured.

2. A conduit financing fee of fifty (50) basis points of the par value of the bonds shall be charged by the City for the initial proceedings to issue conduit financing debt. This fee shall be payable and collected from the conduit borrower when the bonds are sold. However, a non-refundable deposit in an amount specified by resolution of the City Council shall be received by the City and credited toward the fee at the time of the borrower's initial application. In addition to the fee, the conduit borrower shall bear responsibility for payment of the cost of issuance of the bonds. Upon approval by the City Council, the fee may be reduced to twenty-five (25) basis points if the conduit borrower is a non-profit, tax-exempt entity and the purpose of the borrowing is to finance a public benefit project. Additional fees may be established on a case-by-case basis by the City Council for refunding or other actions required of the City with respect to a conduit financing. The City Manager shall establish a procedure and provide forms for receiving all applications for conduit financing.

There is a considerable cost involved in the issuance of conduit financing bonds. In addition, the City incurs some risks associated with the issuance of bonds. The City is entitled to collect a reasonable fee for undertaking this risk and to defray its costs of proceedings. In addition, the borrower should bear the cost of issuance of the bonds, in addition to the repayment of principal and annual debt service cost. Where the borrower is a bona fide non-profit entity and the project provides a public benefit, the City may reduce the fee by fifty percent. Where additional services of the City are required, as in the case of a refunding, additional fees may be charged and collected.

"Basis points" are the smallest units of measurement used in bond transactions. One (1) basis point is equivalent to 0.01%. Thus, fifty (50) basis points is equivalent to 0.05%. A fee of fifty (50) basis points is equivalent to $5,000 for each $1 million in par value (0.0050 x $1,000,000 = $5,000).

VI. BOND DEBT ISSUED BY STATEWIDE FINANCING AUTHORITIES

When adequate opportunities exist for conduit financing from statewide or regional financing authorities, conduit borrowers shall be encouraged and assisted in obtaining financing

This Policy is intended to achieve cooperation and avoid competition between statewide agencies and local governments and promote efficiency in the use of these scarce public resources. In addition to cities and counties having been authorized to issue conduit debt financing, the state legislature

from such entities. The City Manager shall arrange to be notified and informed in advance by statewide financing authorities for projects proposed to be financed within the City of Lake Forest, and shall actively monitor the review of such projects. TEFRA hearings for such projects shall be conducted either by the City Council, or by the statewide authority within the City. Local governments should not seek to compete with Statewide authorities, nor should statewide authorities be used to bypass local development policies and regulations.

has recently established certain regional and statewide agencies and consortia, notably the California Economic Development Finance Agency (CEDFA), for the purpose of providing conduit financing for private projects.

It is the stated policy of CEDFA and other statewide financing authorities to keep local governments informed and involved in the decision process for projects within the local community. Recent experience has demonstrated that appropriate local community officials are not always informed of such activities. Cities and counties may not learn of these projects until after the decisions have been made and approval actions have been taken in Sacramento. In addition, the potential now exists that third party borrowers may seek to engender competition between the statewide entities and the local authorities. A purpose of this Policy is to express the concern of the City regarding these potential problems, and to seek cooperation and support from the staff and officials of the statewide financing entities.

A TEFRA hearing is a public hearing that must be held by the sponsoring governmental agency prior to the issuance of bonds in this category. The requirement comes from the Federal Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982.

The City of Lake Forest asserts its right to be informed, through proper channels and in both a timely and adequate manner, of all pending conduit financing proposals, and to be actively involved in the decision processes of financing projects having impacts upon the community. The City also desires that the TEFRA hearing process either be conducted by the appropriate financing authority within the community affected by the project, or that the City Council, itself, conduct the proceeding, in order to carryout the proposes for which TEFRA was enacted. The City believes it is both necessary and desirable that statewide financing authorities conduct their review and approval procedures for these financing proposals with effective participation from local government.

TYPES OF DEBT FINANCING

GENERAL OBLIGATION BONDS

General obligation bonds are secured by a pledge of the ad-valorem taxing power of the issuer and are also known as a full faith and credit obligations. Bonds of this nature must serve a public purpose to be considered lawful taxation of the Citizens of the City and require a two third's majority vote in a general election. The benefit of the improvements or assets constructed and acquired as a result of this type of bond must be generally available to all citizens.

The City can issue general obligation bonds up to but not to exceed 15% of the assessed valuation under Article XVI, Section 18 of the State Constitution. An annual amount of the levy necessary to meet debt service requirements is calculated and placed on the tax roll through the County of Orange.

The City will use an objective analytical approach to determine whether it can afford to assume new general obligation debt. This process will compare generally accepted standards of affordability to the current values for the City. These standards will include debt per capita, debt as a percent of taxable value, debt service payments as a percent of current revenues and current expenditures, and the level of overlapping net debt of all local taxing jurisdictions. The process will also examine the direct costs and benefits of the proposed expenditures. The decision on whether or not to assume new debt will be based on these costs and benefits, the current conditions of the municipal bond market, and the City's ability to "afford" new debt as determined by the aforementioned standards.

MUNICIPAL NOTES

Tax Anticipation Notes (TANs) are issued to offset the timing issues of tax collection.

Revenue Anticipation Notes (RANs) are issued to offset the timing issues of revenue collection other than taxes.

Tax and Revenue Anticipation Notes (TRANs) are issued to offset the timing issues of a combination of tax and revenue collections.

Bond Anticipation Notes (BANs) are issued as an interim financing mechanism in anticipation of a future bond issuance. Generally this method is used when the construction costs of the project and other funding sources are not yet determined.

Grant Anticipation Notes (GANs) are issued as an interim financing mechanism in anticipation of award of a federal or state grant.

REVENUE BONDS

Revenue bonds are limited-liability obligations that pledge revenues of a specific enterprise to debt service. This method of financing is used when the benefiting parties or group are more directly identified Though revenue bonds are not generally secured by the full faith and credit of the City, the financial markets may require coverage ratios of the pledge revenue stream (a Coverage Covenant).

There also may be an additional bonds test required to demonstrate that future revenues will be sufficient to maintain debt service coverage levels after any proposed additional bonds are issued.

