Attachment 1

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MOUNTAIN VIEW
APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MOUNTAIN VIEW
AND GOOGLE LLC FOR THE NORTH BAYSHORE MASTER PLAN PROJECT
LOCATED ON AN APPROXIMATELY 153-ACRE SITE WITHIN
THE NORTH BAYSHORE PRECISE PLAN AREA

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings and Purpose. The City Council of the City of Mountain View does hereby find as follows:

1. 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 Government Code Sections 65864 to 65869.5, authorizing municipalities to enter into development agreements in connection with the development of real property within their jurisdiction by qualified applicants with a requisite legal or equitable interest in the real property, which is the subject of such development agreement.

2. Google LLC, a Delaware limited liability company ("Applicant" or "Owner"), has a legal interest in certain real property located in the City of Mountain View consisting of approximately 153 acres, generally located north of U.S. 101, bounded by Charleston Road to the north, Stevens Creek to the east, Space Park Way to the south, and Huff Avenue to the west, on portions of the Gateway Master Plan area located at the northwest corner of Shoreline Boulevard and the U.S. 101 northbound on-ramp, and six parcels between San Antonio Road and Marine Way, and on a portion of the Shoreline Amphitheatre parcel north of Amphitheatre Parkway, all together commonly known as the North Bayshore Master Plan area (collectively, the "Property"). The Property is located within the area subject to the P(39) (North Bayshore) Precise Plan ("North Bayshore Precise Plan") adopted November 25, 2014 by Resolution Nos. 17917 and 17918, as last amended on October 13, 2020 by Resolution No. 18508, except for that portion on the Shoreline Amphitheatre parcel which is outside the North Bayshore Precise Plan area.

3. Applicant desires to redevelop the Property to create a development envisioned by the North Bayshore Precise Plan by demolishing existing building, landscaping, and improvements and reconfiguring existing parcels to create new parcels for a mixed-use development of up to 5,950 market-rate residential units, 3.11 million square feet of office buildings, 233,990 square feet of ground-floor retail commercial space, 55,000 square feet of community space, land dedication of 6.94 acres to accommodate affordable residential development, district parking facilities, 14.8 acres of dedicated public parks and 11.3 acres of privately owned, publicly accessible (POPA) open space, new street, pedestrian, and bicycle

improvements, and an optional private district utility system (the "Project" or the "North Bayshore Master Plan") (Application Nos. PL-2020-181 and PL 2022-052).

4. The City of Mountain View ("City") desires to encourage quality economic growth and expand its employment base within the City, in parallel with residential development and new public parks and open space, to ensure a jobs/housing balance, thereby advancing sustainable growth in the interests of the City's residents, taken as a whole. The City has determined that the Project complies with the plans and policies set forth in the General Plan and the North Bayshore Precise Plan.

5. A primary purpose of this Agreement is to assure the Project can proceed without disruption caused by a change in the City's planning policies and requirements following the Project at the time of approval and to ensure the required community benefits, public benefits, and required exactions the Applicant is committing to provide in connection with development of the Project are timely delivered. The Applicant also desires the flexibility, subject to any phasing requirements of the development, to develop the Project in response to market conditions.

6. By entering into this Agreement, the City is receiving assurances of orderly growth and quality development in the North Bayshore Precise Plan area, in accordance with the goals and policies set forth in the General Plan and Precise Plan, and timely delivery of required improvements, community benefits, and public benefits. The City also recognizes that this Agreement will facilitate creation of complete neighborhood as per the Precise Plan vision and that implementation of a project of this scope and scale required phased construction, extensive resources, and a long-term commitment by the Applicant.

7. The purpose of Government Code Sections 65864 to 65869.5 is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations. As authorized by Government Code Section 65865(c), the City adopted Ordinance No. 29.94 on November 9, 1994, establishing the procedures and requirements for consideration of development agreements for projects within the City's jurisdiction. City Code Sections 36.54.15(a)(1)-(7) and 36.54.15(d) contain the required findings for approval of the Development Agreement and adoption of this Ordinance, and all findings are made as follows in Paragraphs 8 through 15 below.

8. The Development Agreement is consistent with the objectives, policies, general land uses, and programs specified in the General Plan for the High-Intensity Office, North Bayshore Mixed-Use, Mixed-Use Center (North Bayshore), and Institutional Land Use Designations, as applicable, which together envision a harmonious balance of housing near jobs, public transit, neighborhood-serving businesses, and parks. The Development Agreement is also consistent with the North Bayshore Precise Plan applicable to the North Bayshore Master Plan as the Development Agreement will facilitate a master plan that implements the Precise Plan's vision and provides innovative site, architectural, and landscape designs, and transportation demand management measures supporting the City's goals for reducing single-occupancy vehicle (SOV)

trips, wildlife-friendly site planning and design, highly sustainable green building design and infrastructure, including: (a) 1.3 million square feet of nonresidential Bonus FAR for highly sustainable new office development; (b) up to 8.8 million square feet of residential Bonus FAR for facilitating up to 7,000 residential units (of which up to 5,950 units would be market-rate and up to 1,050 units (or 15% of the total) would be affordable units achieved through land dedication to the City); and (c) diverse land uses by blending residential, commercial, and office uses to create Complete Neighborhoods with services, open space, and transportation options for future and existing residents and employees.

9. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located because the Project complies with the allowable land uses in the North Bayshore Precise Plan at the building heights and intensities permitted; provides a network of parks and open space to ensure a large, dedicated public park and surrounding land uses are appropriately planned for and provided, along with meeting other requirements for a Master Plan per the Precise Plan; and provides compatibility with surrounding uses and developments consistent with the Precise Plan and the Moffett Field Comprehensive Land Use Plan (CLUP) for the nearby Moffett Airfield.

10. The Development Agreement is in conformity with the public convenience, general welfare, and good land use practice because the design of the Master Plan building and open space locations, proposed mix of land uses, and street, pedestrian and bicycle improvements is compatible with the Precise Plan development standards and allowable land uses. Additionally, the Project encourages and supports the use of multi-modal transportation options with reduced parking and a robust transportation demand management (TDM) program in compliance with the Precise Plan.

11. The Development Agreement will not be detrimental to the health, safety, and general welfare of the community because the proposed Project is consistent with the provisions of the General Plan and Precise Plan and will conform to City, State, and Federal codes and regulations for design, construction, and operations of the planned development.

12. The Development Agreement will not adversely affect the orderly development of property or the preservation of property values because the development of the project site with residential mixed-use and office buildings, parks and open spaces, and pedestrian and bicycle improvements aligns with the vision and development standards of the Precise Plan and is compatible with the surrounding office, open space, and future residential development in the area.

13. The Development Agreement is needed by the Applicant due to the complexity, cost, and infrastructure requirements for development to allow for flexibility in the timing and phasing of the Project because construction of a project of this size and extent would otherwise exceed the City's standard approval and permit extension period and requires significant resources and extensive coordination of improvements from the Applicant to construct.

14. The Development Agreement is advantageous to and benefits the City because the long-term vesting of entitlements under the Development Agreement will facilitate and allow sufficient time and assurance for the implementation of a large master plan project that is anticipated to transform the area to realize the vision of the Precise Plan for a denser mixed-use development with complete neighborhoods consisting of substantial new residential uses, in addition to office and other commercial uses, and more expansive and enhanced public spaces. The Master Plan brings with it numerous other voluntary community benefits, payment of fees, a large amount of land dedication to the City for public parks and affordable housing developments, and a potential future school site, and the Development Agreement provides for earlier delivery of dedicated land. The Development Agreement also provides for a substantial amount of public benefits to the City and community, valued at over $18.5 million, that exceeds the requirements of the Precise Plan or City regulations.

15. The Development Agreement for the North Bayshore Master Plan has been reviewed by the City Attorney.

16. The City has determined that the Project is a development for which a Development Agreement is appropriate. A Development Agreement will improve the potential for the Project to be constructed in an orderly fashion and provides for significant public benefits and otherwise achieve the goals and purposes of Article XVI, Division 14, of the City Code related to development agreements, including meeting the required contents of a development agreement as set forth in Section 36.54.20.

17. In exchange for the significant public benefits of the Project and the infrastructure and transportation improvements required for the Project, the Applicant desires to receive assurances that the City will grant permits and approvals required for the development of the Project in accordance with procedures provided by law and in the Development Agreement and that the Applicant may proceed with the Project in accordance with applicable City laws with extended expiration dates for entitlements up to 30 years from the Effective Date, along with any allowable extensions under the Development Agreement, all as more particularly described and defined in the Development Agreement. In order to effectuate these purposes, the parties desire to enter into the Development Agreement.

18. The Development Agreement complies with the California Environmental Quality Act (CEQA). A Subsequent Environmental Impact Report (SEIR) has been prepared for the project, which tiers from the Mountain View 2030 General Plan and Greenhouse Gas Reduction EIR (SCH No. 2011012069) (General Plan EIR) and the North Bayshore Precise Plan Final Subsequent Environmental Impact Report (SCH No. 2013082088) (2017 Precise Plan EIR). The SEIR was prepared as the Project would include area outside of the Precise Plan boundary for which an environment assessment was not covered under the 2017 Precise Plan EIR; the Project would result in the development of additional restaurant/retail, institutional, and recreational square footage and hotel rooms than were accounted for in the 2017 Precise Plan EIR; and the Project is anticipated to have extended construction timelines, resulting in significant unavoidable environmental impacts related to air quality and greenhouse gas emissions. Prior to adoption of

this Ordinance, the City Council on June 13, 2023 reviewed and considered the SEIR and by adoption of Resolution No. ____ certified the SEIR as prepared in accordance with CEQA and reflecting the City's independent judgment and analysis, and adopted required findings related to environmental impacts, alternatives, and mitigation measures. As part of said resolution, the City Council further adopted a statement of overriding considerations in relation to the significant unavoidable air-quality and greenhouse gas emissions impacts and a mitigation monitoring and reporting program. As described in the SEIR and the resolution, all other environmental impacts were either consistent with those previously disclosed in the 2017 Precise Plan EIR or General Plan EIR or mitigated to a less-than-significant level with the incorporation of mitigation measures and standard City conditions of approval.

Section 2. Development Impact Fees. For the Project, the City Council approves the development impact fees and other methods of satisfying the City Code requirements with respect to development impact fees as set forth in the Development Agreement and waives any inconsistent provision in the relevant sections of the City Code during the term of the Development Agreement.

Section 3. Exceptions from the Park Land Dedication Ordinance (City Code Chapter 41). The Project includes 11.3 acres of privately owned, publicly accessible (POPA) open space, in addition to park land to be dedicated to the City. In order to satisfy the Project's park land obligations under the City Code through a combination of POPA open spaces, dedicated park land and payment of park land in lieu fees, the Applicant has requested certain exceptions to City Code Section 41.11 of the Park Land Dedication Ordinance (City Code Chapter 41) pertaining to park land credit for POPA open spaces. The exception to Section 41.11 is to allow a credit of up to one hundred percent (100%) of the value of the land devoted to the POPA open space against the land dedication or fees in-lieu thereof required by Chapter 41 (Section 41.11(a)(1)). The Development Agreement is approved with the exception set forth in this Section 3 of this Ordinance.

Section 4. The City Council finds that entering into that certain Development Agreement entitled "DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MOUNTAIN VIEW AND GOOGLE LLC, FOR THE NORTH BAYSHORE MASTER PLAN PROJECT" hereafter is consistent with the City's General Plan, the North Bayshore Precise Plan, and the City's Zoning Ordinance and provides substantial public benefits to persons residing or owning property outside the boundary of the Property, which exceed the exactions for public benefits required in the normal development review process under Federal, State, or local law. The City Council further finds that the Development Agreement is in compliance with Government Code Sections 65864 through 65869.5 and Article XVI, Division 14 of the City Code and, therefore, may be approved.

Section 5. The City Council hereby approves and adopts the Development Agreement, which shall be dated upon execution by the parties on or following the effective date of this Ordinance.

Section 6. The City Council authorizes and directs the City Manager or designee to execute the Development Agreement in substantially the form attached hereto as Exhibit A, subject to minor technical conforming changes as may be approved by the City Attorney.

Section 7. The provisions of this Ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 8. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 9. Upon this effectiveness of this Ordinance, the City Clerk or designee is hereby directed to file a Notice of Determination with the County Clerk of the County of Santa Clara, pursuant to the provisions of Section 21152 of CEQA and Section 15094 of the State CEQA Guidelines.

Section 10. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

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DP/2/ORD
807-06-13-23o-1

Exhibit: A. Development Agreement

Recording Requested by and When Recorded Return to:

City Clerk
City of Mountain View
P.O. Box 7540
Mountain View, CA 94039-7540

Exempt from Recording Fees per Govt. Code §§ 6103 and 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Assessor's Parcel Nos:
116-02-037, 116-02-054, 116-02-081, 116-02-083, 116-02-084, 116-02-088, 116-10-077, 116-10-078, 116-10-079, 116-10-080, 116-10-084, 116-10-088, 116-10-089, 116-10-095, 116-10-101, 116-10-102, 116-10-104, 116-10-105, 116-10-107, 116-10-108, 116-10-109, 116-10-111, 116-11-012, 116-11-021, 116-11-022, 116-11-024, 116-11-025, 116-11-028, 116-11-030, 116-11-038, 116-11-039, 116-13-027, 116-13-034, 116-13-037, 116-13-038, 116-14-028, 116-14-058, 116-14-066, 116-14-070, 116-14-072, 116-14-095, 116-20-043

DEVELOPMENT AGREEMENT

BY AND BETWEEN

CITY OF MOUNTAIN VIEW

AND

GOOGLE LLC, A DELAWARE LIMITED LIABILITY COMPANY

FOR THE NORTH BAYSHORE MASTER PLAN PROJECT

Effective Date: ~~[___]~~ July 27, 2023

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EXHIBITS

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into as of ~~[DATE]~~ July 27, 2023 by and between the CITY OF MOUNTAIN VIEW, a California charter city and municipal corporation, organized and existing under the laws of the State of California ("**City**"), and GOOGLE LLC, a Delaware limited liability company ("**Developer**"), pursuant to Government Code Sections 65864, *et seq*. Developer and City are referred to individually in this Agreement as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development, the Legislature of the State of California enacted Sections 65864, *et seq*., of the Government Code ("**Development Agreement Statute**"), which authorizes City and any person holding a legal or equitable interest in real property to enter into a development agreement, establishing certain development rights in the property.

B. Pursuant to Government Code Section 65865, City has adopted procedures and requirements for consideration of development agreements in Sections 36.54 to 36.54.40 ("**Development Agreement Ordinance**") of the City Code. This Agreement has been processed, considered, and executed in accordance with such procedures and requirements.

C. Developer has a legal interest in that certain approximately 153 acre real property located in the City, with a core area bounded by Charleston Road to the north, Stevens Creek to the east, Space Park Way to the south, and Huff Avenue to the west (the "**Property**"). The Property is located in the North Bayshore Precise Plan Area, with certain portions of the ~~Project Area~~ Property also located in the Gateway Master Plan area, as more particularly described in the attached **Exhibit A** and shown on the map attached as **Exhibit B**.

D. Developer desires to redevelop the Property to create the development envisioned by the North Bayshore Master Plan, by demolishing existing buildings, removing heritage and non-heritage trees, landscaping and improvements, and reconfiguring existing parcels to create new parcels for a new mixed-use development of up to 7,000 residential units (5,950 market rate units, and through land dedication, facilitation of up to 1,050 below market rate units), 3.11 million square feet of office and research and development (R&D) buildings, 288,990 square feet of retail commercial space (including active uses, community spaces, and civic uses), 525 hotel rooms, land dedication of 6.9 acres to accommodate affordable residential units, district parking facilities, 14.8 acres of dedicated public parks, and 11.3 acres of POPA Open Space (which may, subject to City's approval, also be dedicated to City as public parks), pedestrian and bicycle improvements, and an optional private district utility system, all as further described in this Agreement, including in the Project Summary attached hereto as **Exhibit C,** and in the "Existing Approvals" (defined in Section 1.3 below) (collectively, the "**Project**").

E. The Property is located within the North Bayshore Change Area under the City's 2030 General Plan ("**General Plan**"), which was adopted by the City Council on July 10, 2012 by Resolution No. 17711, and the Property is subject to the North Bayshore Precise Plan first adopted

by the City Council on November 25, 2015 by Resolution Nos. 17917 and 17918 (as amended, the "**Precise Plan**"). The General Plan Land Use map designates portions of the Property as "North Bayshore Mixed Use" and portions as "Mixed-Use Center (North Bayshore)" and Lot C as Public Facility. The Precise Plan designates the Property as "Gateway Character Area," "Core Character Area," "General Character Area," and "Edge Character Area," as well as being within the "Joaquin Complete Neighborhood," "Pear Complete Neighborhood," and "Shorebird Complete Neighborhood." The Property is zoned P-39 Planned Community/Precise Plan (North Bayshore) and Lot C is zoned PF-Public Facility.