For the City to issue new revenue bonds, revenues, as defined in the ordinance or resolution authorizing the revenue bonds in question, may be required to be maintained at certain coverage ratios. The City will strive to meet industry and financial market standards with such ratios. Annual adjustments to the City's rate structures may be necessary to maintain these coverage ratios.

LEASE/PURCHASE AGREEMENTS

Over the lifetime of a lease, the total cost to the City will generally be higher than purchasing the asset outright. As a result, the use of lease/purchase agreements and certificates of participation in the acquisition of vehicles, equipment and other capital assets will generally be avoided, particularly if smaller quantities of the capital asset(s) can be purchased on a "pay-as-you-go" basis.

The City may utilize lease-purchase agreements to acquire needed equipment and facilities. Criteria for such agreements should be that the asset life is three years or more and the minimum value of the agreement is $25,000.

CERTIFICATES OF PARTICIPATION (COP)

A COP transaction is a form of lease obligation in which a government enters into an agreement to pay a fixed amount annually to a third party, the lessor, in exchange for occupancy or use of a facility or equipment. The transaction is structured such that the lease payments are sufficient to pay the principal and interest on the certificates.

Because the voters of the City have not approved the imposition of any additional tax to secure the obligation, the City will make lease payments from its generally available revenue sources that are subject to the annual appropriation process. Upon completion of the final lease payments that support the COPs, the City acquires title to the facilities or the equipment.

REDEVELOPMENT AGENCY DEBT

Debt incurred by the Redevelopment Agency that is secured by Tax Increment revenue is governed by Health and Safety Code Section 3300. Debt incurred by the Redevelopment Agency which is secured by Sales Tax Revenue is governed by Revenue and Taxation Code in Section 7200.

REDEVELOPMENT AGENCY LOANS BETWEEN PROJECT AREAS/CITY

Redevelopment Agency loans between project areas are governed by Health and Safety Code Section 33000 and accounting procedures are detailed in a white paper published by the California Committee on Municipal Accounting through the League of California Cities dated September 1996 (Appendix J).

LAND-SECURED BONDS

Land-secured bonds are issued under the provisions of the Mello-Roos Community Facilities District Act of 1982 (Commencing with Section 53311 of the Government Code), the Improvement Act of 1911, the Municipal Improvement Act of 1913 for special assessment districts and the Improvement Bond Act of 1915 for the issuance of bonds.

CONDUIT FINANCING

The City may sponsor conduit financing for those activities (i.e. economic development, housing, health facilities, etc.) which have a general public purpose and are consistent with the City's overall service and policy objectives. All conduit financing must insulate the City completely from any credit risk or exposure. The City will consider requests for conduit financing on a case-by-case basis using the following criteria:

1. The City's Bond Counsel will review the terms of the financing, and render an opinion that there will be no liability to the City in issuing the bonds on behalf of the applicant.
2. There is a clearly articulated public purpose in providing the conduit financing.
3. The applicant is capable of achieving this public purpose.
4. Provide evidence of compliance with arbitrage regulations.

The review of a request for conduit financing will generally be a three-step process. The first step is to determine if the City Council is interested in considering the request and establishing the ground rules for evaluating it. The second step is to evaluate the request

based on the three aforementioned criteria. The third step is to provide the City Council with the results of the evaluation and the appropriate recommendation. This three-step approach ensures that the issues are clear for both the City and the applicant, and that key policy questions are answered.

The City may, at its sole discretion, require additional protections including but not limited to: asset appraisals, credit enhancements, financial audits of the non-City participants or bond insurance.

EXHIBIT "E"

COUNTY AND REGIONAL AGENCY FEES

CITY OF LAKE FOREST
REVISED ROAD FEE PROGRAMS SCHEDULES
EFFECTIVE JULY 1, 2013 - JUNE 30, 2014

FCPP (non)

FOOTHILL CIRCULATION PHASING PLAN FEE PROGRAM					
NON-PARTICIPATING FCPP LANDOWNERS					
LAND USE		ZONE 1	ZONE 2	ZONE 4	ZONE 8
Single Family	per unit	$3,785.00	$5,198.00	$3,578.00	$4,015.00
Multi-Family	per unit	$3,362.00	$4,157.00	$2,861.00	$3,220.00
Non-Residential	per sq. ft.	$3.780	$4.670	$3.220	$3.627

FCPP

FOOTHILL CIRCULATION PHASING PLAN FEE PROGRAM					
PARTICIPATING FCPP LANDOWNERS					
LAND USE		ZONE 1	ZONE 2	ZONE 4	ZONE 8
Single Family	per unit	$2,700.00	$3,340.00	$2,300.00	$2,580.00
Multi-Family	per unit	$2,160.00	$2,670.00	$1,840.00	$2,070.00
Non-Residential	per sq. ft.	$2.43	$3.00	$2.07	$2.33

FE

FOOTHILL EASTERN TRANSPORTATION CORRIDOR			
LAND USE		ZONE A	ZONE B
Single Family	per unit	$5,198.00	$3,700.00
Multi-Family	per unit	$3,036.00	$2,156.00
Non-Residential	per sq. ft.	$7.23	$4.19

SCR

Pac. Comm. = .0325
Baker Ranch = .45
Spectrum Pt. = .0325

SANTIAGO CANYON ROAD FEE PROGRAM			
LAND USE		F.H. RANCH	L.F.
Single Family	per unit	$32.29	$662.00
Multi-Family	per unit	$27.44	$530.00
Non-Residential	per sq. ft.	$0.031	$0.58

TET

EL TORO ROAD FEE PROGRAM		
LAND USE		
RESIDENTIAL - Low Density	per unit	$1,329.00
RESIDENTIAL - Medium Density	per unit	$1,112.00
RESIDENTIAL - High Density	per unit	$686.00
REGIONAL SHOP. CENTER	per acre	$34,269.00
NEIGHBORHOOD COMMERCIAL	per acre	$77,176.00
OFFICE COMMERCIAL	per acre	$19,210.00
INDUSTRIAL	per acre	$6,694.00

EXHIBIT "F"[1]
PUBLIC BENEFITS

In addition to complying with the Project conditions of approval, Owner has committed by this Agreement to contribute to the development of certain "Public Benefits." The Public Benefits consist of contributions toward the Public Facilities as described in this Exhibit "F". City shall have no obligation to construct the Public Facilities in any particular order or sequence, except as required by the EIR.

A. **City Facilities**. Owner shall make contributions towards the development of the City Facilities, as follows:

1. City Facilities Fee. Owner shall either (i) pay a fee in the amount of $15.99 Per Square Foot (the "City Facilities Fee") for each Unit constructed as part of the Project, subject to adjustment described in subparagraph A.3 below, or (ii) dedicate to the City land of equivalent value as determined by City in its sole discretion. The City Facilities Fees shall be due concurrently with the issuance of the building permit for each Unit, unless a different schedule is mutually agreed upon by the City and Owner. The total City Facilities Fees owed by Owner shall be reduced by the amount of the Owner's Advancement described in Section 9.3.

2. Neighborhood Parks. Simultaneous with approval of Owner's First Tentative Map, Owner shall either (i) dedicate to the City .63 net useable acres of onsite parkland in a location and configuration acceptable to the City, or (ii) agree that in lieu of such parkland dedication, Owner will pay to the City a fee in the amount of $10,132 per unit as its entire fee for neighborhood parks and Quimby fees. It shall be in Owner's discretion whether to dedicate the .63 net useable acres of onsite parkland, or pay the in lieu fees in order to satisfy the Project's parkland dedication requirements. The park in lieu fees shall be due concurrently with the issuance of the building permit for each Unit, unless a different schedule is mutually agreed upon by the City and Owner. The Parties acknowledge that at the time this Agreement is being entered into, Owner's tentative map application submittal contemplates payment of in-lieu fees in order to fully satisfy the Project's parkland dedication requirement. In the event Owner elects to dedicate the .63 net useable acres of parkland instead of payment of in-lieu fees, Owner shall be required to process a new tentative map, or an amendment to the map, as the case may be, to reflect the parkland dedication.

All onsite neighborhood parks shall be planned and reviewed under the City's park planning process. The minimum size of neighborhood parks for which the City shall be required to provide credit shall be 0.5 acres. Any land dedicated or otherwise conveyed to the City for the neighborhood parks shall: (i) be free and clear from all assessments, liens, and other monetary obligations or encumbrances, as shown by an American Land Title Association (ALTA) policy of title insurance; and (ii) be delivered in

[1] Capitalized terms used in this Exhibit F shall have the same meaning as those terms are given in the body of this Agreement.

"superpad" condition (consisting of rough grading with drainage approved by the City Engineer, all necessary utility infrastructure stubbed to property boundaries.

To the extent that a project includes private recreational facilities that are not open to the public, but are open only to residents of the project, such facilities shall be given neighborhood park credit at the rate of 0.25 acres of credit per acre of park facilities, provided that such facilities otherwise meet the neighborhood parks improvement criteria set forth herein and meet the criteria listed in Section 7.38.050 of the Lake Forest Municipal Code.

3. General Provisions for City Facilities.

a) Escalator for Costs of City Facilities, Fees, and Credits. The City shall, on July 1st of each year, commencing in 2014, apply an inflation escalator to: (i) the City Facilities Fee described in subparagraph A.1 above, to the extent that they remain unpaid; (ii) the fee for Neighborhood Parks described in subparagraph A.2 above; and (iii) the fee for Maintenance of City Facilities described in subparagraph A.3.b. below, based upon the change in the Engineering News-Record (ENR) Building Cost Index for the Los Angeles area between the Effective Date and the date of the annual July 1 adjustment. In the event that the ENR Building Cost Index ceases to be published, the City shall select a successor third-party index which is designed to reflect generally-accepted changes in the cost of construction in Southern California.

b) Maintenance of City Facilities. Owner shall provide the City with funds to pay for the Owner's proportionate share of the City's annual maintenance costs of the City Facilities, with one of the following options: 1) Owner shall pay a fee in the amount of $.44 Per Square Foot for each Unit constructed as part of the Project, concurrently with the issuance of the building permit for that residential unit; 2) Owner shall pay the costs through the formation of a Financing District for maintenance purposes. Owner shall select one of these options at the time of Owner's first submission of a TPM or TTM for the Project.

4. LFTM. Owner agrees that it shall comply with the provisions of LFTM, as it may be amended and adjusted from time to time. Owner shall include notice of the LFTM Program obligations pursuant to this Agreement in each instrument conveying any portion of the Property to a developer, merchant builder, or corporate or institutional purchaser of a portion of the Property. Notwithstanding the foregoing, the Parties acknowledge that Owner will satisfy the LFTM Ordinance and LFTM Program through the construction or completion of any offsite mitigation measures or improvements required by Owner's project-specific traffic impact analysis.

5. **School Facilities**. Owner shall comply with its obligations under the agreement between Owner and the Saddleback Valley Unified School District, attached

as Attachment 1 to this Exhibit "F". Owner's failure to comply with such agreement shall constitute a Major Default for purposes of this Agreement.

ATTACHMENT 1 TO EXHIBIT "F"

SCHOOL FACILITIES FUNDING AND MITIGATION AGREEMENT

This Document was electronically recorded by
CR South County D

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder

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Recording Requested by:

SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT

When Recorded Mail To:

Geri Partida
Assistant Superintendent, Business Services
25631 Peter A. Hartman Way
Mission Viejo, CA 92691

This document is recorded for the benefit of the Saddleback Valley Unified School District. Exempt recording is requested under Section 6103 & 27383 of the Government Code.

School Facilities Funding & Mitigation Agreement

By and between

SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT

and

FOOTHILL VILLAGE, LLC

Dated as of June 11, 2013

SCHOOL FACILITIES FUNDING AND MITIGATION AGREEMENT BY AND BETWEEN SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT AND TRUMARK HOMES

THIS SCHOOL FACILITIES FUNDING AND MITIGATION AGREEMENT ("Mitigation Agreement") is made and entered into as of this 11 day of June, 2013 by and between SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT of Orange County, California ("District"), a school district organized and existing under the laws of the State of California ("State") and FOOTHILL VILLAGE, LLC, a Delaware limited liability company ("Owner"). District and Owner may hereinafter be referred to individually as "Party" and collectively as "Parties."

RECITALS

A. District is responsible for providing classroom capacity for students in kindergarten through the twelfth grade ("K-12") who reside within the District.