F. Prior to or concurrently with approval of this Agreement, City has taken the following actions to review and plan for the future development of the Project:

1. Environmental Review. The potential environmental impacts of the Project have been properly reviewed and evaluated by City pursuant to the California Environmental Quality Act ("**CEQA**"), Public Resources Code Sections 21000-, *et seq*. Pursuant to CEQA, City prepared and duly processed a Subsequent Environmental Impact Report ("**Project EIR**") (SCH No. 2022020712) which relied on and tiered from the certified North Bayshore Precise Plan Program Environmental Impact Report (SCH No. 2013082088) ("**Precise Plan EIR**"). Preparation of the Project EIR included supplemental studies and a Mitigation Monitoring and Reporting Program ("**MMRP**") for implementation of mitigation measures specified in the Project EIR and incorporated from the Precise Plan EIR (the Precise Plan EIR, Project EIR, supplemental studies, Statement of Overriding Considerations, and MMRP are, collectively, the "**Project CEQA Documentation**"). After a duly noticed public hearing and in accordance with the recommendation of the City's Environmental Planning Commission (the "**Planning Commission**"), on June 13, 2023, by Resolution No. 18809, the City Council certified the Project EIR as adequate under CEQA for consideration of approvals required for the Project, including this Agreement and the Existing Approvals, adopted the MMRP, and adopted a Statement of Overriding Consideration due to significant un-mitigable environmental impacts related to air quality and greenhouse gas emissions.

2. Master Plan. Following review and recommendation by City's Planning Commission on May 3, 2023, after a duly noticed public hearing and certification of the Project EIR, the City Council on June 13, 2023, by Resolution No. 18810, approved the North Bayshore Master Plan ("**Master Plan**") and the North Bayshore Implementation Plan ("**Implementation Plan**"), establishing a development program for the Property consistent with and pursuant to the Precise Plan and City Code regulations, together with Conditions of Approval and administrative procedures for the same.

3. Vesting Tentative Map. Following review and recommendation by City's Planning Commission (acting as the Subdivision Committee) on May 3, 2023, after a duly noticed public hearing, the City Council on June 13, 2023, by Resolution No. 18811, approved a Vesting Tentative Map together with Conditions of Approval ("**Subdivision Conditions**") pursuant to City Code Chapter 28, for subdivision of the Property to implement the Project ("**Vesting Tentative Map**").

4. Vacation of Public Streets. Following adoption of a notice of intent to vacate on May 9, 2023, and a duly noticed public hearing and certification of the Project

EIR, the City Council on ~~_____~~June 13, 2023, by Resolution No. ~~_____~~18812, approved the conditional vacation of the following public streets to permit the reconstruction of portions of those streets with new public street easements to be dedicated to the City pursuant to the Public Streets, Highways, and Service Easement Vacation Law, California Streets and Highways Code Sections 8330, *et seq.*: Portions of Shoreline Boulevard, Charleston Road, Shorebird Way, Space Park Way, Joaquin Road, Huff Road, and Plymouth Street ("**Vacation**").

5. Lot C – Compliance with Surplus Land Act. The City Council on January 25, 2022, by Resolution No. 18639 declared Lot C to be surplus land under the State Surplus Land Act (Government Code Section 54201~~-~~, *et seq*.). Notices of availability were sent to all the required housing entities on January 28, 2022. During the required 60-day period, three affordable housing entities expressed interest in Lot C. The City provided three extensions past the 90-day negotiation period and no sale or lease was finalized. The City provided a detailed summary of those negotiations to the State Department of Housing and Community Development ("**HCD**") and HCD by letter to City dated August 26, 2022, determined that City has complied with the Surplus Land Act and is permitted to proceed with a sale or lease of Lot C.

6. Park Land Dedication Credit for North Bayshore Master Plan. Following a duly noticed public hearing, the City Council on ~~_____~~June 27, 2023, by ~~Resolution~~ Ordinance No. ~~_____~~9.2023, approved granting a one hundred percent (100%) park land dedication credit for a portion of the park land dedication requirement of the North Bayshore Master Plan for up to 11.3 acres of privately owned publicly accessible (POPA) open space referred to as Greenway Parks (East and West), Joaquin Grove, Joaquin Terraces (East and West), The Portal, and Shorebird Wilds POPA Open Spaces, pursuant to City Code Chapter 41 ("**North Bayshore Master Plan Park Land Credit**").

7. Option to Ground Lease Lot C. The City Council on June 13, 2023, adopted Resolution No. 18813, and thereby authorized the City Manager to negotiate an option to ground lease agreement, which includes the form of ground lease agreement to be entered into, consistent with the key terms approved in Exhibit A of the resolution ("Option to Ground Lease Lot C").

The approvals described in this Recital F are referred to, collectively, as the "**Existing Approvals**."

G. City is desirous of encouraging quality economic growth and expanding its employment base within the City, in parallel with residential development and new public parks to ensure a balance of housing and employment, thereby advancing sustainable growth in the interests of its residents, taken as a whole. City has determined the Project complies with the plans and policies set forth in the General Plan and Precise Plan.

H. A primary purpose of this Agreement is to assure the Project can proceed without disruption caused by a change in City's planning policies and requirements following issuance of the Approvals and to ensure the Required Exactions, Community Benefits, and Public Benefits Developer is committing to provide in connection with development of the Project are timely delivered. Developer also desires the flexibility, subject to phasing requirements in this Agreement, to develop the Project in response to market conditions and to ensure the Existing Approvals remain valid over the Term of this Agreement.

I. City has determined that by entering into this Agreement, City is receiving assurances of orderly growth and quality development in the Precise Plan area in accordance with the goals and policies set forth in the General Plan and Precise Plan, and timely delivery of Required Exactions, Community Benefits and Public Benefits. City also recognizes that this Agreement will facilitate the transformation of a large suburban office park into a denser, mixed-use neighborhood with approximately 26.1 acres of public open space and up to 7,000 residential units, and that implementation of a project of this scope and scale requires phased construction, extensive resources, and a long-term commitment by the Developer.

J. Developer recognizes it is being afforded greater latitude concerning long-term assurances for development of the Project in exchange for agreeing to contribute greater Community Benefits and Public Benefits than otherwise required for the Approvals and does so freely and with full knowledge and consent. City will further benefit from an increase in the likelihood that the Community Benefits and Public Benefits, which are presently or will be reflected in the Conditions of Approval, will be realized because this Agreement will increase the likelihood that the Project will be completed pursuant to the Approvals.

K. For the reasons stated herein, among others, City and Developer have determined the Project is a development for which a development agreement is appropriate. This Agreement will, in turn, eliminate uncertainty in planning for and securing orderly development of the Property. City has also determined the Project includes Community Benefits and Public Benefits and will provide additional market rate and affordable housing options for the community; strengthen City's economic base with high-quality, long-term jobs, in addition to shorter-term construction jobs; generate revenues for City in the form of one-time and annual fees, taxes, and other fiscal benefits; promote high-quality design and sustainable development; expand park and open space amenities; enhance the use of public transit and other alternative modes of transportation; and otherwise achieve the goals and purposes for which the Development Agreement Statute was adopted.

L. The terms and conditions of this Agreement have undergone extensive review by City staff, the Zoning Administrator, and the City Council at publicly noticed meetings and this Agreement has been found to be fair, just, and reasonable.

M. City has given notice of its intention to adopt this Agreement, conducted public hearings thereon pursuant to Government Code Section 65867, and the City Council hereby finds that: (1) the provisions of this Agreement and its purposes are consistent with the General Plan, the Precise Plan, Chapter 36 (Zoning) of the City Code ("**Zoning Ordinance**") and other chapters of the City Code, the Master Plan, and CEQA; (2) the Project and this Agreement are compatible with the uses authorized in, and the regulations prescribed for, the General Plan and Precise Plan in which the Property is located; (3) this Agreement complies in all respects with the Development Agreement Statute and the City's Development Agreement Ordinance; (4) this Agreement will not be detrimental to the health, safety, and general welfare of the community; (5) this Agreement will not adversely affect the orderly development of property or the preservation of property values; (6) this Agreement will facilitate development of the Property in the manner proposed and is needed by Developer due to the timing constraints on redevelopment of the Property; (7) the proposed development should be encouraged in order to meet important economic, social, environmental, or planning goals of City; (8) Developer has made commitments to a high standard

of quality development and delivery of Community Benefits and Public Benefits; (9) this Agreement is in conformity with public convenience, general welfare, and good land use practice; and (10) this Agreement is advantageous to, and benefits, the City.

N. Following review and recommendation by the Zoning Administrator on May 10, 2023, and a duly noticed public hearing, this Agreement was approved by the City Council of City by Ordinance No. 9.2023 ("**Enacting Ordinance**"), which was introduced on June 13, 2023 and finally adopted on a second reading by the City Council on June 27, 2023 and will become effective thirty (30) days thereafter on July 27, 2023.

AGREEMENTS

NOW, THEREFORE, City and Developer agree as follows:

ARTICLE I
GENERAL PROVISIONS

1.1 **Incorporation of Preamble, Recitals and Exhibits.** The preamble paragraph, Recitals and Exhibits, and all defined terms contained therein, are hereby incorporated into this Agreement as if set forth in full.

1.2 **Property Subject to the Development Agreement.** All of the Property shall be subject to this Agreement. Subject to the provisions of Articles 10 and 11 of this Agreement, Developer agrees that all persons holding legal or equitable title in the Property shall be bound by this Development Agreement.

1.3 **Definitions.** The following defined terms shall apply to this Agreement.

"**Active Uses**" is defined, and shall have the meaning set forth, in Section 4.3 of the Master Plan.

"**Active Use Space**" means all ground floor space in Residential Buildings, Office Buildings, Hotel Buildings, standalone structures located in POPA Open Spaces, 1201 Charleston Road, and Parking Structures SB-PP-1 and JN-PP-1, that is in each case designed or otherwise intended for occupancy by Active Uses, containing up to 288,990 gross square feet ("**GSF**") of space as described in Table 4.1.1 of the Master Plan.

"**Affiliated Party**" means any corporation, limited liability company, partnership, or other entity which is directly or indirectly Controlling of, Controlled by, or under Common Control with Developer or Lendlease, as applicable.

"**Affordable Housing**" is defined in Zoning Ordinance Section 36.40.05, and further described in the Affordable Housing Delivery Plan.

"**Affordable Housing Delivery Plan**" means the plan setting forth Developer's Affordable Housing obligations for the Project pursuant to Chapter 36, Article XIV,

Division 2 of the City Code, the Precise Plan, and Section B of the North Bayshore Precise Plan Affordable Housing Administrative Guidelines, which plan is included as **Exhibit F**.

"**Affordable Housing Sites**" means Residential Parcels JS2, JS3, JS4, JN6, SB25, and PE2 as shown on the Vesting Tentative Map to be dedicated by Developer to City, or its assignee or designee, for development of Affordable Housing, as further described in Section 5.1.1 and the Affordable Housing Delivery Plan.

"**Agreement**" or "**Development Agreement**" means this Development Agreement between City and Developer, including all Exhibits hereto.

"**Agreement Amendment**" is defined in Section 8.8.2.

"**AMI**" means the area median income metric applicable under City's for rent and for sale Below Market Rate Housing Program (~~Sec.~~ Section 36.40.10~~-~~, *et seq*. of the City Code).

"**Applicable City Law**" means (a) the City's Charter, City Code, General Plan, and Precise Plan, as each of the foregoing is in effect on the Effective Date; (b) the other City ordinances, resolutions, orders, rules, policies, standards, specifications, plans, guidelines, or other regulations~~-~~, that are applicable to the Property and the Project and in effect on the Effective Date; (c) New City Laws permitted to apply pursuant to Section 3.6; and (d) Construction Codes in effect from time to time pursuant to Section 3.8.

"**Applicable Law**" means (i) the Applicable City Law and (ii) all regional, State and Federal laws and regulations applicable to the Property and the Project as such regional, State and Federal laws and regulations may be enacted, adopted and amended from time to time.

"**Approvals**" means the Existing Approvals and Subsequent Approvals.

"**Assignment and Assumption Agreement**" is defined in Section 10.2 and the form of which is attached hereto as **Exhibit L**.

"**Base FAR**" means the allowable FAR square footage on a given parcel within the Project, which is established by the Precise Plan at 0.45 -1.0 FAR for nonresidential development and 1.0 FAR for residential development.

"**Building Codes and Guidelines**" is defined in Section 3.8.1.

"**Building Permit**", when capitalized in this Agreement, means a City-issued building permit for construction (including any permanent elements of the basement above the lowest level basement slab); permits for demolition or grading shall not constitute a Building Permit.

"**Business Day**" means a day that is not a Saturday, Sunday, federal holiday, state holiday under the laws of the State of California or other posted City office closure.

"**Caltrans**" means the California Department of Transportation and any successor agency.

"**CEQA**" means the California Environmental Quality Act, California Public Resources Code Section 21000, *et seq*., as the same may be amended or modified from time to time.

"**Certificate of Occupancy**" means a certificate issued by City evidencing construction completion under a City-issued Building Permit following a final inspection of the applicable building, structure or improvements with a City-signed "job card" which allows occupancy of the associated building, structure or improvement. "Certificate of Occupancy" does not include a Temporary Certificate of Occupancy.

"**City**" means the City of Mountain View, a California charter city and municipal corporation, organized and existing under the laws of the State of California.

"**City Affordable Housing Program**" is defined in Section 5.3.1.

"**City Code**" means the City of Mountain View City Code (as the same may be amended or modified from time to time, subject to this Agreement's provisions regarding the limitations of the applicability of such changes to the Project, Property and this Agreement).

"**City Construction Specifications**" is defined in Section 3.8.1.

"**City Council**" means the City Council of the City.

"**City Manager**" means the City Manager of the City, or their designee.

"**City Density Bonus Law**" is defined in Section 5.3.1.

"**City Party**" and "**City Parties**" are defined in Section 12.9.

"**Claims**" is defined in Section 12.9.

"**Commence Construction**", "**Commencement of Construction**" and similar capitalized variations thereof shall mean (i) commencement of construction to erect a structure(s) under a Building Permit, excluding demolition, and grading activities; (ii) commencement of demolition, grading and site preparation construction activities on the sites to be dedicated to City in accordance with City's acceptance of land conveyance requirements; and (iii) commencement of demolition, grading, excavation or other site preparation construction activities for infrastructure or utilities on private or public property for the District Utility System.

"**Community Benefits**" is defined in Section 5.4.

"**Community Development Department**" means the Community Development Department (CDD) of City or any successor department or agency.

"**Community Development Director**" means the Community Development Director of the City.

"**Complete**", "**Completion**" and any capitalized variations thereof means: (i) for a POPA Open Space, City and any Other Agencies with jurisdiction over such space have issued required approval(s), with construction having been fully completed in accordance with the applicable Approvals and final inspection(s) completed; (ii) for any District Utility System infrastructure, City and any Other Agencies with jurisdiction over any required permits for the system or infrastructure have issued required approval(s), with construction fully completed, and final inspection(s) completed; and (iii) for any building, City has issued required approvals, with construction fully completed and a Certificate of Occupancy issued.

"**Compliance Notice**" is defined in Section 7.2.3.

"**Conditions of Approval**" means the Project's Conditions of Approval, including the Subdivision Conditions, as such conditions may be modified from time-to-time in accordance with terms and limitations of the Existing Approvals, applicable Subsequent Approvals, and this Agreement.

"**Connection Fees**" means those fees charged by City on a City-wide basis or by a utility provider to utility users as a cost for connecting water, sanitary sewer, and other applicable utilities, except for any such fee or portion thereof that constitutes an Impact Fee.

"**Construction Cost Index**" or "**CCI**" means the Engineering News Record (ENR) Construction Cost Index for the San Francisco Urban Area published each year, or if such index is no longer available then a comparable index as reasonably selected by City.

"**Construction Codes**" is defined in Section 3.8.1.

"**Consumer Price Index**" or "**CPI**" means the San Francisco-Oakland-San Jose Consumer Price Index, All Items (1982-84=100) for All Urban Consumers (CPI-U), published by the Bureau of Labor Statistics for the U.S. Department of Labor Consumer Price Index for the San Francisco Bay Area, or if such index is no longer available then a comparable index as reasonably selected by City.

"**Contaminated Site**" means a parcel(s) with existing site contamination within, or in close proximity to, the Former Spectra-Physics Lasers, Inc., Former Teledyne Semiconductor Sites Superfund Study Area, and the Union Pacific Railroad Property Plymouth Street Site, and the North Bayshore Area groundwater plume that are subject to review, oversight, and remedial response review or actions by

other government agencies, including, but not limited to, the U.S. Environmental Protection Agency (US EPA) and San Francisco Regional Water Quality Control Board (SFRWQCB).

"**Control**", "**Controlling**", "**Controlled**", and "**Common Control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the day-to-day management and activities of the specified entity (provided, the possession of so-called major decision consent rights shall not, in and of itself, be deemed to constitute Control).

"**Dedicated Parkland Site**" is defined in ~~section~~ Section 5.1.2.

"**Dedicated Parkland Site Reimbursement Agreement**" is defined in ~~section~~ Section 5.1.2.2.

"**Demolition and Grading Permit**" or "**Demolition Permit**" means and refers to City-issued permits for demolition and/or grading in anticipation of additional construction activities issued under a separate Building Permit.

"**Developer**" means Google LLC, a Delaware limited liability company, and its permitted successors, assigns, and Transferees.

"**Developer Party**" and "**Developer Parties**" are defined in Section 12.9.

"**Development Agreement Ordinance**" is defined in Recital B.

"**Development Agreement Statute**" is defined in Recital A.

"**Development Project**" means a development project as defined by ~~section~~ Section 65928 of the California Government Code.

"**District Central Plant**" means a centralized facility to operate one or more District Utility Systems anticipated to be located on Parcel SB12 on the Vesting Tentative Map, as generally described in the Existing Approvals. The District Central Plant is an optional design feature in the Project.

"**District Utility System**" is defined in Section 3.10.

"**Eco Gem**" means the approximately 10.8 acre future park on the Property to be developed by City on land Irrevocably Offered by Developer identified as Parcel SB26 on the Vesting Tentative Map, as provided in the Approvals and this Agreement.

"**Eco Gem Developer Funding**" is defined in Section 5.5.5.

"**Economic Recession**" is defined in Section 8.2.1.

"**Effective Date**" is defined in Section 2.1.

"**Enacting Ordinance**" is defined in Recital N.

"**Exactions**" means exactions that may be imposed by City under Applicable Law as a condition of or in connection with developing the Project, including requirements for acquisition, dedication or reservation of land or improvements; and obligations to construct on-site or off-site public and private infrastructure improvements such as roadways, utilities or other improvements necessary to support the Project, whether such exactions constitute subdivision improvements or mitigation measures in connection with environmental review of the Project or, as set forth in Section 3.3.1, as part of Subsequent Approvals, as may be allowed under Applicable Law and this Agreement, and require adjustments to previously approved exactions in response to subsequent MTAs. For purposes of this Agreement, Exactions do not include Impact Fees, Processing Fees or Connection Fees.

"**Existing Approvals**" is defined in Recital F.

"**Existing FAR**" means preexisting nonresidential building square footage whereby building(s) have been demolished, are planned to be demolished, or will be converted to a different non-Office nonresidential use, and the preexisting square footage will be reallocated to a new nonresidential building(s) within the Project; this existing square footage does not constitute net new square footage, but is included in Base FAR and listed in Table ~~C2~~ C3 of **Exhibit C**. Existing FAR includes Existing FAR - 1220 & 1230 Pear.

"**Existing FAR - 1220 & 1230 Pear**" means the approximately 30,520 gross square feet of Office that is associated with those properties.

"**Existing Impact Fees**" is defined in Section 4.1.2 and such fees are listed in **Exhibit I**.

"**Existing Uses**" means all lawful uses of existing buildings and improvements, including any legal non-conforming uses as defined in the Zoning Ordinance, on the Property as of the Effective Date.

~~"**Extension Request**" is defined in Section 2.2.4.~~

"**Extension Conditions**" is defined in Section 2.2.4.

"**Extension Request**" is defined in Section 2.2.4.

"**FAR**" means floor area ratio.

"**Fee Lock Period**" is defined in Section 4.1.2.

"**Final Approval**" means that (i) all applicable appeal periods for the filing of any administrative or judicial appeal challenging the issuance or effectiveness of any of the Existing Approvals, including the Project EIR, or this Agreement shall have

expired and no such appeal shall have been filed, or if such an administrative or judicial appeal is filed, the Existing Approvals, including the Project EIR, or this Agreement, as applicable, shall have been upheld by a final decision in each such appeal without adverse effect on the applicable Existing Approval, including the Project EIR, or this Agreement and the entry of a final judgment, order or ruling upholding the applicable Existing Approval, including the Project EIR, or this Agreement; and (ii) if a referendum petition relating to any Existing Approval or this Agreement is timely and duly circulated and filed, certified as valid and City holds an election, the date the election results on the ballot measure are certified by City in the manner provided by Applicable City Law reflecting the approval by voters of the referenced Existing Approval or this Agreement.

"**First People Centric Fund Payment**" is defined in Section 5.5.1.

"**Force Majeure Delay**" is defined in Section 8.2.1.

"**Force Majeure Event**" is defined in Section 8.2.1.

"**Gateway Plaza**" means the approximately 0.9 acre future park on the Property to be developed by City on land Irrevocably Offered by Developer identified as Parcel Park JS9 on the Vesting Tentative Map, as provided in the Approvals and this Agreement.

"**GDP**" means the U.S. Gross Domestic Product as determined by the United States Department of Commerce, Bureau of Economic Analysis.

"**General Plan**" is defined in Recital E.

"**Good Faith Efforts**" and any variation thereof shall mean the efforts that a reasonable person would determine is a diligent and honest effort under the same or similar set of facts or circumstances.

"**Greenway Parks POPA Open Space**" means the approximately 2.5 acres of privately-owned, publicly accessible (POPA) open space, consisting of two parcels, Greenway Park East (approximately 0.7 acres), and Greenway Park West (approximately 1.8 acres), and the improvements thereon to be developed, operated, maintained and repaired by Developer and its successors and assigns, at their expense, as provided in the Approvals, this Agreement, and in City's standard form Covenant, Agreement and Deed Restriction for privately owned, publicly accessible open space, which form shall include the key provisions attached hereto as **Exhibit H**.

"**Ground Floor Activation Program**" is defined in Section 5.5.3 and **Exhibit J**.

"**Hazardous Materials**" means any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States of America, including any material or substance which is: (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted

hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum, petroleum products, components and by-products; (vi) asbestos and asbestos-containing materials; (vii) polychlorinated biphenyls; (viii) per- and polyfluoroalkyl substances ("PFAS"); (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (x) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1317); (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* (42 U.S.C. § 6903); or (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.*, as the foregoing statutes and regulations now exist or may hereafter be amended.

"**Hotel Building**" means a separate structure(s) containing hotel uses, which may also contain ground floor Active Use Space and parking that may be developed on a Hotel Parcel in accordance with the Approvals.

"**Hotel Parcel**" means one of the parcels as shown on the Vesting Tentative Map designated primarily for hotel as permitted under the Approvals.

"**Impact Fees**" means the monetary amount charged by City in connection with a Development Project pursuant to the Mitigation Fee Act for the purpose of defraying all or a portion of the cost of mitigating the impacts of the Development Project or development of the public facilities related to the Development Project. Impact Fees do not include Other Agency Fees, Processing Fees, Connection Fees, Community Benefits, or Public Benefits.

"**Implementation Plan**" is defined in Recital F.2. and includes all exhibits, addenda, or other attachments to the Implementation Plan.

"**Initial Term**" is defined in Section 2.2.1.

"**Irrevocable Offer**" and variations thereof, means the Form of Irrevocable Offer attached to this Agreement as **Exhibit Q** pursuant to which Developer irrevocably offers to City fee title to the Affordable Housing Site or Dedicated Parkland Site described therein for dedication to City (or its assignee or designee) at no cost to City in the Required Condition and on such other terms as set forth in this

Agreement, including any applicable dates, deadlines or conditions precedent, and otherwise in accordance with the approved zoning permit application and other Approvals applicable to the property offered for dedication to City (or its assignee or designee) to accept in accordance with Section 5.7.

"**Joaquin Commons**" means the approximately 2.5 acre future park on the Property to be developed by City on land Irrevocably Offered by Developer identified as Park Parcel JN16 on the Vesting Tentative Map, as provided in the Approvals and this Agreement.

"**Joaquin Grove POPA Open Space**" means the approximately 1.4 acres of privately-owned, publicly accessible (POPA) open space and the improvements thereon to be developed, operated, maintained and repaired by Developer and its successors and assigns, at their expense, as provided in the Approvals, this Agreement, and in City's standard form Covenant, Agreement and Deed Restriction for privately owned, publicly accessible open space, which form shall include the key provisions attached hereto as **Exhibit H**.

"**Joaquin Terraces POPA Open Space**" means the approximately 2.2 acres of privately-owned, publicly accessible (POPA) open space, consisting of two contiguous parcels, Joaquin Terrace East (approximately 1.3 acres) and Joaquin Terrace West (approximately 0.90 acres), and the improvements thereon to be developed, operated, maintained, and repaired by Developer and its successors and assigns, at their expense, as provided in the Approvals, this Agreement, and in City's standard form Covenant, Agreement and Deed Restriction for privately owned, publicly accessible open space, which form shall include the key provisions attached hereto as **Exhibit H**.

"**Lendlease**" shall mean Lendlease Americas Holdings Inc., a Delaware corporation or its successors or assigns.

"**Lendlease Affiliate**" shall mean any Affiliated Party of Lendlease, including, without limitation, Lendlease Corporation Limited, a New South Wales corporation.

"**Letter of Credit**" means an irrevocable stand by letter of credit from an issuer and in a form reasonably acceptable to City and approved by the City Attorney

"**Litigation Challenge**" is defined in Section 12.10.1.

"**Lot C**" means a portion of that certain property owned by the City and commonly known as Amphitheater Parkway (APN 116-20-043)~~, and covered in~~ that ~~certain~~ will be subject to the Option to Ground Lease ~~agreement~~ Lot C and any related agreements between City and Developer, ~~dated June __, 2023 and related access/use agreement between City and Developer~~all on terms consistent with those approved by the City Council on June 13, 2023, as set forth in Resolution No. 18813.

"**Market-Rate Housing**" means all of the residential development in the Project other than the Affordable Housing.

"**Master Plan**" is defined in Recital F.2. and includes all exhibits, addenda, or other attachments to the Master Plan.

"**Master Encroachment Agreement for District Utility System Terms**" means the agreed upon key terms identified in **Exhibit N** to be included in a Master Encroachment Agreement as described in Section 3.3.5 to be entered into between the Parties if Developer pursues the District Utility System in permit applications for Subsequent Approvals.

"**Material Change**" shall mean any modification to this Agreement that would materially alter the rights, benefits, or obligations of City or Developer under this Agreement by: (a) extending or reducing the Term, except as expressly authorized herein; (b) materially changing the range of Permitted Uses of the Property, except as provided in this Agreement or in the Existing Approvals; (c) changing the general location of on-site or off-site improvements identified in the Existing Approvals; (d) increasing the maximum height beyond that permitted by the applicable Approval(s); (e) increasing the number of market rate residential units beyond the maximum number permitted under the Existing Approvals, (f) increasing the overall square footage of the Project; (g) decreasing the height or size of a proposed building(s) below the maximum permitted height or size specified in the Existing Approvals, except to the extent Developer is seeking such decrease(s); (h) materially changing the location or size of land dedication offerings contemplated by the Existing Approvals (including land dedication for parks and Affordable Housing), except as provided in this Agreement or the Existing Approvals, or materially decreasing the square footage of POPA Open Space(s) below that shown in the Master Plan, provided, however that the conversion of POPA Open Space to dedicated park land pursuant to Section 5.1.2.3 shall not constitute a Material Change; or (i) reducing the monetary or other Required Exaction, Community Benefit or Public Benefit contributions by Developer set forth in this Agreement.

"**Mitigation Fee Act**" shall have the meaning as set forth in Section 66000.5 of the California Government Code, as amended or any successor statute thereto.

"**MMRP**" means the Mitigation Monitoring and Reporting Program defined in Recital F.1.

"**Mortgage**" is defined in Section 11.1.

"**Mortgagee**" is defined in Section 11.1.

"**MTA**" means the North Bayshore Master Plan: Multi-Modal Transportation Analysis, prepared by Fehr & Peers for David J. Powers and City, dated March 2023, as well as one or more subsequent MTAs prepared as described in Section 3.3.4.

"**New City Laws**" means any ordinances, resolutions, orders, rules, official policies, standards, specifications, guidelines, or other regulations, which are promulgated or adopted by City (including but not limited to any City agency, body, department, officer, or employee) or its electorate (through their power of initiative or otherwise) after the Effective Date, as addressed further in Section 3.6.1.

"**North Bayshore Master Plan Park Land Credit**" is defined in Recital F.6.

"**North Bayshore Nonresidential Bonus FAR**" means the 1,303,250 square feet allocated for development at the Property, pursuant to ~~section~~ Section 3.3.4 of the Precise Plan, as further specified in the Approvals.

"**North Bayshore Residential Bonus FAR**" means Bonus FAR used for residential development as defined in Section 3.3.4 of the Precise Plan.

"**Notice of Breach**" is defined in Section 7.2.1.

"**Notice of Completion**" means the Form of Notice of Completion and Termination attached to this Agreement as **Exhibit P**.

"**Official Records**" means the Official Records of Santa Clara County, California.

"**Office**" means those uses defined in Section 36.60.33 of the Zoning Ordinance as "Offices," "Offices, administrative and executive," and "Offices, research and development," as may be further specified in the Approvals.

"**Office Building**" means a structure(s) with or without parking built for Office use on an Office Parcel.

"**Office Parcel**" means one of the parcels as shown on the Vesting Tentative Map and the Phasing Plan as designated primarily for Office use.

"**Office Trip Cap**" is defined in the TDM Agreement Terms.

"**Operating Memorandum**" is defined in Section 8.8.1.1.

"**Option to Ground Lease Lot C**" is defined in sub-section 7 of paragraph F of the Recitals.

"**Other Agency**" or "**Other Agencies**" means any governmental or oversight agency, other than City, having jurisdiction over the Project or a portion thereof.

"**Other Agency Fees**" means fees and charges imposed by Other Agencies which in some cases are collected by City on behalf of such Other Agencies.

"**Other Agency Approvals**" means approvals, entitlements and permits required for development or use of the Project to be obtained from Other Agencies.

"**Parking Structure(s)**" means parking structures SB-PP-1, JN-PP-1, JS-PP-1, SA-PP-1, MW-PP-11, and MW-PP-2, as further described in the Approvals.

"**Parkland Impact Fee**" is defined in Section 4.1.1.

"**Parkland Obligations**" is defined in Section 5.1.2.

"**Parkland Requirement**" is defined in Section 5.1.2.

"**Parks Delivery Plan**" means the plan for sequencing of park land dedication and POPA Open Space delivery in the Project attached hereto as **Exhibit G**.

"**Party**" or "**Parties**" means individually and collectively Developer and City.

"**People Centric Fund**" means the People Centric Fund Payment, which shall be paid by Developer to City and deposited in the City's General Fund for use in City's discretion to benefit City and its residents, which may include funding of, among other programs: (i) housing opportunities and anti-displacement efforts, (ii) small business support and workforce development, (iii) safe and expanded connections for pedestrians and bicyclists and consolidated infrastructure, and (iv) quality open space for recreation, relaxation, and entertainment.

"**People Centric Fund Payment**" means cumulatively the First People Centric Fund Payment and the Second People Centric Fund Payment.

"**Permitted Uses**" is defined in Section 3.3.1.

"**Phase(s)**" means the eight (8) discrete development phases of the Project as described and shown in **Exhibit D**, which may be developed sequentially or concurrently with other portions of the Project, subject to the terms and conditions of the Approvals and this Agreement, including the Phasing Plan.

"**Phasing Plan**" means the summary table and diagram setting forth a conceptual, illustrative example of the delivery of development phasing of the Project attached hereto as **Exhibit D**.

"**Planning Commission**" means the City of Mountain View Environmental Planning Commission as defined in Recital F.1.

"**POPA Agreement**" is defined in Section 5.1.2.5.

"**POPA Improvements**" means the improvements to be constructed by Developer in the POPA Open Spaces in accordance with the Approvals and the Parks Delivery Plan.

"**POPA Open Space**" means the privately-owned, publicly-accessible open spaces within the Project as further described in Section 5.1.2.3.

"**Precise Plan**" is defined in Recital E.

"**Precise Plan EIR**" is defined in Recital F.1.

"**Prevailing Wage Laws**" is defined in Section 6.1.2.

"**Processing Fees**" means any standard fee (which is not an Impact Fee, Connection Fee or Exaction) applied for processing, licensing, permitting, or inspecting permitted activities City-wide as listed in City's adopted Fiscal Year Master Fee Schedule, as addressed further in Section 4.2.

"**Project**" is defined in Recital D.

"**Project CEQA Documentation**" is defined in Recital F.1.

"**Project Compliance Plan**" means the illustrative plan attached as **Exhibit E** summarizing the Project's strategy, as of the Effective Date, to comply with minimum City requirements for development in accordance with the Precise Plan and Applicable City Law, subject to any changes to such plan pursuant to the terms of this Agreement.

"**Project EIR**" is defined in Recital F.1.

"**Project Summary**" means the summary of the maximum development proposed by the Project and Existing FAR attached as **Exhibit C**.

"**Property**" is defined in Recital C, described in **Exhibit A,** and depicted in **Exhibit B**.

"**Public Art**" is defined in Section 5.5.4.

"**Public Benefits**" is defined in Section 5.5.

"**Qualified Developer**" shall mean any entity, who or whose project team, in the City Manager's reasonable opinion, has at least 10 years' experience in the development and ownership of similar size or larger developments of the type to be undertaken on the Transferred Property, without any record of material violations of Applicable Laws, and the financial resources and wherewithal to develop and effectively manage the Project or applicable Project component.