B. Owner is the owner of certain undeveloped real property ("Property") located in the County of Orange ("County"), and within the boundaries of the City of Lake Forest ("City"), and all within the boundaries of District. The Property is described on Exhibit "A" and depicted on Exhibit "B", both attached hereto and incorporated herein by reference.

C. Owner intends to develop the Property as approximately 72 single-family detached dwelling units ("Project") after receiving all necessary approvals from the City.

D. The purpose of this Mitigation Agreement is to provide the District with funds to be used for improvements of school facilities. (collectively, the "School Facilities").

E. The funds for School Facilities represent a substantially greater investment by Owner in school facilities than is required by California law.

F. District and Owner have agreed that given the uncertainties of the timing and amount of State funding for the School Facilities, it is in their mutual best interest to enter into this Mitigation Agreement to provide a local source of funding for the School Facilities in excess of the amount Owner would otherwise be required to provide in connection with the development of the Property.

G. District acknowledges that it has an obligation to utilize its best efforts to pursue funding from the State for the School Facilities ("State Funding") to the extent herein provided.

H. Owner's performance of this Mitigation Agreement is intended to constitute complete mitigation of the impact of the development of the Property upon District in lieu of any fees which the District might impose in connection with such development pursuant to Education Code Section 17620 or Government Code Sections 65970, et seq. and 65995, et seq. or any other applicable law and in lieu of any other school facilities requirements which District, the County of Orange, the City of Lake Forest or any other public agency might be authorized to impose pursuant to applicable existing or future law.

AGREEMENT

1. Incorporation of Recitals. All of the foregoing Recitals are correct and are incorporated in this Mitigation Agreement by reference.

2. Purposes of Mitigation Agreement. The purpose of this Mitigation Agreement is to provide funding for the School Facilities. By entering into this Mitigation Agreement and complying with its terms, Owner shall be deemed to have fulfilled and mitigated its entire obligation to assist in funding School Facilities to house K-12 students enrolled in District schools and residing within the boundaries of the Project (the "Project Students") to be generated by development within the boundaries of the Property. Projected residential units, non-residential property, or any other development undertaken within the boundaries of the Property, regardless of the size and type actually constructed, will be fully mitigated and not subject to any school fees or other financial obligation owing to District, except as otherwise provided for in this Mitigation Agreement.

3. Covenants. District will issue on a timely basis (i) a certificate pursuant to Education Code Section 17620(b) acknowledging the fact that the recipient thereof has complied with all requirements of District for the payment of statutory school fees/alternative school facility fees/mitigation payments and (ii) a certificate acknowledging that adequate provisions have been made for School Facilities which are sought by the Owner or its successors and assigns for any residential unit, non-residential property or any other development undertaken within the boundaries of the Property. Therefore, except as expressly

provided within this Mitigation Agreement, and provided that Owner is not in breach of this Mitigation Agreement, the District covenants that, with respect to any present or future development within the boundaries of the Property, it will not under any circumstances or at any time:

(a) Exercise any power or authority (whether under Section 17620 of the California Education Code or any other provision of law) to levy or impose a fee, charge, dedication, or other requirement for the purpose of providing, funding, or financing the School Facilities;

(b) require the City or any other governmental entity to exercise or cooperate in the exercise of, the power under Title 7, Division 1, Chapter 4.7 of the California Government Code (commencing with Section 65970) or any other provision of law, to require the dedication of land, the payment of fees in lieu of the dedication of land, or both for School Facilities;

(c) oppose or object to any development within the boundaries of the Property on the basis of inadequate School Facilities or inadequate funding for School Facilities; or

(d) seek mitigation or conditions of approval of any type for any development within the boundaries of the Property, including, but not limited to, mitigation or conditions to require the payment of developer fees or other money, the dedication of land, or the application of an assessment or requirement of any nature against Owner or any portion of the Property, even if otherwise permitted by the present or future State law, rulings, regulations, or court decisions if any of the proceeds or such assessment or requirement will be used to finance or fund the School Facilities.

4. Mitigation Amounts. Owner shall be responsible for payment to District in the amount of $6,860 per unit exclusive of any credits from prior school fees paid for development on the site and such amount is payable no later than the issuance of the building permit for such unit.

5. State Funding.

(a) *Pursuit of State Funds.* District shall use its best efforts to apply for and secure all reasonably available State and federal funding to provide additional funding for the School

Facilities. District will continue to apply for State and federal funding until District determines that receipt of such funding is no longer reasonably practicable for the School Facilities.

(b) *Rebate from State Funding.* In the event that District receives funds from the State to house existing and/or projected students generated from existing and/or future residential units constructed in the Project, Owner, or their successors or assigns, shall not be entitled to any refund as a result of said State Funds.

6. Mitigation Agreement Unaffected By Changes in Law. The Parties agree that each Party has negotiated in good faith to reach accord on this Mitigation Agreement, and as such, the Mitigation Agreement is a legally binding contract between the Parties, enforceable in accordance with its terms. The Parties further agree that, to the maximum extent permitted by law, this Mitigation Agreement shall not be affected, modified, or annulled by any subsequent change in local, state, or federal law.

7. Omit

8. Representations, Warranties and Covenants of the District. District represents, warrants, and covenants with the Owner that:

(a.) District is a school district organized and operating pursuant to the Constitution and laws of the State and has all necessary power and authority to enter into and perform its duties under this Mitigation Agreement and, when executed and delivered by the Parties, this Mitigation Agreement will constitute the legal, valid, and binding obligation of District enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, or other laws affecting enforcement of creditors' rights generally.

(b.) The execution and delivery by the District of this Mitigation Agreement and compliance by District with its provisions will not conflict with, or constitute a violation of or default under, the Constitution of the State or any existing law, charter, ordinance, regulation,

decree, order or resolution applicable to District, and will not conflict with or result in a violation or breach of, or constitute a default under, any contract, agreement, indenture, mortgage, lease or other instrument to which District is subject or by which it is bound.

(c.) To the best knowledge of District there is no action, suit, or proceeding of any court or governmental agency or body pending or threatened against District in any way contesting or affecting the validity of this Mitigation Agreement or contesting the powers of the District to enter into or perform its obligations under this Mitigation Agreement or in which a final adverse decision could materially adversely affect the operations of District or the consummation of the transactions contemplated by this Mitigation Agreement.