"Required Condition" means the condition set forth in the Administrative Procedures for Implementation of the North Bayshore Master Plan and in Section 5.6.

"**Required Exactions**" is defined in Section 5.1.

"**Residential Building**" means a separate structure containing multi-family residential dwelling units (rental or for sale), which may also contain ground floor

Active Use Space and parking that may be developed on a Residential Parcel in accordance with the Approvals.

"**Residential Parcel**" means one of the parcels as shown on the Vesting Tentative Map designated primarily for residential with mixed-use as permitted under the Approvals.

"**Sales and Use Tax Laws**" is defined in Section 5.5.6.

"**Second People Centric Fund Payment**" is defined in Section 5.5.2.

"**Shorebird Wilds POPA Open Space**" means the approximately 4.5 acres of privately-owned, publicly accessible (POPA) open space and the improvements thereon to be developed, operated, maintained, and repaired by Developer and its successors and assigns, at their expense, as provided in the Approvals, this Agreement, and in City's standard form Covenant, Agreement and Deed Restriction for privately owned, publicly accessible open space, which form shall include the key provisions attached hereto as **Exhibit H**.

"**Shorebird Square**" means the approximately 0.3 acre future park on the Property to be developed by City on land Irrevocably Offered by Developer identified as Park Parcel SB18 on the Vesting Tentative Map, as provided in the Approvals and this Agreement.

"**Shorebird Yards**" means the approximately 4.07 acre parcel Irrevocably Offered by Developer pursuant to Section 5.4.1, identified as Parcel SB13 on the Vesting Tentative Map, as provided in the Approvals and this Agreement.

"**Shoreline Square**" means the approximately 0.3 acre future park on the Property to be developed by City on land Irrevocably Offered by Developer identified as Park Parcel JS5 on the Vesting Tentative Map, as provided in the Approvals and this Agreement.

"**Social Spine**" means the approximately 0.61 acre pedestrian and bicycle promenade parallel to N. Shoreline Boulevard on land identified as Parcel SB4 on the Vesting Tentative Map.

"**Staffing and Processing Agreement**" refers to a separate agreement in a standard City form between City and Developer setting forth Developer's obligations to provide funding of City staff for review of Subsequent Approvals for the Project for an agreed upon term, which may include agreed upon timelines for City permit reviews of Subsequent Approvals and which may be executed by the Parties at any time during the Term.

"**State Density Bonus Law**" is defined in Section 5.3.1.

"**Subdivision Conditions**" is defined in Recital F.3.

"**Subdivision Map Act**" means the Subdivision Map Act set forth in California Government Code Section 66410, *et seq.*, as the same may be amended or modified from time to time.

"**Subsequent Approvals**" is defined in Section 3.3.1.

"**TDM Agreement**" means the Transportation Demand Management Agreement entered into pursuant to Section 3.16.

"**TDM Agreement Terms**" means the agreed upon key terms identified in **Exhibit R** to be included in the TDM Agreement as described in Section 3.16.

"**Temporary Certificate of Occupancy**" means a temporary certificate of occupancy or partial occupancy of a building or improvement (TCO) with surety funds covering the cost of remaining construction work as may be issued by City's Chief Building Official following a City-issued Building Permit, when construction has been substantially completed, no life safety hazards remain, and City's Chief Building Official determines Construction Completion can occur within a reasonable timeframe.

"**Term**" is defined in Section 2.2.

"**Term Extension**" is defined in Section 2.2.2.

"**Term Extension Requirements**" is defined in Section 2.2.3.

"**The Portal POPA Open Space**" means the approximately 0.8 acres of privately-owned, publicly accessible (POPA) open space and the improvements thereon to be developed, operated, maintained and repaired by Developer and its successors and assigns, at their expense, as provided in the Approvals, this Agreement, and in City's standard form Covenant, Agreement and Deed Restriction for privately owned, publicly accessible open space, which form shall include the key provisions attached hereto as **Exhibit H**.

"**Transfer**" is defined in Section 10.1.

"**Transferred Property**" is defined in Section 10.1.

"**Transferee**" is defined in Section 10.1.

"**Vacation**" is defined in Recital F.4.

"**Vesting Tentative Map**" or "**VTM**" is defined in Recital F.3.

"**VTA**" means the Valley Transportation Authority.

"**Zoning Ordinance**" or is defined in Recital M.

ARTICLE II
TERM

2.1 **Effective Date.** The "**Effective Date**" of this Agreement shall be the later of (a) full execution by the Parties determined by the last date of a signatory as shown in the signature blocks or (b) ~~[DATE]~~July 27, 2023, the date that is thirty (30) days after the date the Enacting Ordinance is adopted.

2.2 **Term.** Subject to the following qualifications, the "**Term**" of this Agreement shall commence upon the later of: (a) the Effective Date, and (b) the date on which Final Approval occurs; provided, however, if Final Approval has not occurred by the third anniversary of the Effective Date then the Term shall commence as of such third anniversary date, notwithstanding the fact that Final Approval has not yet occurred. Notwithstanding the foregoing, Developer may elect to have the Term commence despite the fact that Final Approval has not yet occurred (unless the validity of this Agreement has been directly challenged in the appropriate court of law or by a referendum in connection with the granting of the Approvals), by giving written notice to City of such election, in which case the Term shall commence upon the date that is thirty (30) days after the date of such notice. Notwithstanding any other provision hereof to the contrary, (A) if Developer reasonably determines that (i) Final Approval will not occur due to a challenge to this Agreement or any of the Approvals or (ii) any challenge to this Agreement or any of the Approvals is resolved in such manner as to prevent the occurrence of Final Approval, or (B) if by the date that is sixty (60) days prior to the third anniversary of the Effective Date, the Term has not yet commenced, then Developer at any time prior to commencement of the Term may terminate this Agreement effective upon not less than thirty (30) days advance written notice to City. Following such termination, neither Party shall have any further rights or obligations hereunder, except for those obligations which by their terms survive expiration or termination hereof.

2.2.1 **Initial Term.** Subject to potential extension as expressly provided in this Agreement, including for Force Majeure Delays as provided in Section 8.2.2 below, the "**Initial Term**" shall be fifteen (15) years.

2.2.2 **Extended Term.** Subject to the terms and conditions in this Section 2.2, Developer shall have the right to extend the Initial Term for one additional period of fifteen (15) years (a "**Term Extension**") for a total Term of thirty (30) years, subject to potential further extension for Force Majeure Delays as provided in Section 8.2.2. In order to obtain the Term Extension, Developer must be in compliance in all material respects with all of its obligations under this Agreement and the Approvals and shall have satisfied all of the conditions described in Section 2.2.3 below.

2.2.3 **Term Extension Requirements.** In addition to the conditions in Section 2.2.2 above, in order to obtain the Term Extension, Developer shall have fully satisfied all of the following requirements prior to expiration of the Initial Term (collectively, the "**Term Extension Requirements**").

2.2.3.1 **Affordable Housing Sites.** Developer shall have made Irrevocable Offer(s) and, if required under the Affordable Housing Delivery Plan, caused to be in the Required Condition a sufficient number of Affordable Housing Sites to allow for the

development of Affordable Housing ~~Units~~ units equal to at least fifteen percent (15%) of the number of market rate residential units for which Developer has obtained Building Permits. For avoidance of doubt, temporary shortfalls in Affordable Housing Site dedications which may otherwise be addressed through delivery of Letters of Credit as provided in Section 5.1.3 below, shall not be permitted at the time of Term Extension.

2.2.3.2 **Residential Development.** Through a combination of Developer having obtained Building Permits for the construction of market rate residential units and Developer's Irrevocable Offers for Affordable Housing Sites to City in the Required Condition, Developer shall have enabled the potential development of a minimum of 500 Affordable Housing units and 1250 market rate residential units.

2.2.3.3 **People Centric Fund.** Developer shall have paid to City the First People Centric Fund Payment (regardless of whether Developer is proceeding with any office development).

2.2.3.4 **Shorebird Yards and Eco Gem.** Developer shall have Irrevocably Offered the land for Shorebird Yards and Eco Gem, which may be accepted by City as set forth in Sections 5.4.1 and 5.5.5, respectively.

2.2.3.5 **Eco Gem Developer Funding.** Developer shall have paid to City the full amount of the Eco Gem Developer Funding.

2.2.3.6 **Parkland and POPA Spaces.** Developer shall have made Irrevocable Offer(s) and, if required under the Parks Delivery Plan, caused to be in the Required Condition a sufficient number of Dedicated Parkland Sites and/or recorded POPA Agreements against, and fully completed improvements to, a sufficient number of POPA Open Spaces (or, to the extent such improvements have not been fully completed, delivered to City Letter(s) of Credit in amount(s) required to ensure completion of such POPA ~~Open Space~~ improvements) to fully satisfy the Parkland Requirement for all market rate residential units for which Building Permits have been issued. For avoidance of doubt, temporary shortfalls in Parkland Obligations which may otherwise be addressed through Developer's delivery of Letters of Credit as provided in Section 5.1.3 below, shall not be permitted at the time of Term Extension.

2.2.3.7 **Maintain Minimum Requirements.** Without limiting the general requirement to be in compliance in all material respects with the terms of this Agreement and the Approvals, Developer shall have satisfied the requirements then in effect for payment of all applicable City Processing Fees, Connection Fees, and Impact Fees then due and payable.

2.2.4 **Extension Request.** If Developer desires to seek the Term Extension, Developer must submit a letter addressed to the City Manager requesting such extension at least one hundred eighty (180) days prior to the date that the Initial Term otherwise would expire (the "**Extension Request**"). The Extension Request shall include documentation in a form reasonably acceptable to City demonstrating that the applicable extension conditions described in Sections 2.2.2 and 2.2.3 above ("**Extension Conditions**") have been satisfied, or will be satisfied prior to the date that the Initial Term otherwise would expire.

2.2.5 **Extension Review.** Within forty-five (45) days after receipt of an Extension Request and accompanying documentation, the City Manager shall determine reasonably and in good faith, in a written notice to Developer, whether the Extension Conditions have been satisfied, including whether Developer is in compliance with this Agreement in all material respects. If the City Manager determines that the Extension Conditions have not been satisfied, then the City Manager shall include in the written notice a detailed explanation of the unsatisfied Extension Conditions and why the City Manager believes such conditions have not been satisfied. Except as otherwise provided in this Section 2.2, the determination whether Developer is in compliance with this Agreement shall be undertaken in a manner consistent with the annual review process described in Section 8.1 below. If the City Manager determines Developer is not in compliance with this Agreement in all material respects through such review process, then the City Manager shall provide written notice of the non-compliance items, and Developer shall have the opportunity to cure such non-compliance within thirty (30) days following the date of City Manager's non-compliance notice. The City Manager's determination shall be final, unless the City Manager determines, in their sole discretion, to refer the matter to the City Council for a determination with any such hearing being held as soon as reasonably possible after City Manager makes such determination and in any event no later than thirty (30) days before the date upon which the Initial Term otherwise would expire. The City Council's decision shall be final, subject to Developer's ability to pursue available remedies as provided in Section 7.1 below. If the City Manager concludes in the written notice described hereinabove that the Extension Conditions have been satisfied, then they shall grant the Extension Request and promptly provide written notice to Developer, in a recordable form, that the Agreement has been extended for the Extension Term, and the Term shall be extended accordingly; provided, however, that the City Manager's failure or delay in providing such written notice following the City Manager's conclusion that the Extension Conditions have been satisfied shall not affect the extension of the Term.

2.2.6 **Memorandum of Extension.** Within ten (10) days after the written request of either Party hereto, City and Developer agree to execute, acknowledge and record in the Official Records a memorandum evidencing any approved extension of the Term pursuant to this Section 2.2; provided, however, that the Parties' failure or delay in entering into or recording such memorandum shall not affect the extension of the Term.

2.3 **Life of Approvals.** Pursuant to Government Code ~~section~~ Section 66452.6(a) and this Agreement, the life of the Existing Approvals, including, without limitation, the Vesting Tentative Map and final maps derived from the Vesting Tentative Map) (collectively referred to as "**Subdivision Document**") relating to the Project shall automatically be extended to and until the later of the following: (1) the expiration of the Term of this Agreement, as it may be earlier terminated or extended pursuant to the terms of this Agreement; or (2) the end of the term or life of any such Existing Approval or Subdivision Document otherwise allowed under Applicable Law. The Parties acknowledge that the Developer has received a Vesting Tentative Map for the Project that vests certain rights under the Subdivision Map Act. If this Agreement is earlier terminated in accordance with its terms as a result of City's default, the Parties agree that any then-remaining vested rights provided by the Vesting Tentative Map pursuant to the Subdivision Map Act shall have no further force or effect; provided, Developer shall be entitled to continue exercising its rights in accordance with the Subdivision Map Act and the Subdivision Conditions for the longer of (i) the then-remaining life of the Vesting Tentative Map or (ii) twenty-four (24) months after

such termination. If this Agreement is earlier terminated in accordance with its terms as a result of Developer's default, the Parties agree that any then-remaining vested rights provided by the Vesting Tentative Map pursuant to the Subdivision Map Act shall have no further force or effect; provided, Developer shall be entitled to continue exercising its rights in accordance with the Subdivision Map Act and the Subdivision Conditions after such termination as though it was a non-vesting tentative map rather than a vesting tentative map, subject to the City Code and other City regulations and requirements that may then be in effect and applied by City from time to time as Developer proceeds with development in reliance on the tentative map. The Parties' agreements in the foregoing sentence shall survive the expiration or earlier termination of this Agreement. The life of Subsequent Approvals shall be subject to the terms in Section 3.5.1.3.

ARTICLE III
DEVELOPMENT OF THE PROPERTY

3.1 **Project Development.** Development of the Project will be governed by the Approvals, this Agreement, and Applicable Law. City acknowledges the timing of completion of development of the Project is subject to market forces, and Developer shall have no liability whatsoever if the contemplated development of the Project fails to occur; provided, if Developer Commences Construction of the Project, then with respect to those improvements as to which Developer has Commenced Construction, Developer shall proceed to construct in accordance with the Phasing Plan and to make payments, dedicate and convey real property to City (or its assignee or designee), construct the related, required improvements and deliver and provide the Required Exactions, Community Benefits and Public Benefits and take other actions as and when specified in this Agreement and in the Approvals.

3.2 **Right to Develop.** Developer shall have the vested right to develop the Project in accordance with and subject to: (a) the terms and conditions of this Agreement and the Approvals and any amendments to any of them as shall, from time to time, be approved pursuant to this Agreement; (b) Applicable Law; (c) the allocation of up to 1,303,250 square feet of North Bayshore Nonresidential Bonus FAR, as specified in the Existing Approvals, to the Project's Office development component until Completion of the Project or the expiration or termination of this Agreement, whichever first occurs; and (d) the allocation of North Bayshore Residential Bonus FAR sufficient to facilitate 5,950 market rate residential units, as specified in the Existing Approvals, to the Project's residential development component until Completion of the Project or the expiration of termination of this Agreement, whichever first occurs. Nothing contained herein shall restrict City's discretion to approve, conditionally approve, or deny amendments or changes to the Existing Approvals proposed by Developer. Except as otherwise expressly provided in this Agreement, or unless Developer elects in its sole discretion to be subject to a modification, no future modifications of the following shall apply to the Project: (a) the General Plan or Precise Plan; (b) the City Code; or (c) applicable laws and standards adopted by City which purport to: (i) limit the use, subdivision, development density, schedule of development of the Property or the Project; or (ii) impose new dedications, improvements, other Exactions, design features, more stringent trip caps, or moratoria upon development, occupancy, or use of the Property or the Project. This Agreement and the Approvals are intended to be consistent with each other; therefore, the Parties shall use Good Faith Efforts to consider and interpret this Agreement and the Approvals as a whole and in a manner which harmonizes any conflicting provisions to the maximum extent

feasible; provided, however, if the Parties are not able to reconcile any provisions that directly conflict, then the provisions of this Agreement shall control.

3.3 **Subsequent Approvals.**

3.3.1 **Subsequent Approvals.** Certain subsequent land use approvals, entitlements, and permits other than the Existing Approvals, will be necessary or desirable for implementation of the Project ("**Subsequent Approvals**"). The Subsequent Approvals may include, without limitation, the following: (i) zoning permits, such as planned community permits, development review permits, provisional use permits, change of use permits, heritage tree removal permits, and sign permits; (ii) construction-related permits, such as demolition permits, grading permits, building and fire permits, and certificates of occupancy; and (iii) public works-related approvals and permits, such as phased final maps, encroachment permits, excavation permits, permits related to the District Utility System, and utility and discharge permits; and any amendments to, or repealing of, any of the foregoing. Subsequent Approvals also includes execution of separate agreements that include, but are not limited to, master encroachment agreements, other encroachment agreements, licensing agreements, access agreements, transportation demand management agreements, shared parking agreements, and indemnity agreements. Developer shall be responsible for obtaining any required Subsequent Approvals.

City, in granting the Existing Approvals and entering into this Agreement, is limiting its future discretion with respect to Subsequent Approvals to the extent they are consistent with the Approvals, Applicable Law and this Agreement. City acknowledges that Developer's commitments to deliver the Project, including the Community Benefits and Public Benefits, described in this Agreement are, in part, consideration for City's agreement to limit its discretion with respect to Subsequent Approvals. The conditions, terms, restrictions, and requirements for such Subsequent Approvals shall be in accordance with Applicable City Law (except as otherwise provided in Sections 3.6 and 3.8) and shall not prevent development of the Property for the uses provided under the Approvals, Applicable Law and this Agreement ("**Permitted Uses**"), or reduce the density or intensity of development, or limit the rate or timing of development set forth in this Agreement, as long as Developer is not in default under this Agreement and such development remains consistent with the Project as described in this Agreement, the Precise Plan standards and guidelines, the Master Plan, the Implementation Plan, and any related permits for construction. For any part of a Subsequent Approval request that has not been previously reviewed or considered by City (such as additional details or plans), City shall exercise its discretion consistent with the Approvals and otherwise in accordance with City's customary practice (but subject to the requirements of this Agreement), and subject to Applicable Law. Accordingly, except as otherwise provided herein, including in the Parks Delivery Plan and Affordable Housing Delivery Plan, in no event shall City deny, or withhold issuance of a Subsequent Approval based upon items that are in compliance with the Approvals, this Agreement and Applicable City Law. Subject to the requirements of this Agreement, City shall not impose any new condition for a Subsequent Approval that conflicts with the Approvals, except when such condition is necessary to bring the Subsequent Approval into compliance with Applicable City Laws. Provided Developer has otherwise satisfied the conditions of the applicable Approval to issue a Demolition and Grading Permit, Building Permit or Certificate of Occupancy (including but not limited to payment of any required Impact Fees), City will not withhold or delay issuance to Developer of Demolition and Grading Permits, Building Permits, or Certificates of Occupancy due to incomplete City

infrastructure projects, or failure of City to have commenced any such projects, even though such project(s) are or may be related to the development that is the subject of the Demolition and Grading Permit, Building Permit, or Certificate of Occupancy. In the event that a City transportation and/or infrastructure project has not been completed or commenced, the Parties may, subject to each Party's approval, which may be granted or denied in its sole discretion, enter into an agreement for Developer to construct such project, subject to all applicable federal, state, and local requirements for construction projects utilizing City funds, including Prevailing Wage Laws.

Any subsequent discretionary action or discretionary approval initiated by Developer that is not otherwise permitted by or contemplated in the Project as described in this Agreement or in the Approvals or which constitutes a Material Change shall be subject to the rules, regulations, ordinances, and official policies of City then in effect, and City reserves full and complete discretion with respect to any findings to be made in connection therewith. Without limiting the generality of the foregoing, nothing in this Agreement shall be deemed to limit City's discretion with respect to: (i) any proposed Subsequent Approval that constitutes a Material Change; (ii) Subsequent Approval, to the extent required by Applicable Law, of subsequent subdivision maps not contemplated by the Approvals; or (iii) City's ability to address any public health, or safety concerns, or to comply with Applicable Law. City shall review, process and approve, conditionally approve or disapprove Subsequent Approvals in accordance with this Agreement, including Section 6.2, and the procedures set forth in the Existing Approvals, including the Precise Plan, the Master Plan, and the review and approvals framework in the Implementation Plan.

3.3.2 **Review of Tree Removals.** Implementation of the Master Plan will require removal of heritage and non-heritage trees on the Property, which have been broadly identified in the Master Plan arborist report; however, this Agreement and Existing Approvals do not grant City approval of any tree removals. Tree removals will be evaluated as part of subsequent zoning permit review in accordance with the Master Plan's Tree Framework in the Implementation Plan, Applicable City Law, the Conditions of Approval, and City's standard procedures. In no event shall City require the preservation of trees where such preservation would prevent Developer from achieving the development program outlined in the Master Plan; however, City may require Developer to use Good Faith Efforts to evaluate and consider feasible modifications to building or site designs in each subsequent zoning permit application that retains or relocates heritage and non-heritage trees.

3.3.3 **CEQA Review.** The Parties acknowledge that certain Subsequent Approvals may legally require additional analysis under CEQA. Nothing contained in this Agreement is intended to prevent or limit City from complying with CEQA. In acting on Subsequent Approvals, City will rely on the Project CEQA Documentation to the fullest extent permissible by CEQA, including CEQA Guidelines Sections 15168(c)(2), 15182, and 15183, as determined by City in the exercise of its independent judgment. In the event additional environmental review is required for a Subsequent Approval, City will limit such additional review to the scope of analysis mandated by CEQA and the subject matter of the Subsequent Approval, and will diligently conduct such additional review at Developer's expense, all as determined by City as the lead agency under CEQA in the exercise of its independent judgment and otherwise in a manner consistent with CEQA and Applicable Law.

3.3.4 **Multimodal Transportation Analysis (MTA).** The Parties acknowledge that certain Subsequent Approvals, based on preparation of detailed site and building design plans, may require preparation of subsequent MTAs that could result in alterations to lots, public easements, or improvements shown on the Vesting Tentative Map and/or minor deviations from the Master Plan or modifications to or new Exactions (but not modified or new Impact Fees during the Fee Lock Period). Any modification as a result of any subsequent MTA, may be implemented without the need to amend the Vesting Tentative Map or approve a separate tentative map, or amend the Master Plan.

3.3.5 **Master Encroachment Agreement for District Utility System.** Notwithstanding anything to the contrary in this Agreement or the City Code, including but not limited to Chapter 38 (Regulating the Use of City Parks and Other City Facilities), the Parties agree that if Developer pursues a District Utility System and encroachments in the public right of way and on public land are required, the encroachments identified on the Vesting Tentative Map shall be permitted under the Master Encroachment Agreement; any additional encroachments and any modifications to the encroachments identified in the Vesting Tentative Map may be approved by the City Manager in their sole discretion. The Master Encroachment Agreement shall be on City's then current form of master encroachment agreement modified to include the terms identified in **Exhibit N**, and otherwise shall be in a form approved by the City Attorney.

3.3.6 **No Historical Value.** City finds and acknowledges that as of the Effective Date no existing structures or buildings present on the Property are of any historical value or significance, regardless of age. So long as this Agreement is in effect, City further agrees not to take actions on its own initiative which may result in City's designation, recognition, or acknowledgement of the local historical significance of any structure or building present on the Property nor will City petition the State or Federal government to add any such structure or building to a State or Federal historic list.

3.4 **Permitted Uses.** The Permitted Uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, the installation, location, and maintenance of on-site and off-site improvements, the installation and location of public utilities and/or private District Utility Systems and District Central Plant, and other terms and conditions of development applicable to the Property shall be those set forth in this Agreement, the Approvals, and any amendments to this Agreement or the Approvals made in accordance with this Agreement, and shall be considered vested for the Term.

3.5 **Development Phasing, Timing and Restrictions.**

3.5.1 **Project Phasing and Timing.**

3.5.1.1 The Parties agree that the Project will be developed in the Phases as described in the Phasing Plan attached as **Exhibit D**. If Developer desires to modify the Phasing Plan, such alteration shall not be deemed a Material Change or in conflict with this Agreement. Developer shall have the right to incrementally develop each Phase (and subsequently may submit multiple applications for Subsequent Approvals per Phase), and to determine the sequencing of delivery within any Phase. In addition, in all events construction of utilities, streets and other

infrastructure must occur as and when needed to ensure that each Phase or increment thereof as built can function appropriately, as determined by City in its reasonable discretion, if no remaining portion of the Project is developed. The Parties acknowledge and agree that during the Term, Developer shall have the right, in its sole and absolute discretion, to determine the allocation of Existing FAR and Nonresidential Bonus FAR based on the remaining balance of each, including allocation of a combination of the two, on any development site within the Property, provided that any such allocation otherwise complies with the obligations associated with the square footage being allocated, including, without limitation, payment of applicable Impact Fees, and satisfaction of any Community Benefits or Public Benefits that correspond to such square footage.

3.5.1.2 Subject to the foregoing limitations and the terms and conditions in this Agreement, including the Parks Delivery Plan and Affordable Housing Delivery Plan, the Parties acknowledge that (i) Developer shall have no obligation to develop or construct the Project or any component of the Project, and if Developer does not proceed with development or construction of the Project, then Developer shall not be obligated under Article 5 of this Agreement (except for Developer's obligation under Section 5.5.1 to make the First People Centric Fund Payment), and (ii) Developer cannot guarantee the exact timing or sequence in which Phases will be constructed and whether certain development will be constructed at all. Such decisions depend upon numerous factors which are not all within the control of Developer. It is the intent of City and Developer that, notwithstanding any future amendment to the Applicable City Law or the adoption of any ordinance, resolution, order, policy, plan, rule, procedure, standards, specifications, guidelines or other regulations (whether amended or adopted by means of an ordinance, City Charter amendment, initiative, resolution, policy, order, or moratorium, initiated or instituted for any reason whatsoever and adopted by the City Council, Planning Commission, Zoning Administrator, or any other board, commission, or department of City or any officer or employee thereof, or by the electorate by referendum or initiative), Developer, subject to the terms of this Agreement, including the Phasing Plan, Parks Delivery Plan, and Affordable Housing Delivery Plan requirements, may develop the Project at such rate and times as Developer deems appropriate within the exercise of its sole and subjective business judgment. Prior to Commencing Construction of each Phase, Developer shall submit to City applications for all applicable permits and licenses, including zoning, building and fire permits, offsite plans, a phased final map and business licenses, in accordance with the procedures and requirements set forth in the City Code and the Precise Plan.

3.5.1.3 Subsequent Approval zoning permits consistent with the Existing Approvals are required for each phase of development; such zoning permits may include increments of Phases at the discretion of Developer. Certain zoning permits require approval at a duly noticed Administrative Zoning public hearing, while others may be approved administratively by City staff. All required zoning permits must be in effect prior to submitting for building and fire permits. While this Agreement extends the life of the Existing Approvals for the Term of this Agreement as provided in Section 2.3, in order to maintain consistent review procedures and demonstrate development progress, each Subsequent Approval shall be valid for the term specified in the Applicable City Law and be eligible for extension as may be allowed by the Applicable City Law; provided, however, per the Existing Approvals, each zoning permit for new construction shall have a term of four (4) years with no permit extension and provided further that, during the term of each such Subsequent Approval, Developer shall, except as otherwise set forth in the Parks Delivery Plan and Affordable Housing Delivery Plan, be entitled to apply for, process and obtain

building permits and any other City permits and introduce uses in reliance on that Subsequent Approval during the valid entitlement period of that Subsequent Approval even after termination of this Agreement, provided such termination shall not have occurred as a result of Developer's breach of this Agreement. Should a Subsequent Approval expire, and if Developer still wishes to pursue development pursuant to the Subsequent Approval, Developer shall reapply, pay new Processing Fees, and be subject to the approval process specified in the Existing Approvals, and to the extent not addressed in the Existing Approvals, Applicable City Law.

3.5.1.4 Because the Project will be built out over a number of years, the amount and timing of Required Exactions, Community Benefits~~,~~ and Public Benefits are allocated by square footage of North Bayshore Nonresidential Bonus FAR development, number of residential units, and/or applications to construct vertical improvements on particular blocks or parcels. The scope and timing of infrastructure that is associated with specific blocks, parcels, or buildings, will be consistent with the Approvals and this Agreement. Developer shall meet its obligations to pay Impact Fees and provide the Required Exactions, Community Benefits and Public Benefits described in Approvals and this Agreement as and when required by the terms of this Agreement and the Approvals.

3.5.1.5 Developer shall obtain a phased final map and enter into one or more public improvement agreements in City's standard form and as approved by the City Attorney before Commencing Construction of any building, infrastructure, or site preparation for land to be dedicated to City. The time limits for completion of off-site improvements as specified in City's improvement agreement or conditions of the Approvals shall govern, unless other time limits are specified in this Agreement in which case this Agreement shall control. Developer is not required to obtain one final map for the entire Property, but can obtain multiple final maps, one for each Phase or building parcel, as desired.

3.6 **Applicable City Law Governs.** Development of the Property shall be subject to all Applicable Law, except as otherwise provided herein. If and to the extent any New City Law, including any change in the City's Charter, ordinances, resolutions, orders, rules, official policies, standards, specifications, plans, guidelines or other regulations (whether adopted by means of an ordinance, City Charter amendment, initiative, resolution, policy, order, or moratorium, initiated or instituted for any reason whatsoever and adopted by the City Council, Planning Commission, Zoning Administrator, or any other Board, Commission, or department of City or any officer or employee thereof, or by the electorate by referendum or initiative) is in conflict with the Approvals, Applicable City Law, or the provisions of this Agreement, then the Approvals, Applicable City Law, and the provisions of this Agreement shall prevail, except as otherwise specified herein. For the purposes of this Section 3.6, any New City Law shall be deemed to conflict if it purports to: (a) limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any material reduction in the square footage of a building or any reduction in the number of proposed buildings or relocate, change or reduce other Project improvements from that permitted under this Agreement, Applicable City Law, or the Approvals; (b) limit or reduce the height or bulk of the Project, or any part thereof, or otherwise require any reduction in the height or bulk of individual proposed buildings or other improvements that are part of the Project from that permitted under this Agreement, Applicable City Law, or the Approvals; (c) reduce or relocate the allowed location of vehicular access or parking from that described in the Approvals; (d) prohibit any Project land uses from that permitted under this Agreement, Applicable City Law, or the

Approvals; (e) limit or control the rate, timing, phasing, or sequencing of the approval, development, or construction of all or any part of the Project in any manner, including the demolition of existing buildings on the Property, except as otherwise provided in this Agreement, including the Parks Delivery Plan and Affordable Housing Delivery Plan, Applicable City Law or the Approvals; (f) limit the location of building sites, grading or other improvements on the Property in a manner that is inconsistent with the Existing Approvals; (g) limit or control the ability to obtain public utilities, services, infrastructure, or facilities (provided, however, in no event shall the Project be subject to any hookup bans or similar moratoria or be construed as a reservation of any existing sanitary sewer or potable water capacity); (h) impose requirements for reservation or dedication of land for public purposes or requirements for infrastructure, public improvements, or public utilities, other than as provided in or contemplated by the Approvals or this Agreement, including the Parks Delivery Plan and Affordable Housing Delivery Plan; (i) during the Fee Lock Period, increase any Existing Impact Fees by amounts in excess of the existing escalation provisions or impose any new Impact Fees beyond those listed in **Exhibit I**; (j) require the issuance of permits or approvals by City other than those required under Applicable City Law, except as may be allowed under Section 3.6.1 below; or (k) require or necessitate the re-design of the Project during building permit review following approval of a subsequent zoning permit unless required by Applicable Law or as may be allowed under Section 3.6.1. Nothing in this Agreement shall prohibit Developer from challenging the New City Law, and, to the extent such challenge is successful, this Agreement shall remain unmodified and in full force and effect and neither the Project nor the Property shall be subject to such New City Law.

3.6.1 **Potential New City Laws.** Notwithstanding anything to the contrary in this Agreement, the following "**New City Laws**" shall apply to development of the Property:

3.6.1.1 New City Laws that relate to hearing bodies (except for any New City Laws that create new hearing bodies), petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals, and any other matter of procedure imposed at any time, provided such New City Laws are uniformly applied on a City-wide or Precise Plan area basis to all substantially similar types of Development Projects and properties, and such procedures are not inconsistent with procedures set forth in the Approvals or this Agreement and do not alter the final decision-making body for Subsequent Approvals in place as of Effective Date;

3.6.1.2 Other New City Laws that are determined by City to be reasonably required in order to protect occupants of the Project, and/or residents of City, from a condition dangerous to their health or safety, or both, as further described in Section 8.4;

3.6.1.3 Other New City Laws that are enacted in order to comply with changes in applicable State or Federal law; provided that any such New City Laws shall be subject to Section 3.6.2 as if such New City Laws were passed by an Other Agency;

3.6.1.4 Other New City Laws that do not conflict (as defined in Section 3.6 above) with the Applicable City Law, this Agreement or the Approvals, provided such New City Laws are uniformly applied on a City-wide or Precise Plan area basis to all substantially similar types of Development Projects and properties. Developer acknowledges that, as of the Effective Date, City is currently developing a biodiversity strategy that will result in New City Laws impacting private property development and City policy regarding public property, parks

and right-of-way improvements all related to landscaping regulations (including trees), urban forestry requirements, and site design. Additionally, City plans to consider New City Laws related to reducing light pollution in the local environment. In response to any New City Laws with respect to the foregoing, Developer agrees to (a) comply with any plant (including tree) palette changes adopted as part of any such New City Laws, and (b) prepare a light pollution reduction plan for the Project that will include practices to curtail obtrusive light, while managing energy consumption, disruption of ecosystem and wildlife, human health and security, provided that (i) any such modified or new landscaping, biodiversity and light pollution requirements are otherwise applicable to the type of development proposed for the Project, and (ii) Developer has not already submitted to City a Building Permit application or other similar City permit applications for the applicable improvements; and

3.6.1.5 Other New City Laws that do not apply to the Property and/or the Project due to the limitations set forth above, but only to the extent that such New City Laws are accepted in writing by Developer in its sole discretion, except as otherwise provided herein.