(d.) District is not in breach of or default under any applicable law or administrative regulation of the State or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which District is a party or is otherwise subject, which breach or default would materially adversely affect District's ability to enter into or perform its obligations under this Mitigation Agreement, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument and which would materially adversely affect the District's ability to enter into or perform its obligations under this Mitigation Agreement.

9. Representations, Warranties, Covenants of Owner. Owner represents, warrants, and covenants with the District that:

(a.) Owner has all necessary corporate power and authority to enter into and perform its duties under this Mitigation Agreement and, when executed and delivered by the Parties, this Mitigation Agreement will constitute the legal, valid, and binding obligation of Owner, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, or other laws affecting enforcement of creditors' rights generally.

(b.) The execution and delivery by Owner of this Mitigation Agreement and compliance by Owner with its provisions will not conflict with, or constitute a violation of or default under, the Constitution or laws of the State of California, or any existing law, charter, ordinance, regulation, decree, order or resolution applicable to Owner, and will not conflict with

or result in a violation or breach of, or constitute a default under, any agreement, indenture, mortgage, lease, or other instrument to which Owner is subject or by which it is bound.

(c.) Owner will provide written notice to successors or assigns of Owner of the existence of this Mitigation Agreement and their obligation to be bound by its terms.

10. Assignability of Mitigation Agreement. All of the covenants, stipulations, promises, and agreements contained in this Mitigation Agreement by or on behalf of, or for the benefit of, either of the Parties shall bind or inure to the benefit of the successors and assigns of the respective Parties.

11. Binding on Successors; No Third Party Beneficiaries. This Mitigation Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. This Mitigation Agreement is entered into solely for the benefit of the Parties and the successors, transferees and assigns of all Parties. Other than District and Owner and their successors, transferees and assigns, no third person shall be entitled, directly or indirectly, to base any claim or to have any right arising from, or related to, this Mitigation Agreement.

12. Binding on Entire Agreement. This Mitigation Agreement contains the entire agreement and understanding concerning the funding of school facilities to house students generated by the development of the Project and supersedes and replaces all prior negotiations and proposed agreements, written and oral, except as they are incorporated into this Mitigation Agreement. The Parties acknowledge that neither the other Party nor its agents nor attorneys have made any promise, representation or warranty whatsoever express or implied, not contained herein to induce the execution of this Mitigation Agreement. Each Party further and acknowledges that this Mitigation Agreement not been executed in reliance upon any promise, representation or warranty not contained herein.

13. Amendments Must Be In Writing. This Mitigation Agreement may not be amended, except by a writing signed by all of the Parties. The Parties recognize that it may be necessary to make revisions to this Mitigation Agreement after execution by the Parties. Therefore, the District delegates to the Superintendent the authority to approve amendments to this Mitigation Agreement which do not substantially affect the terms of this Mitigation Agreement.

14. Disputes To Be Arbitrated. The Parties desire to resolve any disputes as to the meaning of any portion of this Mitigation Agreement or the rights or obligations of District or Owner under this Mitigation Agreement as quickly as possible. Therefore, any such disputes shall be resolved by binding arbitration conducted by a mutually agreed upon arbitrator. If District and Owner are unable to agree on the arbitrator within thirty (30) days of the receipt of a request for arbitration, they shall request that the presiding judge of the Orange County Superior Court designate one. District and Owner shall each pay one-half the cost of the arbitration and each shall be responsible for its own attorneys' fees and costs as to any such arbitration.

15. Recovery of Litigation Expenses, Including Attorneys' Fees. Except as provided in Section 14, if it becomes necessary to enforce any of the terms of this Mitigation Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and other costs of litigation in addition to any other relief to which it may be entitled.

16. Interpretation Guides. In interpreting this Mitigation Agreement, it shall be deemed that it was prepared by the Parties jointly and no ambiguity shall be resolved against either Party on the premise that it or its attorneys were responsible for drafting this Mitigation Agreement or any provision thereof. Headings used in this Mitigation Agreement are for convenience and ease of reference only and are not intended nor may be construed as a guide to interpret any provision of this Mitigation Agreement.

17. Due Authority of Signatories to Execute Agreement. Each individual signing this Mitigation Agreement warrants and represents that he or she has been authorized by appropriate action of the Party which he or she represents to enter into this Mitigation Agreement on behalf of the Party.

18. Due Notices. All notices and demands between the Parties shall be given by personal delivery, registered or certified mail, postage prepaid, return receipt requested, Federal Express or other reliable private express delivery, or by facsimile transmission. Such notices, demands or communications shall be deemed received upon delivery if personally served or sent by facsimile or after three (3) business days if given by other approved means as specified above. Notices, demands and communications shall be sent:

To District:	Saddleback Valley Unified School District 25631 Peter Hartman Way Mission Viejo, CA 92691 Fax: 949.454.1039 Attn: Assistant Superintendent of Business Services
With a copy to:	Recipient Address 1 Address 2 Fax: Attn:
To Owner:	Foothill Village, LLC c/o Trumark Homes 450 Newport Center Drive, Suite 300 Newport Beach, CA 92660 Attn: Jason Kliewer, Partner and General Counsel
With a copy to:	Recipient Address 1 Address 2 Fax: Attn:

19. Time. Time is of the essence of each and every term, provision, and condition of this Mitigation Agreement.

20. California Law Governs Mitigation Agreement. This Mitigation Agreement and all rights and obligations arising out of it shall be construed in accordance with the laws of the State of California.

21. Counterparts. This Mitigation Agreement may be signed III one or more counterparts which, taken together, shall constitute one original document.

22. Exhibits. All Exhibits attached hereto are incorporated into this Mitigation Agreement.

23. Recordation. Upon execution hereof, this Mitigation Agreement may be recorded by District.

[Remainder of page is blank.]

IN WITNESS WHEREOF, this Mitigation Agreement is agreed and entered into as of the date first written above.

SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT

By: _____,

Assistant Superintendent of Business Services

FOOTHILL VILLAGE, LLC, a Delaware limited liability company

By: _____,

Jason G. Kliewer, Manager

By: _____,

Mark L. Frazier, Manager

[PLEASE HAVE ALL SIGNATURES NOTARIZED]

APPROVED AS TO FORM:

[District Legal Counsel]

By: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }

County of Orange }

On June 21, 2013 (Date) before me, Vicki McCormick, Notary (Here Insert Name and Title of the Officer),

personally appeared Geri Partida (Name(s) of Signer(s))

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.