To the extent one or more New City Laws apply to the Property and/or Project in accordance with the terms set forth above, the Applicable City Law applicable to the Property and/or Project shall be deemed modified to include such New City Law. Notwithstanding the foregoing, if there is a disagreement between Developer and City regarding whether a New City Law creates a conflict, then Developer and City shall promptly meet and confer and use Good Faith Efforts to reach agreement on (i) whether there is a conflict, (ii) whether the New City Law would result in a cost increase that is material in light of the total cost of the applicable Project Phase, and, if so, (iii) ways to substantially offset such material cost increase.

3.6.2 **Other New Applicable Laws.** If any Other Agency passes any law or regulation or makes changes to any existing law after the Effective Date which prevents or precludes compliance with one or more provisions of this Agreement or requires changes in plans, maps, or permits approved by City notwithstanding the existence of this Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such new or modified law or regulation. Immediately after enactment of any such new or modified law or regulation, the Parties shall meet and confer and use Good Faith Efforts to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. In addition, Developer shall have the right to challenge the Other Agency's new or modified law or regulation preventing compliance with the terms of this Agreement, and, to the extent such challenge is successful, this Agreement shall remain unmodified and in full force and effect; provided, however, that Developer shall not develop the Project in a manner clearly inconsistent with a new or modified law or regulation applicable to the Project and adopted by any Other Agencies, except to the extent that enforcement of such law or regulation is stayed or such law or regulation is repealed or declared unenforceable or such law or regulation is not applicable to Development Projects as to which a development agreement has been executed. If any such new or modified law or regulation would materially and adversely affect the construction, development, use, operation, or occupancy of the Project or Property as contemplated by the Approvals then in effect, or any material portion thereof, such that the Project becomes economically infeasible as reasonably determined by Developer, then Developer, subject to its concurrent relinquishment of any and all then-remaining rights to the allocation of up to 1,303,250 square feet of North Bayshore

Nonresidential Bonus FAR and rescission of all Approvals with respect to any future development pursuant to such Approvals, shall have the right to terminate this Agreement, upon not less than thirty (30) days prior written notice to City. Notwithstanding any such termination, Developer shall be required to satisfy its obligations under this Agreement to pay required Impact Fees and provide the Required Exactions, Community Benefits and Public Benefits described in this Agreement and the Approvals (i) in connection with any new Building or other improvement as to which Developer has Commenced Construction or (ii) in connection with any then-existing Subsequent Approval pursuant to which Developer Commences Construction, and without refund of any payments, unwinding of any conveyances, cancellation of dedications or Irrevocable Offers, or otherwise reversing any contributions previously made by Developer. Prior to exercising the foregoing right to terminate this Agreement, Developer shall have the right to require City to meet and confer with Developer in order to determine the potential for changes to the Project that might mitigate the effect of any such new or modified law on the Project's feasibility. City agrees to use Good Faith Efforts to work with Developer to identify any mutually agreeable changes.

3.6.3 **Record of Applicable City Law and Approvals.** Prior to the Effective Date of this Agreement, the Parties shall prepare two sets of the Existing Approvals and Applicable City Law applicable to the Project as of the Effective Date, one set for City and one set for Developer, to which shall be added from time to time, Subsequent Approvals and New City ~~Law~~Laws, so that if it becomes necessary in the future to refer to any of the Approvals or Applicable City Law, there will be a common, current set available to the Parties. Failure to include in the sets of Approvals and Applicable City Law any Subsequent Approval, rule, regulation, policy, standard, or specification that is within the Applicable City Law and Approvals as described in this Agreement shall not affect the applicability of such Subsequent Approval, rule, regulation, policy, standard, or specification.

3.7 **Mitigation Measures and Conditions.** If Developer constructs any portion of the Project, Developer shall to the extent applicable to such construction, satisfy and comply with the mitigation measures specified in the MMRP as well as all conditions of the Approvals for the Project, which are incorporated in this Agreement by reference. Developer's obligations under this Section 3.7 shall survive the expiration or earlier termination of this Agreement.

3.8 **Applicable Codes.**

3.8.1 **General Rule.** Unless otherwise expressly provided in this Agreement, the Project shall be constructed in accordance with the provisions of the Construction Codes in effect at the time of application submittal of the appropriate Building Permit, Demolition and Grading Permit, Demolition Permit, or other construction permit(s) for the Project. As used herein, "**Construction Codes**" means, collectively, the Building Codes and Guidelines and the City Construction Specifications. "**Building Codes and Guidelines**" means and includes (a) the California Building Standards Code, California Fire Code and California Energy Code as adopted in Title 24 of the California Code of Regulations, (b) City Solid Waste Program Development Guidelines, (c) City Customer Guidelines for Recycled Water Use, and (d) City Stormwater Quality Guidelines for Development Projects, as each may be amended from time to time, as each relates to building standards. "**City Construction Specifications**" means (i) City Public Works Department Standard Provisions and Standard Details and (ii) City's other standard construction specifications. For avoidance of doubt, as used in this Section 3.8, the term Building Codes and

Guidelines includes any and all provisions in the California Building Standards Code, California Fire Code and California Energy Code, as each may be amended from time to time, that City may adopt from time to time and apply to construction and building standards.

3.8.2 **Exceptions.** Notwithstanding Section 3.8.1, but subject to the qualifications in this Section 3.8.2, if Developer submits a complete building and/or excavation permit application which also includes detailed design plans for substantially all of the District Utility System within a given Phase to City for review, new City Construction Specifications adopted by City after the date of such submission which would require redesign of the District Utility System as it has been permitted by City shall not apply. City further agrees that new City Construction Specifications adopted by City after the Effective Date of this Agreement shall not apply to other horizontal infrastructure in the public right-of-way for the Project (e.g. roadways, pedestrian/bicycle paths, sidewalks, public utility infrastructure), if the application of such new City Construction Specifications would (i) limit or reduce the density or intensity of the Project, (ii) require any material reduction in the square footage, height or bulk of a proposed building or any reduction in the number of proposed buildings, or (iii) require Developer to install new or modified public improvements not required by the Existing Approvals if doing so would result in a cost increase to Developer that is material in light of the total cost of the applicable Project Phase. The exceptions authorized by this Section 3.8.2 shall not apply to the extent new City Construction Specifications have been adopted for the express purpose of either (a) protecting public health or safety or (b) complying with new regional, State, or Federal laws or regulations. The exceptions in this Section 3.8.2 shall only apply during the life of the Vesting Tentative Map that otherwise would be in effect pursuant to California Government Code ~~section~~ Section 66452.6 (or any successor law) if not for this Agreement.

3.9 **Encroachment and Excavation Permits.**

3.9.1 **City Permits.** The Project will require one or more City encroachment and/or excavation permit(s) for infrastructure improvements in or on City's right-of-way, City public land, or City easement areas. Subject to Section 3.8.2, such improvements will be constructed in accordance with the latest version in effect at the time of application submittal for the required permit for such infrastructure, including, but not limited to, the Standard Provisions and Standard Details of the City of Mountain View, Design Details of the City of Mountain View, the Standard Specifications of the Department of Transportation of the State of California (Caltrans) dated 2018 and subsequent updates to that 2018 edition, the Standard Plans of the Department of Transportation of the State of California (Caltrans) dated 2018 and subsequent updates to that 2018 edition, the latest version of the California Manual of Uniform Traffic Control Devices, and the Project improvement plan(s) prepared by the Project's engineer(s) and as approved by the City Engineer in tandem with required permit(s). City agrees to extend the timeline for removal of improvements installed under a City-issued standard encroachment agreement to one hundred eighty (180) days (except in the event of an emergency) as provided in **Exhibit O**. Removal requirements with respect to any District Utility System encroachments are addressed separately in the Master Encroachment Agreement Terms in **Exhibit N** to this Agreement.

3.9.2 **Other Permits.** As deemed necessary based on location of construction activity, Developer shall apply for a Caltrans encroachment permit for all work within Caltrans

jurisdiction and apply for permits and inspections with VTA for any bus stop modifications and upgrades on Shoreline Boulevard and Charleston Road. Any work within the State right-of-way must be in accordance with Caltrans requirements. For any work within the right-of-way of another jurisdiction, Developer shall apply for the appropriate encroachment permit (or as otherwise required by the jurisdiction) from such jurisdiction, and all such work must be in accordance with the jurisdiction's requirements.

3.10 **Optional District Utility System.** Developer may propose establishing a private district utility system serving portions of the Project, including a District Central Plant located on Parcel SB12 as shown on the Vesting Tentative Map and underground lines, which may provide one or more services including thermal energy (heating and cooling) and electric power and potentially recycled water and wastewater (each discrete activity, a "**District Utility System**"). Each District Utility System shall be subject to City review and approval as part of a Subsequent Approval and shall be subject to all City or Other Agency Approval and permitting processes required for such District Utility System, including execution of a Master Encroachment Agreement between Developer and City as more specifically set forth in Section 3.3.5 above. For Sanitary Sewer and Recycled Water services, the Developer intends to connect and rely on City systems described in Master Plan Sections 2.1 (City Sanitary Sewer System) and 2.2 (City Recycled Water System). In the event the Developer can justify to City why City's recycled water quality is not acceptable, in terms of potential impacts on landscaping or plumbing systems, City and the Developer shall reconvene to discuss options for the Developer to improve the quality on-site through additional treatment, blending, or other processes. If such processes are inadequate or otherwise impractical, City and Developer will discuss if and how private and collaborative options for wastewater collection, treatment, and recycled water distribution described in Master Plan Sections 3.4 (District Systems Wastewater Collection and Treatment System), 3.5 (District Systems Non-Potable Water Distribution System), and 3.6 (District Water: Collaborative Option) may be deployed in the Project.

3.11 **Water and Sewer Capacity.** City has found the Project to be consistent with the General Plan which anticipates that there will be sufficient potable water and sanitary sewer capacity to serve future development contemplated by the General Plan, including the Project. However, nothing in this Agreement shall be deemed to exempt the Project or the Property or any portion thereof from any water use rationing requirements that may be imposed on the City system on a City-wide basis from time to time or be construed as a reservation of any existing sanitary sewer or potable water capacity. If District Utility Systems for wastewater collection, treatment, and recycled water distribution are pursued by Developer, usage fees for sewer shall apply based on actual demand placed on the respective City systems at rate(s) to be determined by City.

3.12 **Construction and Residential Parking and Construction Staging.** Developer may from time to time request use of City-owned land for construction staging or temporary parking related to development of the Project, including temporary residential parking until such time as sufficient district parking facilities have been constructed. If such use is approved by City in its discretion at the time it is proposed, such use shall be subject to a construction staging license agreement or temporary residential parking license agreement in form reasonably acceptable to City and approved by the City Attorney, which includes, among other terms and conditions, payment of a fair market value license fee and insurance and indemnity requirements. Subject to compliance with any parking management requirements in the Approvals, without prior approval

from City, Developer may also utilize existing or future surface parking lots on privately owned land within the Property for construction staging, or for temporary residential parking or office parking until such time as sufficient district parking facilities have been constructed.

3.13 **Public Rights of Way and Right of Way Easements.** City acknowledges that Developer's donation of land for new public rights of way within the Property shall serve as consideration for City's vacation of any right of way easements required for development of the Project, because the City has determined that the value of the donated land substantially exceeds the value of the vacated right of way easements. Accordingly, no additional fee or payment from Developer shall be required for such vacation If, as the result of future changes the value of the land donated by Developer for new public rights of way is less than the value of the vacated right of way easements, Developer shall be required to pay to City an amount equal to the difference in value prior to City vacating such right of way.

3.14 **Private Streets.** If Developer provides District Utility Systems, certain private streets may be constructed to allow for District Utility System routing. If District Utility System routing does not require construction of a street as a private street, then, at the time of zoning permit application, Developer may request to designate as a public street any street previously identified in the Master Plan as a private street, which City shall consider in its reasonable discretion, and which shall not constitute a Material Change. If, after a private street has been constructed, it is determined that such private street is not required for District Utility System routing, Developer may offer such private street to City as a public street, and City will determine in its sole discretion whether to accept dedication of any formerly private street as a public street.

3.15 **Intentionally Omitted.**

3.16 **Transportation Demand Management Plan.** The Parties shall negotiate and execute a TDM Agreement in a form reasonably acceptable to City prior to implementation of an Office Trip Cap. Until such time as the Parties enter into the TDM Agreement all applicable site specific project trip and headcount caps and monitoring requirements set forth in the conditions of approval for those properties shall apply. The TDM Agreement will include, among other terms, the TDM Agreement Terms. The TDM Agreement shall remain in full force and effect notwithstanding the expiration or earlier termination of this Agreement.

ARTICLE IV
FEES, TAXES AND ASSESSMENTS

4.1 **Impact Fees.**

4.1.1 **Parkland Impact Fees.** City and Developer agree to apply a negotiated Project-specific parkland impact fee ("**Parkland Impact Fee**") to the Project for the entire Term of this Agreement, including any Term Extension. The negotiated Project-specific Parkland Impact Fee is the same as the Impact Fees for parkland that would otherwise be due under City's existing Impact Fee program in effect on the Effective Date but escalated annually by CCI and not per acre land value. The Parkland Impact Fee formula is more particularly shown in Attachment 1 to Exhibit I and is to be paid on a per unit basis. Because the Parties have agreed to a negotiated formula for Parkland Impact Fees, new parkland-related Impact Fees and/or future increases or

reductions of existing parkland Impact Fees that City may adopt during the Term shall not apply to the Project.

4.1.2 **Other Impact Fees During Fee Lock Period.** In addition to the Parkland Impact Fees addressed in Section 4.1.1 above, during the Initial Term, including any extension thereof for Force Majeure Delay as provided in Section 8.2.2 ("**Fee Lock Period**"), City shall only impose those Impact Fees that City has adopted as of the Effective Date ("**Existing Impact Fees**"), as itemized on **Exhibit I**, subject to all Existing Impact Fee escalation provisions in effect on the Effective Date. For the avoidance of doubt, the Parties acknowledge and agree that Existing Impact Fees may be modified, for example, to comply with the requirements of the Mitigation Fee Act through the adoption of new nexus studies, and that Developer is obligated to pay the Existing Impact Fees during Fee Lock Period even if the Existing Impact Fee is replaced with a new Impact Fee that serves substantially the same purpose as the Existing Impact Fee provided, however, Developer shall only be required to pay the amount of the Existing Impact Fee subject to all Existing Impact Fee escalation provisions in effect on the Effective Date.

4.1.3 **Impact Fees Following Expiration of Fee Lock Period.** Except as otherwise provided in Section 4.1.1 above and in this Section 4.1.3 below, following expiration of the Fee Lock Period, City may impose and Developer shall pay any and all new Impact Fees adopted after the Effective Date which are in effect and any increases in Existing Impact Fees above and beyond existing escalation provisions, if any, provided, however: (a) Developer shall receive a credit equal to the amount of Public Benefits (but not including Eco Gem Developer Funding) that Developer has provided (i.e., up to Thirteen Million Five Hundred Thousand Dollars ($13,500,000), plus the product of $13,500,000 (or the then-remaining balance thereof) times the percentage increase in CPI between the Effective Date and the date on which Developer is obligated to pay any such new Impact Fees or increases (above and beyond existing escalation provisions) in Existing Impact Fees) towards any such new or increased Impact Fees; and (b) no new or increased Impact Fees shall be charged on residential development, and (c) redevelopment of Existing FAR shall not be subject to the new or increased Impact Fees~~)~~.

4.1.4 **Impact Fee Credits.** Developer shall receive credit for the payment of Impact Fees in accordance with the provisions of the City Code, Applicable City Law, and as identified in this Section 4.1.4 and Section 4.1.3.

4.1.4.1 **Impact Fee Credit for Replacement of Existing Office Space.** The Parties acknowledge that the Property currently contains 1,814,681 gross square feet of space in existing office buildings and 11,056 gross square feet of space in existing retail buildings. Developer will need to demolish a substantial portion of this space in order to build out the Project. The current address and square footage of each existing building is set forth in **Exhibit C, Table C2**. In calculating Impact Fees based on net new square footage, Developer shall receive credit for demolition of existing office and retail buildings on the Property based on **Table C2**; provided, however, in the event a building is only partially demolished, then such credit shall be based on the actual amount of demolished square footage as set forth in the City-issued Demolition Permit. Square footage credit will be earned for each existing building when demolition is complete as determined by City, and thereafter shall accumulate in an Office- and Retail-related Impact Fee credit ledger as maintained and updated from time to time, as appropriate, by City. City will maintain the credit balance as a cumulative total based on demolition completed to date and

Demolition Permits and Building Permits issued for new construction to date. Upon Developer's request, City shall provide Developer a report showing demolished office Impact Fee credit additions and subtractions. Developer acknowledges and agrees that Impact Fee credits can only be utilized to offset Developer's obligation to pay the applicable Impact Fee and in no event will Developer be entitled to any refund or payment for unused credits.

4.1.4.2 **Impact Fees for Grocery Store(s)~~(s)~~.** Developer acknowledges the community's strong interest in locating a grocery store(s) within the Precise Plan area to serve new and existing residents. As such, Developer shall make Good Faith Efforts to negotiate a lease with a grocery store operator(s) to locate in Active Use Space. To further encourage and support attracting grocery store uses, City agrees that, upon issuance of a Certificate of Occupancy for a grocery store(s), Developer shall receive a credit against future Impact Fees otherwise owed for the Project equal to the Impact Fees paid by Developer for the grocery store(s), except that Developer shall pay the required Nonresidential Housing Impact Fee for said grocery store space(s).

4.1.5 **Prepayment of Impact Fees.** Developer may elect, in its sole discretion, to prepay any Impact Fee at any time before it would otherwise be due for payment. Any prepaid Impact Fee shall not be subject to increases to such Impact Fee between the time of prepayment and the time it would otherwise be due for payment resulting from (a) escalation provisions in effect on the Effective Date imposed pursuant to Section 4.1.2 or (b) increases above and beyond existing escalation provisions imposed pursuant to Section 4.1.3; provided, however, nothing herein shall be deemed to exempt Developer from the obligation to pay new Impact Fees that are adopted after the date of prepayment and that are otherwise payable by Developer under Section 4.1.3. Developer agrees that any prepayments of Impact Fees shall not be subject to any restrictions regarding the timing of payments that otherwise might apply to payment of Impact Fees, including but not limited to the Mitigation Fee Act. If Developer prepays any Impact Fee and (i) later elects not to build the square footage for which an Impact Fee was prepaid, then Developer shall not be entitled to any credit or refund for excess prepayment, or (ii) later develops more square footage than paid for, then Developer shall pay the difference in the amount as required under this Agreement and shall otherwise make such additional payment at the time and in the manner required under this Agreement.

4.2 **Processing Fees.** City may charge, and Developer is obligated to pay, all Processing Fees for processing applications for Subsequent Approvals or otherwise related to implementing development of the Project, plus all cost recovery fees, including for any required supplemental or other further environmental review, or any other studies needed in the course of permit review, plan checking and inspection and monitoring, at the rates which are in effect at the time those permits, approvals, entitlements, reviews, or inspections are applied for, requested or required. By entering into this Agreement, Developer accepts and shall not protest or challenge imposition of the types and amounts of Processing Fees in effect as of the Effective Date. Developer acknowledges that: (a) certain application Processing Fees may be set in fixed amounts for each application or task as stated in City's Master Fee Schedule, which is charged at the amount in effect as of application submission and paid as a condition to City accepting an application; (b) certain application Processing Fees may be based on actual staff time worked, which is charged at the hourly rate set by City for the work at the time the work occurs, which may be increased from time to time, and which shall be paid by advance deposit which City may require to be

supplemented from time to time; and (c) certain application Processing Fees may be required to pay for third party assistance, including but not limited to plan checkers, environmental consultants and outside legal counsel, which also shall be paid in full prior to commencement of such work. The above noted Processing Fees may also be captured in a separate Staffing and Processing Agreement executed by the Parties which could support implementation of the Project in a timely fashion. If the Parties enter into a separate Staffing and Processing Agreement, then, in the event of a conflict between the provisions of this Agreement and the Staffing and Processing Agreement, the provisions of the Staffing and Processing Agreement shall control.

4.3 **Connection Fees.** Developer shall pay any Connection Fee assessed by utility providers, City and Other Agencies at the rates in effect from time to time.

4.4 **Other Agency Fees.** Nothing in this Agreement shall preclude City from (i) collecting Other Agency Fees from Developer that are imposed on the Project by an Other Agency having jurisdiction over the Project and which City collects on behalf of such Other Agency; or (ii) withholding permit issuance until proof of payment by Developer of such Other Agency Fees has been received by City if such withholding of permits is a City-wide practice.

4.5 **Taxes and Assessments.** Developer covenants and agrees to pay prior to delinquency (i) all existing taxes and assessments and (ii) subject to the terms of this Section 4.5, any and all new taxes or assessments that are adopted after the Effective Date. As of the Effective Date, City is unaware of any pending efforts to initiate, or consider applications for new or increased special taxes or assessments covering the Property, or any portion thereof. Subject to the terms of this Agreement, City shall retain the ability to initiate or process applications for the formation of new assessment districts or imposition of new special taxes covering all or any portion of the Property, but only if such taxes or assessments are adopted by or after voter approval, or approval by the landowners subject to such taxes or assessments, as applicable, and are imposed on other land and Development Projects of the same general category within the jurisdiction of City in a reasonably proportional manner as determined by City, and, as to assessments, only if the impact thereof does not fall disproportionately on the Property as compared to the benefits accruing to the Property as indicated in the engineers report for such assessment district. Nothing herein shall be construed so as to limit Developer from exercising whatever rights it may have in connection with protesting or otherwise objecting to the imposition of taxes or assessments on the Property. In the event an assessment district is lawfully formed to provide funding for services, improvements, maintenance, or facilities which are substantially the same as (i) those services, improvements, maintenance, or facilities being funded by the Impact Fees or Required Exactions to be paid by Developer under the Approvals or this Agreement, or (ii) those services, improvements, maintenance, or facilities that Developer is obligated to construct or perform pursuant to this Agreement or the Approvals, then any such Impact Fees or Required Exactions payable by Developer, or obligations to construct or perform, shall be subject to reduction/credit in an amount equal to Developer's new or increased assessment under the assessment district. Alternatively, the new assessment district shall reduce/credit Developer's new assessment in an amount equal to such Impact Fees or Exactions to be paid by Developer or the value of the work or service performed or to be performed under the Approvals or this Agreement. In calculating any reduction or credit, the Parties shall take into account the timing of payment of the Impact Fee or Exaction and the new or increased assessment.

4.6 **Failure to Pay Fees.** In addition to any other remedies provided for by this Agreement, the failure of Developer to timely pay any applicable fees shall be grounds for City to refuse issuance of any permit required for development, and, if a permit has nevertheless been issued, City may refuse issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy for such building. City shall promptly issue the Certificate of Occupancy or Temporary Certificate of Occupancy, following Developer's payment of the applicable fee(s) or Developer's cure or satisfaction of the fee payment obligation in accordance with this Agreement.

ARTICLE V
EXACTIONS, COMMUNITY BENEFITS AND PUBLIC BENEFITS

5.1 **Required Exactions.** In addition to the mitigation measures specified in the MMRP and other Exactions that City may require under the Approvals, Applicable Law and this Agreement, Developer agrees that the Exactions set forth in this Section 5.1 (collectively, "**Required Exactions**") are of particular importance to City and the community, and Developer accepts such Required Exactions and agrees that such Required Exactions are justified, appropriate and in compliance with Applicable Law. Developer agrees not to challenge any Required Exactions and to deliver such Required Exactions as and when required by this Agreement and the Approvals.

5.1.1 **Affordable Housing.** As more fully set forth in the Conditions of Approval and the Affordable Housing Delivery Plan, Developer shall satisfy its below-market-rate housing obligation under Article XIV (Affordable Housing Program) of Chapter 36 (Zoning) of the City Code, the Precise Plan, and Section B of the North Bayshore Precise Plan Affordable Housing Administrative Guidelines, to provide fifteen percent (15%) of the total residential units at affordable rent or sales prices to obtain Tier I Residential Bonus FAR, as follows:

5.1.1.1 As a condition to issuance of the first Building Permit, Developer shall have provided an Irrevocable Offer for the Affordable Housing Sites shown as parcels JS3, JS4, and PE2 on the Vesting Tentative Map. City agrees to defer accepting the Irrevocable Offers for parcels JS3, JS4 and PE2 until January 31, 2029, and the terms of the Irrevocable Offer shall include that the offer is conditioned upon such deferrals; provided, however, that Developer may waive such condition and provide for the City to accept the Irrevocable Offers on an earlier date. Subject to Section 5.1.3 below, Developer shall make further Irrevocable Offers of Affordable Housing Sites to ensure that development of Affordable Housing units equal to at least fifteen percent (15%) of the total number of market rate residential units for which building permits have been issued can be accommodated on the Affordable Housing Sites which have been Irrevocably Offered to City, as more particularly set forth in the Approvals and the Affordable Housing Delivery Plan. Developer shall ensure that each Affordable Housing Site is in the Required Condition at the time City accepts the Irrevocable Offer of the applicable Affordable Housing Site. Subject to any continuing obligations of Developer with respect to the Required Condition, upon City's acceptance of the Irrevocable Offer for the Affordable Housing Site, Developer shall have no further obligation with respect to such accepted Affordable Housing Site. If Developer has not obtained a Building Permit prior to February 1, 2029, then, as a condition to issuance of the first Building Permit, Developer shall dedicate to the City ~~of~~ the Affordable Housing Sites shown as parcels JS3, JS4 and PE2 on the Vesting Tentative Map in the Required Condition. Developer's making of Irrevocable Offers with respect to the Affordable

Housing Sites shall constitute preliminary satisfaction of Developer's obligations with respect to providing below market rate housing under this Agreement and the Approvals such that Developer shall be entitled to obtain Building Permits for market rate development. Upon City's acceptance of the applicable Affordable Housing Site (or if City is delayed or refuses to accept such site notwithstanding that the site is in the Required Condition and Developer is otherwise ready, willing and able to convey title), then Developer shall have fully satisfied the below market rate housing obligation for the market rate dwelling units constructed or to be constructed under the Building Permit issued in reliance on the Irrevocable Offer.

5.1.2 **Parkland Obligations.** As more fully set forth in the Parks Delivery Plan and the Existing Approvals, Developer shall satisfy its obligation under Chapter 41 of the City Code to provide, through Irrevocable Offers and POPA Agreements, 0.006 acres of land per new market rate dwelling unit ("**Parkland Requirement**"), by undertaking the obligations set forth in Sections 5.1.2.1 through 5.1.2.7 below which are anticipated to satisfy the Parkland Requirement for approximately 4,358 market rate residential units, and paying the Parkland Impact Fee for each additional market rate residential unit thereafter (collectively, "**Parkland Obligations**"). Developer's making of Irrevocable Offers or entry into POPA Agreements with respect to the applicable parkland shall constitute preliminary satisfaction of Developer's obligations with respect to providing parkland under this Agreement, the Parks Delivery Plan and the Existing Approvals such that Developer shall be entitled to obtain Building Permits for the development associated with such parkland. Each site Irrevocably Offered for parkland ("**Dedicated Parkland Site**") shall be in the Required Condition at the time City accepts the Irrevocable Offer. Except as provided in Section 5.5.5 below, and subject to any continuing obligations of Developer with respect to the Required Condition, upon City's acceptance of each Dedicated Parkland Site, Developer shall have no further obligation with respect to such accepted Dedicated Parkland Site.

5.1.2.1 **Timing of Parkland Dedications and POPA Open Space Agreements.** As a condition to issuance of the first Building Permit, Developer shall have provided an Irrevocable Offer for the approximately 10.8 acre Eco Gem parkland site. Subject to Section 5.1.3 below, Developer shall make Irrevocable Offers of additional Dedicated Parkland Sites and/or execute, acknowledge and deliver to City POPA Agreements for POPA Open Space(s) and/or pay Parkland Impact Fees sufficient to ensure a ratio of at least 0.006 acres of Dedicated Parkland Sites/POPA Open Space per residential unit is maintained, as more particularly set forth in the Approvals and the Parks Delivery Plan.

5.1.2.2 **Dedicated Parkland Sites.** In addition to the Eco Gem dedication, Developer shall make Irrevocable Offers for the following Dedicated Parkland Sites as and when needed to meet the Parkland Requirement:

~~A. **Eco Gem**. Approximately 10.8 acres of land for future Eco Gem;~~

A. **Joaquin Commons.** Approximately 2.5 acres of land for future Joaquin Commons;

B. **Shorebird Square.** Approximately 0.3 acres of land for future Shorebird Square;

C. **Gateway Plaza.** Approximately 0.9 acres of land for future Gateway Plaza; and

D. **Shoreline Square.** Approximately 0.3 acres of land for future Shoreline Square.

Developer may request that City, in its sole discretion, allow Developer to construct City-approved improvements at a Dedicated Parkland Site. In the event City agrees to allow Developer to construct improvements at a Dedicated Parkland Site, the Parties shall enter into a reimbursement agreement between the Parties, whereby Developer constructs City-approved improvements and City reimburses Developer its reasonable out-of-pocket costs of construction ("**Dedicated Parkland Site Reimbursement Agreement**"). In the case of a Dedicated Parkland Site Reimbursement Agreement for Eco Gem only, any Eco Gem Developer Funding would be excluded from the amount to be reimbursed by City to Developer. A Dedicated Parkland Site Reimbursement Agreement would be in City's standard agreement form and subject to all applicable federal, state, and local requirements for construction projects utilizing City funds. All such work would be subject to Prevailing Wage Laws. In addition, Developer will provide City with the security required under Section 5.1.2.7.

Provided that City has agreed to Developer's construction of City-approved improvements at a Dedicated Parkland Site, as an alternative or in combination with a Dedicated Parkland Site Reimbursement Agreement, Developer may elect to utilize Government Code Section 66477(a)(9) to provide park and recreational improvements to any Dedicated Parkland Site, with the value of improvements and any equipment located on such Dedicated Parkland Site to be applied as a credit against any future Parkland Impact Fees, rather than seeking reimbursement for Developer's costs of construction under a Dedicated Parkland Site Reimbursement Agreement or, if done in combination with a Dedicated Parkland Site Reimbursement Agreement, then only to the extent the value of the improvements exceeds the amounts for which Developer is to be reimbursed under the applicable Dedicated Parkland Site Reimbursement Agreement. In no event shall Developer's obligation to Irrevocably Offer the Dedicated Parkland Sites to City as required under the Master Plan be reduced.

5.1.2.3 **Additional Open Space; POPA Open Space Credit.** Developer shall retain ownership of an additional, approximately 11.3 acres of land for POPA Open Space. Developer may elect to Irrevocably Offer one or more POPA Open Spaces to City as unimproved land for use as park land which City may decide to accept as set forth below The POPA Open Spaces are:

A. **Greenway Park East.** Approximately 0.6 acres~~.~~;

B. **Greenway Park West.** Approximately 1.8 acres~~.~~;

C. **Shorebird Wilds.** Approximately 4.5 acres~~.~~;

D. **The Portal.** Approximately 0.8 acres~~.~~;

E. **Joaquin Grove.** Approximately 1.4 acres~~.~~;

F. **Joaquin Terrace East.** Approximately 1.3 acres~~.~~; and

G. **Joaquin Terrace West.** Approximately 0.9 acres.

Subject to the requirements set forth below, Developer, at its option, may elect to Irrevocably Offer one or more of the above POPA Open Spaces to City as unimproved parkland rather than improving and retaining ownership of such land as POPA Open Space. At least ninety (90) days prior to Developer's submittal of a zoning permit application that includes one or more POPA Open Spaces, Developer shall notify City as to whether Developer desires to develop and retain ownership of the land as POPA Open Space or Irrevocably Offer such land for dedication to City as parkland. Developer's right to irrevocably offer such land(s) as parkland shall be subject to satisfaction of the following conditions: (a) the City may reasonably require that Developer reconfigure such POPA Open Space proposed for parkland dedication to realign irregular edges and ensure that the land otherwise meets City's reasonable requirements for parkland configuration provided any such reconfiguration does not materially reduce the permitted density on the applicable adjacent parcel, or change the area of the POPA Open Space ~~Area~~ proposed for parkland dedication by more than three percent (3%); (b) Developer, at its expense, agrees to cause as part of the Required Condition, the relocation of any District Utility Systems, or other public or private utilities that may be located on the land, if City requests such relocation; (c) Developer shall provide reasonable assurances to City that the land will be in the Required Condition on or before the date by which City can first accept the Irrevocable Offer for the parkland; (d) if the square footage of the land Irrevocably Offered to City as parkland is less than the square footage of the POPA Open Space as originally configured, Developer shall pay the applicable Parkland Impact Fees for the reduced area upon issuance of the first building permit for any building contemplated by the zoning permit application; and (e) Developer shall have provided City with such other information reasonably requested by City, such as title reports and plotted maps of easements. Any City request for reconfiguration of the POPA Open Space ~~Area~~ proposed for parkland dedication under clause (a) above shall be made within forty five (45) days following receipt of Developer's notice of its election to dedicate such POPA Open Space as parkland. City and Developer will meet and confer upon request of either party regarding the above requirements. City shall notify Developer whether the requirements of (a)-(e) above have been met within sixty (60) days following receipt of Developer's notice of election to dedicate POPA Open Space as parkland and all requested supporting documentation. If the requirements for conversion of POPA Open Space to parkland set forth in (a)-(e) above have been met Developer shall prepare and submit to City for review and approval: (1) a metes and bounds legal description of the area to be dedicated as parkland prior to submitting any zoning permit application that includes the parkland; and (2) an Irrevocable Offer of the parkland at the time that Developer submits the zoning permit application that includes the parkland. City agrees to defer acceptance of any Irrevocable Offer of POPA Open Space as parkland until after the first to occur of (i) the date that is 2 years after recordation of the Irrevocable Offer, or (ii) issuance of the first Certificate of Occupancy for a residential dwelling unit in a building contemplated by the applicable zoning permit. POPA Open Space offered for dedication to City as parkland under this Section 5.1.2.3 must be in the Required Condition on or before the date on which City may accept the Irrevocable Offer. Subject to any continuing obligations of Developer with respect to Required Condition of the parkland, upon City's acceptance of an Irrevocable Offer of POPA Open Space land as parkland, Developer shall have no further obligation with respect to such POPA Open Space. If Developer fails to satisfy the conditions set forth in (a) through (e) above, or if Developer otherwise elects to develop such

land as POPA Open Space, then Developer shall do so in accordance with this Agreement, including Section 5.1.2.5 below and the Parks Delivery Plan, and the conditions of the approved zoning permit application and other applicable Approvals. Subject to Developer's acceptance of changes to the configuration of the POPA Open Space offered for parkland dedication pursuant to clause (a) above, and City's administrative processing of any required amendments to the Vesting Tentative Map to accommodate such changes, Developer shall include with its zoning permit application an Irrevocable Offer for any applicable POPA Open Space in accordance with this Section 5.1.2.3. Any such changes to proposed dedicated parkland boundaries shall not constitute a Material Change.