VICKI MCCORMICK
Commission # 1933846
Notary Public - California
Orange County
My Comm. Expires Apr 22, 2016

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 Vicki McCormick (Signature of Notary Public)

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer is Representing: _____

Top of thumb here

Signer's Name: _____
- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer is Representing: _____

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of Orange

On July 17, 2013 (Date) before me, Parker Lind Bohls, Notary public (Here Insert Name and Title of the Officer),

personally appeared Mark L Frazier (Name(s) of Signer(s))

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.

PARKER LIND BOHLS
Commission # 1988082
Notary Public - California
Orange County
My Comm. Expires Nov 12, 2016

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: _____ (Signature of Notary Public)

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____
RIGHT THUMBPRINT OF SIGNER: Top of thumb here	RIGHT THUMBPRINT OF SIGNER: Top of thumb here

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Item #5907

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF LAKE FOREST, COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCELS 3 AND 4 OF PARCEL MAP NO. 95-177, IN THE CITY OF LAKE FOREST, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 292, PAGES 13 TO 17 INCLUSIVE, OF PARCEL MAPS, AND AS CORRECTED BY CERTIFICATE OF CORRECTION RECORDED JULY 23, 2002, AS INSTRUMENT NO. 20020609954, OF OFFICIAL RECORDS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ALL OIL, MINERALS, NATURAL GAS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL RESOURCES, METALLIFEROUS OR OTHER ORES, AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND HEREINABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR, AND STORING IN AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE HEREINABOVE DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES, WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AS RESERVED IN THE DEED FROM FOOTHILL RANCH COMPANY RECORDED MARCH 11, 1996 AS INSTRUMENT NO. 19960116968 OF OFFICIAL RECORDS.

PARCEL 2:

EASEMENTS AND RIGHTS AS SET FORTH IN THE SECTIONS ENTITLED "EASEMENTS FOR OWNERS," "UTILITIES AND CABLE TELEVISION," "TRAIL SYSTEM EASEMENTS," AND "SURFACE DRAINAGE" OF THE ARTICLE ENTITLED "EASEMENTS AND RIGHTS" AND IN THE SECTION ENTITLED "ENFORCEMENT" OF THE ARTICLE ENTITLED "GENERAL PROVISIONS" OF THE SECOND COMPLETELY AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED ON APRIL 30, 1992, AS INSTRUMENT NO. 92-283832 OF OFFICIAL RECORDS OF SAID COUNTY (THE "DECLARATION"), SUBJECT TO THE SECTION ENTITLED "SUBORDINATION" OF THE ARTICLE ENTITLED "RIGHTS OF OWNERSHIP AND EASEMENTS" OF THE DECLARATION.

APN: 612-163-03

EXHIBIT B

Map of Property

EXHIBIT "G"
[AFFORDABLE HOUSING IMPLEMENTATION PLAN]

AFFORDABLE HOUSING IMPLEMENTATION PLAN

A. Definitions.

1. **"Affordable Units"** means residential units, whether attached or detached, for sale or for rent, which are affordable to Very Low Income Households, Low Income Households, or Moderate Income Households, as those terms are defined below.

2. **"Housing Purchase Cost"** means the total payments for a single month for principal and interest on a 30-year fixed rate mortgage loan and any associated mortgage loan insurance costs, property taxes and assessments, fire and casualty insurance covering the replacement value of property improvements, and a reasonable allowance for utilities, and homeowner association fees.

3. **"Housing Rental Cost"** means the total payments for a single month for rent (other than security deposits), plus a reasonable allowance for utilities.

4. **"Low Income Household"** means a household whose annual income is greater than fifty percent (50%) but does not exceed eighty percent (80%) of the median family income for the area, as published by the California Department of Housing and Community Development, adjusted for family size.

5. **"Moderate Income Household"** means a household whose annual income is greater than eighty percent (80%) but does not exceed one hundred twenty percent (120%) of the median family income for the area, as published by the California Department of Housing and Community Development, adjusted for family size.

6. **"Offsite"** means outside of the boundaries of the entire Opportunities Study Area, but within the City of Lake Forest.

7. **"Project"** shall have the meaning attributed to it by the Development Agreement to which this Affordable Housing Implementation Plan is attached as an exhibit..

8. **"Very Low Income Households"** means a household whose annual income does not exceed fifty percent (50%) of the median family income for the area, as published by the California Department of Housing and Community Development, adjusted for family size.

B. "Planning Principles" for Affordable Housing.

1. The developer will either (1) provide or facilitate the production of Affordable Units in conjunction with the development of its Project, based on the "Point System" set forth in Section C below, or (2) satisfy its affordable housing obligation through a combination of the Point System and the $4.14 Per Square Foot affordable housing in lieu fee described below and in Section 9.6, or (3) satisfy its affordable housing obligation through the payment of the $4.14 Per Square Foot affordable housing in lieu fee described below and in Section 9.6.

2. The developer may only satisfy the "point" requirement of this policy through the provision of for sale housing on-site, and for sale and rental housing off-site.

3. Subject to the provisions of this Paragraph B, an Affordable Housing Covenant in favor of the City in the form approved by the City as part of the implementation of the project, shall be recorded against each Affordable Unit. The Affordable Housing Covenant shall be recorded at the time that the developer records its grant deed to the original home purchaser of a for-sale unit or prior to the occupancy of the first tenant of a rental unit.

4. An affordability covenant shall not be required for Affordable Units sold to Moderate Income Households if the developer declines to receive the additional one (1.0) point credit for a moderate for sale unit as provided in Paragraph C4 below. Regardless of whether an affordability covenant is recorded for a Moderate Income Affordable Unit, the initial sale of such unit shall be to a qualifying Moderate Income Household, as determined by the City with the household income adjusted for family size at an affordable housing cost as determined by the City using practices consistent with the affordable housing industry. This will require, among other things, that the developer work cooperatively with the City to ensure that the buyer meets the definition of a "Moderate Income Household."

5. The provisions of this policy pertaining to the recording of affordability covenants shall apply to all pre-existing units for which "points" are given, including but not limited to pre-existing rental units converted to "for sale" units which are treated under the Point System below as "for sale" units.

C. <u>The Point System.</u>

The purpose of the "Point System" described below is to provide incentives for the provision of certain types of affordable housing as part of development in the City, in order to meet the housing needs of the community. These housing types include units affordable to lower income categories, onsite units, units with multiple bedrooms, and owner-occupied units.

1. **Required Points**. The number of Affordable Units to be provided will be based upon a "Point System." The number of required "points" will be equal to 15% of the total number of units approved and built within a Project. For example, if 151 units are built within the Project, then a total of 23 "points" will be required. Notwithstanding any provision of this Plan, including the application of any provision of the Point System, in the event Developer elects to satisfy its affordable housing obligation by providing affordable units (rather than by paying in-lieu fees), the Project shall not provide a number of Affordable Units that is less than eight and one-half percent (8.5%) of the total number of market-rate units for the Project as entitled under the Site Development Permit and Tentative Tract Map for the Project.

2. **Offsite Affordable Units**. Offsite Affordable Units will be provided points only if they are affordable to Very Low and Low Income Households.

3. **Base Points**. Subject to Paragraph C2 above:

   (a) **One Base Point (1.0)** shall be awarded for each home sold onsite to households within any affordable income category (moderate, low, and very low), constructed onsite, and

   (b) **One half Base Point (0.5)** shall be awarded for each home sold or rented offsite to Low or Very Low Income Households.

4. **Additional Points**. Because of the City's interest in (1) providing certain amenities, (2) serving lower income categories, and (3) providing onsite Affordable Units, points shall be awarded in addition to Base Points, as set forth below, for each onsite Affordable Unit in any income category which meets the following criteria:

   (a) To encourage units for families, additional points based upon bedroom counts shall be provided as follows, with points awarded for only one bedroom count category in this subparagraph (a) (for example, a four bedroom unit receives one (1.0) additional point, not 0.2+0.7+1.0):

      (i) 0.2 additional point for two-bedroom units;

      (ii) 0.7 additional point for three-bedroom units; and

      (iii) 1.0 additional point for four-bedroom units.

   (b) In addition, to encourage development of Affordable Units in the Low and Very Low Income Household categories, one-half (0.5) additional point shall be provided for off-site rental units affordable to Low Income Households and one (1.0) additional point shall be

provided for rental units affordable to Very Low Income Households.

(c) In addition, to encourage the development of "for sale" Affordable Units, for each for-sale unit with an affordability deed restriction, the following points will be provided for deed restrictions consistent with Paragraph D1:

(i) 3.0 additional points for very low income units;

(ii) 2.0 additional points for low income units; and

(iii) 1.0 additional point for moderate income units, subject to the limitations of Paragraph C5(e).

5. **Other Considerations**.

(a) Points may be provided for any net increase in Affordable Units in the City constructed or provided by the developer of a Project through any combination of housing units which are affordable to Moderate, Low, or Very Low Income Households, including, but not limited to:

(i) Apartments, including the conversion of existing market rate units to Affordable Units, provided that the Developer assumes all tenant relocation obligations created by law and in effect on the date of the conversion;

(ii) For sale housing, including the conversion of off-site existing market rate rental or for sale units to Affordable Units with affordability covenants as described herein recorded against them, provided that the Developer assumes all tenant relocation obligations created by law and in effect on the date of the conversion;

(b) All "points" are cumulative, with a single Affordable Unit receiving points for all criteria which it meets, except as expressly provided within this Plan.

(c) Moderate Income Affordable Units may account for no more than one-half (1/2) of the total number of "points" provided by the Developer.

(d) An on-site for-sale unit sold to a Moderate Income Household need not be deed restricted (unless the unit is converted from existing housing), provided that the additional 1.0 point available under Paragraph C4(c) for for-sale moderate income units shall not be

provided to any Affordable Unit for which no deed restriction is recorded.

(e) In calculating aggregate points earned by a given Project, fractions equaling one half (0.5) or greater shall be rounded to the next highest whole number. This rounding shall not apply with respect to the points earned by any individual Affordable Unit.

D. Other Terms and Conditions.

1. **Term of Affordability Restrictions**. The affordability restrictions will commence with the first occupancy of the Affordable Unit by a Very Low, Low, or Moderate Income Household and will terminate in thirty (30) years, except when sources of funding or applicable laws dictate longer periods of affordability restriction.

2. **Related Calculations**. Calculations related to qualification shall include:

(a) For units not otherwise required by the funding sources to meet the Housing Rental Cost identified in California Health and Safety Code Section 50053, as may be amended from time to time, the Housing Rental Cost shall not be greater than the following amounts:

(i) For Moderate Income Households: 30% of 120% of the area median income adjusted for family size appropriate for the unit;

(ii) For Low Income Households, 30% of 80% of the area median income adjusted for family size appropriate for the unit;

(iii) For Very Low Income Households, 30% of 50% of the area median income adjusted for family size appropriate for the unit.

(b) For units not otherwise required by the funding sources to meet the Housing Purchase Cost identified in California Health and Safety Code Section 50052.5, as may be amended from time to time, the Housing Purchase Cost shall not be greater than the following amounts:

(i) For Moderate Income Households: 35% of 120% of the area median income adjusted for family size appropriate for the unit;

(ii) For Low Income Households, 30% of 80% of the area median income adjusted for family size appropriate for the unit;

(iii) For Very Low Income Households, 30% of 50% of the area median income adjusted for family size appropriate for the unit.

(c) Unless a source of funding for a particular Project or Affordable Unit dictates a lower standard, household size shall be deemed to equal two persons per bedroom. For example, a two bedroom dwelling unit could accommodate a 4-person household.

(d) Unless private mortgage insurance is required by the mortgage lender, mortgage interest rate assumptions shall assume a fully amortized 30-year fixed rate loan. No requirement for private mortgage insurance shall be assumed (due to the loan to value ratio based on the unrestricted home value), provided that a lender can be found willing to forego private mortgage insurance, and the mortgage interest rate assumed shall be no lower than the interest rate such a lender offers under such conditions.

(e) Down payment on for-sale Affordable Units shall be assumed to be consistent with current market lending practices for conventional loans.

3. **Updating of Pricing Estimates**. Pricing estimates required by this policy may be updated to reflect then-current eligibility requirements at any time before the Affordable Units are sold.