5.1.2.4 **Multi-Modal Pathway Public Access Easements.** Developer and City shall enter into public access easement agreements with respect to the public's use of the multi-modal connection pathways for pedestrians and bicycles as shown in the Master Plan and record each such agreement in the Official Records. The final location of the public access easement areas shall be as shown on the applicable phased final map in accordance with the Existing Approvals and executed and recorded prior to issuance of Building Permits for the building(s) abutting the multimodal pathways on the same parcel. Issuance of Certificate(s) of Occupancy for building(s) abutting the multimodal pathways, or applicable portions thereof, shall be conditioned upon Developer's satisfactory Completion of construction of the multi-model connection pathways, or applicable portion thereof, in accordance with plans and specifications approved by City.

5.1.2.5 **POPA Open Spaces.** For each POPA Open Space, Developer and City shall enter into City's standard form Covenants and Agreements Relating to Public Access and Open Space, as modified pursuant to the POPA Open Space Terms attached as **Exhibit H** to this Agreement ("**POPA Agreement**"), providing for the public's rights to access and use for recreational purposes the applicable POPA Open Space, and record the applicable POPA Agreement in the Official Records immediately following recordation of the phased final map creating the parcel on which such POPA Open Space is located. The final locations of the public access and use areas shall be as shown on the applicable phased final map. Execution of each POPA Agreement shall occur concurrently with the phased final map and prior to issuance of the Building Permits for the building(s) which triggered each POPA Open Space as set forth in the Parks Delivery Plan. Developer, at its expense, shall develop each POPA Open Space in accordance with the requirements of the Approvals and this Agreement, including the Parks Delivery Plan. Developer shall Complete development of the POPA Improvements on the applicable POPA Open Space by the times set forth in the Parks Delivery Plan.

5.1.2.6 **Parkland Impact Fees.** After credit is given for land dedication and POPA Open Spaces in accordance with this Agreement, the Parties do not anticipate that Developer will be required to pay any Parkland Impact Fees required to satisfy Parkland Requirements until issuance of the Building Permit that provides for construction of the 4,358th market rate dwelling unit. Developer's obligation to pay, and the calculation of, such Parkland Impact Fees shall be consistent with Section 4.1.1 above.

5.1.2.7 **Security for Parkland Compliance.** If City agrees to Developer's construction of any improvements on any Dedicated Parkland Site in accordance with Section ~~5.1.2.1~~5.1.2.2, then Developer shall enter into a public improvement agreement with City

requiring, among other things, that Developer undertake such work in compliance with Prevailing Wage Laws and provide, or cause its contractor to provide, such security (e.g., a surety bond, contractor's bond or Letter of Credit) as is then required under, and in accordance with, Applicable City Law to be provided by a party performing such construction.

If Developer is obligated to provide a Letter of Credit under Applicable City Law, then City shall have the right to draw the full amount of a Letter of Credit that is about to expire and is not being renewed or replaced, to ensure City has security for Developer's obligation to complete the construction of the park on the Dedicated Parkland Site. City shall return the applicable Letter of Credit to Developer promptly following Completion of such construction.

5.1.3 **Letter of Credit Security for Temporary Land Dedication Shortfalls.** As set forth in the Affordable Housing Delivery Plan, the Parks Delivery Plan and the Project Compliance Plan, over the Term of this Agreement, City will receive (i) dedications of Affordable Housing Sites of sufficient size to accommodate development of Affordable Housing units equal to at least fifteen percent (15%) of the total number of market rate residential units to be developed as part of the Project; and (ii) dedications of Dedicated Parkland Sites, delivery of completed POPA Open Spaces and payments of Parkland Impact Fees which, collectively, would fully satisfy the parkland requirements for the Project at full buildout (i.e. approximately 35.7 acres of parkland). The Parties further anticipate that after credit is given for Dedicated Parkland Sites and POPA Open Spaces in accordance with this Agreement, Developer will not be required to pay Parkland Impact Fees to satisfy Parkland Requirements until on or about issuance of the Building Permit authorizing construction of the 4,358th market rate residential unit. Because the Project Compliance Plan and the Phasing Plan on which it is based are illustrative, however, it is possible that, at various points during Project build out Developer may have delivered (i) Irrevocable Offers for a lesser amount of Affordable Housing Site acreage than is needed to accommodate development of Affordable Housing Units equal to fifteen percent (15%) of the total number of market rate residential units for which Building Permits have been issued; and/or (ii) a lesser amount of Irrevocable Offers for Dedicated Parkland Sites and/or POPA Open Spaces (that are subject to a recorded POPA Agreement) than is required by the Approvals based on the total number of market rate residential units for which Building Permits have been issued. For example, the illustrative Project Compliance Plan contemplates a limited temporary Affordable Housing Site acreage shortfall occurring in Phase 7.

Subject to compliance with the terms of this Section 5.1.3 below, City agrees that limited temporary shortfalls in Affordable Housing Site Irrevocable Offers, Dedicated Parkland Site Irrevocable Offers, and POPA Open Space Agreements will be allowed; provided, however, City may withhold issuance of Subsequent Approvals for any other building(s) Project-wide if the development authorized by such Subsequent Approvals, together with all previously completed and in progress development, would result in the Project falling below 90% compliance with the Affordable Housing Site and/or Dedicated Parkland Site/POPA Open Space acreage requirements for such development. To ensure City receives the benefit of the negotiated affordable housing, parkland and POPA Open Space contributions required by this Agreement, each time a limited temporary shortfall in Affordable Housing Site or Dedicated Parkland Site/POPA Open Space acreage exists, Developer shall deliver to City a Letter of Credit as security to cover the temporary shortfall in required acreage. The Project Compliance Plan includes illustrative Letter of Credit dollar amount calculations based on (i) hypothetical temporary land dedication shortfalls in Phase

7 (for affordable housing) and (ii) a 2023 City land dedication value of Eleven Million Seven Hundred Sixty Thousand Dollars ($11,760,000) per acre. The Parties agree that the actual Letter of Credit dollar amount(s) shall be equal to the product of the acreage shortfall in effect from time to time multiplied by the City's per acre land value in effect at the time of the shortfall.

On each Letter of Credit renewal date, Developer shall be required to increase the amount of all Letter(s) of Credit by an amount commensurate with the increase, if any, in City's per acre land dedication value for the then current year over the prior year's value. If Developer has provided a Letter of Credit under this Section 5.1.3, then City shall have the right to draw the full amount of a Letter of Credit that is about to expire and is not being renewed or replaced, to ensure City has security for the shortfall. In addition, City may draw on the Letter of Credit (i) if Developer fails to eliminate the shortfall as required under the Approvals; or (ii) upon the expiration or sooner termination of this Agreement (unless such termination is due to a City default under this Agreement, whereupon City shall promptly return the Letter of Credit) and as of such expiration or termination Developer has failed to eliminate the shortfall as required under the Approvals and this Agreement. The City's exercise of its remedies under the applicable Letter of Credit, including drawing down the Letter of Credit, shall not limit the City's ability to exercise other remedies available to it under this Agreement. City shall return the applicable Letter of Credit to Developer promptly following the date on which Developer has eliminated the shortfall in the manner provided under the Approvals.

Each Letter of Credit shall provide that it will automatically be extended annually unless the issuer notifies City sixty (60) or more days before the expiration date that issuer elects not to extend it. Annual renewal of the Letter of Credit shall be timed to coincide with annual review of this Agreement, at which time the amount of the Letter of Credit will be adjusted pursuant to the applicable change in the City's per acre land dedication value. If the issuer of a Letter of Credit elects not to approve annual renewal of its Letter of Credit, or not to approve the applicable adjustment, then, Developer shall, at least fifteen (15) days before expiration of the Letter of Credit, obtain a replacement Letter of Credit from another issuer, subject to City's approval of the issuer and the form of Letter of Credit.

5.2 **Green-Building Measures.** Developer shall design the Project to meet the following green building measures per the Precise Plan:

5.2.1 Developer shall meet the intent of LEED BD+C Platinum or equivalent green building standard for all nonresidential Office Buildings utilizing North Bayshore Nonresidential Bonus FAR.

5.2.2 Developer shall achieve a minimum of 120 points on the GreenPoint Rated system (or equivalent) and provide sub-metering, or use other appropriate technology that tracks individual energy use, for each residential unit in a Residential Building.

5.2.3 All new construction (residential and nonresidential) shall meet the applicable green building standards in the Precise Plan.

5.3 **Waiver of Right to Density Bonus.** In consideration of the rights conferred on Developer under this Agreement, Developer shall not apply for or seek to develop any portion of

the Property under any density or other development bonus available under Applicable Law, as further described below.

5.3.1 The Parties acknowledge that various state and local laws, including but not limited to California Government Code Section 65915 *et seq.* ("**State Density Bonus Law**"), Zoning Ordinance ~~section~~ Section 36.40~~,~~ *et seq.* ("**City Affordable Housing Program**") and Zoning Ordinance Section 36.48.65~~,~~ *et seq.* ("**City Density Bonus Law**"), as they may be amended from time to time, generally allow additional residential and/or non-residential density, incentives and modifications to development requirements for residential or mixed-use developments in exchange for inclusion of a percentage of on-site below market rate units, or the dedication of land suitable for construction of on-site Affordable Housing units. By entering into this Agreement, and adopting the Existing Approvals, City is allowing significantly more development than what is allowed under existing zoning and more that what would be allowed under existing zoning in conjunction with the State Density Bonus Law, City Affordable Housing Program, City Density Bonus Law, or any other state or local development bonus program.

5.3.2 By entering into this Agreement, Developer voluntarily and intentionally waives its ability to use the State Density Bonus Law, City Affordable Housing Program, or City Density Bonus Law, as they may be amended from time to time, or any other process or mechanism allowed under state or local law now or in the future to increase, modify, expand, or change the amount of, or design for, development, both residential and nonresidential, on the Property from the Project as described in and regulated by the Existing Approvals and this Agreement. Developer agrees to pursue development on the Property solely within the regulatory framework of the Existing Approvals and this Agreement, with the understanding that the only allowed modifications, exceptions and variances to the Project are those afforded under the parameters and processes explicitly established therefor in the Existing Approvals and this Agreement and allowed by Applicable City Law. City would not be entering into this Agreement and approving the Project, including the Existing Approvals, were Developer able to use any other development bonus in conjunction therewith, and City has negotiated this Agreement based on the specific land use program and Project design as established in this Agreement and in the Existing Approvals, inclusive of the modification processes allowed therein. Notwithstanding the foregoing, in the event a new State law, other than changes to the State Density Bonus Law, enacted after the Effective Date would allow for increased residential development on the Project Site, Developer may request that it be allowed to utilize such new State law. Any such request shall be treated as a Material Change under Section 8.8.2.

5.3.3 City, or any nonprofit affordable housing developer(s) in partnership with City, may utilize the State Density Bonus Law, City Affordable Housing Program, or City Density Bonus Law, as they may be amended from time to time, or any other process or mechanism allowed under state or local law now or in the future, in any capacity to obtain entitlements for or receive funding for affordable housing development(s) on the Affordable Housing Sites, or to increase, modify, expand or change the amount of or design for residential development on the Affordable Housing Sites. No process or project pursued by City or any nonprofit affordable housing developer(s) on the Affordable Housing Sites shall (a) modify Developer's rights or obligations under this Agreement or the Approvals, or (b) require or cause, or would reasonably be anticipated to require or cause (i) Developer to provide or pay for materially more infrastructure to serve or as a result of such additional density or (ii) any additional or new analysis under CEQA

with respect to any Subsequent Approval; nor shall the Approvals or this Agreement restrict, constrain or affect in any way any future affordable housing-related actions, developments, or funding by or on behalf of City or any nonprofit affordable housing developer(s).

5.4 **Community Benefits.** The Existing Approvals for the Project authorize up to 1,303,250 square feet of North Bayshore Nonresidential Bonus FAR. To utilize the allocation of the North Bayshore Nonresidential Bonus FAR, and the other benefits afforded to Developer under this Agreement, including vested rights, Developer shall provide the benefits and contributions set forth in this Section 5.4 (collectively, "**Community Benefits**"), which has a total estimated value of at least $47 Million Dollars, and which the Parties agree provide City with community benefits required for the Project under the Precise Plan. Developer agrees that the Community Benefits are justified, appropriate and in compliance with Applicable Law as a consequence of City approval of the Existing Approvals, and Developer accepts and covenants not to challenge any of the Community Benefits.

5.4.1 **Shorebird Yards Land Dedication.** In satisfaction of Developer's Community Benefits obligation under Section 5.4, Developer shall make an Irrevocable Offer for the land for Shorebird Yards prior to issuance of the first Building Permit. City agrees to defer acceptance of the Irrevocable Offer of dedication of Shorebird Yards until after December 15, 2029; provided, however, that Developer may waive such condition and allow for City's acceptance of the Irrevocable Offer at an earlier date. Developer shall cause the land for Shorebird Yards to be in the Required Condition at the time of City's acceptance of the Irrevocable Offer. Subject to any continuing obligations of Developer with respect to the Required Condition, upon City's acceptance of the Irrevocable Offer, Developer shall have no further obligation with respect to Shorebird Yards and City agrees for the Term not to allow Shorebird Yards to be developed with or used for (a) commercial Office uses, or (b) market rate residential uses. Notwithstanding the foregoing, the City shall have the right to utilize Shorebird Yards for mixed income residential projects that (i) include at least fifty percent (50%) of units as "affordable housing" as defined in Section 36.40.05(b) of the City Code, or (ii) are considered to be "Exempt Surplus Land" under Government Code Sections 54221(f)(1)(A) or (f)(1)(F) as such sections may be amended.

5.5 **Public Benefits.** Developer agrees to provide the following voluntary "**Public Benefits**" to benefit City and its residents, as additional consideration for the benefits, including vested rights, afforded to Developer under this Agreement.

5.5.1 **First People Centric Fund Payment.** Within ninety (90) days following the first day of the Term, Developer shall pay City Five Hundred Thousand Dollars ($500,000) ("**First People Centric Fund Payment**"). The First People Centric Fund Payment shall be nonrefundable regardless of whether or not Developer proceeds with development of the Project.

5.5.2 **Second People Centric Fund Payment.** Developer shall pay City an additional payment equal to the sum of: One Million Dollars ($1,000,000) plus the product of $1,000,000 times the percentage increase in CPI between the Effective Date and the date on which such payment is made ("**Second People Centric Fund Payment**"). Developer shall pay the Second People Centric Fund Payment in installments at a rate of $0.77 per gross square foot (as of the Effective Date) of North Bayshore Nonresidential Bonus FAR, payable at the time of issuance of each Building Permit for North Bayshore Nonresidential Bonus FAR space.

5.5.3 **Ground Floor Activation Program.** Developer shall implement, fund and construct, as applicable, the measures, programs and improvements generally described in the "**Ground Floor Activation Program**" as specified in **Exhibit J**, having a total value, as of the Effective Date, of not less than the sum of Ten Million Dollars ($10,000,000) plus the product of $10,000,000 times the percentage increase in CPI between the Effective Date and the date on which such obligation is satisfied, in support of the Ground Floor Activation Program and operators.

5.5.4 **Public Art Benefit.** Developer shall fund and construct, or cause to be constructed, one or more artistic features in the Social Spine and/or a POPA Open Space-, with a total cost of not less than the sum of: Two Million Dollars ($2,000,000) plus the product of $2,000,000 times the percentage increase in CPI between the Effective Date and the date on which such art feature is installed ("**Public Art**"). At the time of zoning permit application for development that includes the Social Spine or a POPA Open Space, as applicable, where Public Art is proposed, Developer shall provide, as part of application: (i) the vision statement and design principles for the Public Art, (ii) the proposed location(s) for the Public Art, (iii) the process and timeline for production and installation, and (iv) the conceptual design(s