4. **Payment of In-Lieu Fees and Alternative Means of Satisfying Obligations**. An affordable housing in-lieu fee may be paid with the consent of the City. The affordable housing in-lieu fee shall be $4.14 Per Square Foot for each Unit constructed as part of the Project. The fee is adjustable each year based on the latest California Consumer Price Index published by the State of California Department of Finance, with the January 2013 Consumer Price Index serving as a baseline. With the consent of the City, the developer of a Project may dedicate Units to the City in partial or complete satisfaction of the developer's obligations under this Affordable Housing Implementation Plan to make available Affordable Units. If developer elects to dedicate in partial or total satisfaction of its affordable housing obligations, prior to issuance of the first building permit for the Project, developer shall be required to submit documentation to, among other things, enable the City to conclude that the value of the dedication is equal to or greater than the aggregate amount of the in lieu fees applicable to the number of units constructed.

5. **Phasing**.

(a) Building permits must be issued for Affordable Units which will generate one-fourth (25%) of the total required affordable housing "points" before the issuance of building permits beyond 45% + 1 of the then current anticipated number of Total Units.

(b) Building permits must be issued for Affordable Units which will generate an additional one-fourth (for a total of 50%) of the total required affordable housing "points" before the issuance of building permits beyond 65% + 1 of the then current anticipated number of Total Units.

(c) Building permits must be issued for Affordable Units which will generate an additional one-fourth (for a total of 75%) of the total required affordable housing "points" before the issuance of building permits beyond 80% + 1 of the then current anticipated number of Total Units.

(d) Building permits must be issued for Affordable Units which will generate an additional one-fourth (for a total of 100%) of the total required affordable housing "points" before the issuance of building permits beyond 97% + 1 of the then current anticipated number of Total Units.

6. **Rehabilitation of Offsite Units**. No points shall be awarded for any offsite unit until and unless the unit has been rehabilitated to meet all codes and standards applicable to new units.

7. **Construction and Design Standards for Affordable Units**. Affordable Units shall be designed and constructed so as to be substantially equivalent to the base-level market rate units of a similar product type within the Project with respect to design, appearance, materials, finished quality, and interior amenities.

8. **Siting of Affordable Units**. The Affordable Units shall be dispersed throughout the neighborhood or development.

9. **Reporting and Monitoring of Compliance**. The owner of any Affordable Unit shall comply with the requirements of California Health & Safety Code Section 33418, including but not limited to the submission of an annual report, with respect to the Affordable Unit as though Section 33418 applies to the Affordable Unit, regardless of whether Section 33418 actually applies. With respect to rental Affordable Units, the owner of the units shall cause the information required by Section 33418 to be submitted on forms prescribed by the City, and any contract between the owner and the manager of the units shall require the manager to comply with the

affordability requirements and standards established by this Affordable Housing Implementation Plan and applicable law. The owner of any Affordable Units shall provide the City with the name and qualifications of any proposed manager of the Affordable Units, and shall not employ or retain a manager not approved by the City, provided that the City's approval shall not be unreasonably denied, and further provided that the City shall not disapprove the following managers: (i) Jamboree Housing Corporation; (ii) Bridge Housing; (iii) KDF Communities; (iv) Steadfast Companies; (v) Affirmed Housing Group; (vi) Pacific West Companies; (vii) AF Evans; (viii) Simpson Housing LLP; and (ix) Fairfield Residential LLC. The City shall have the right to audit any information submitted by the owner of an Affordable Unit, and the owner shall pay the cost of such audit if such information is submitted on an improper form. With respect to owner-occupied Affordable Units for which an affordability covenant is recorded as described herein, the developer of such units shall cause a condition to be included in the covenant requiring that the information required by Section 33418 be submitted to the City in connection with any subsequent sale of the Affordable Unit.

10. **Maintenance Standards for Rental Affordable Units.** Owner shall comply with all provisions of the covenants, conditions and restrictions (CC&R's) for the rental property, approved by the City as part of the implementation of the Project, including the property maintenance requirements set forth in the CC&R's. The CC&R's shall provide that if property maintenance deficiencies are not corrected following notice from the City to Owner (or any successor in interest), the City may perform such repairs or maintenance as may be necessary, and may recover the cost of such work from Owner.

EXHIBIT "H"

[reserved]

EXHIBIT "I"

ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT BETWEEN CITY OF LAKE FOREST AND TRUMARK

THIS ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT BETWEEN CITY OF LAKE FOREST AND TRUMARK **("Assignment")** is made as of the ___ day of _____, 20__ (**"Effective Date"**), by and among [ENTITY] ("[ENTITY]") a [LEGAL DESIGNATION] and _____ ("**Assignee**") with reference to the following facts:

RECITALS

A. [ENTITY] has entered into that certain Development Agreement, dated _____, 2012 by and between the City of Lake Forest ("**City**"), on the one hand, and [ENTITY], on the other hand ("**Agreement**") for certain real property consisting of approximately _____ acres of land located in the City, more particularly described in Exhibit "A" ("**Property**").

B. [ENTITY] desires to assign and delegate, and Assignee desires to accept and assume, all of [ENTITY'S] rights and obligations under the Agreement in accordance with the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, [ENTITY] and Assignee do hereby agree as follows:

1. Assignment and Assumption. Effective as of the Effective Date, [ENTITY] hereby assigns, transfers, and conveys to Assignee all of [ENTITY'S] rights, interest, duties, liabilities, and obligations in, to, and under the Agreement, and Assignee hereby accepts and assumes all such rights, interests, duties, liabilities, and obligations under the Agreement from [ENTITY] for [the Property or a portion of the Property] ("Assigned Property") [, except to the extent [ENTITY] has retained a portion of the Property (the "Retained Property")].

2. Entire Agreement. This Agreement represents the final and entire agreement between the parties in connection with the subject matter hereof, and may not be modified except by a written agreement signed by both [ENTITY] and Assignee.

3. Governing Law. This Agreement has been prepared, negotiated, and executed in, and shall be construed in accordance with, the laws of the State of California, without regard to conflict of law rules.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

[ENTITY]:

[ENTITY]
a [LEGAL DESIGNATION]

By: _____
Name:
Its:

Assignee:

_____
_____

By: _____
Name:
Its: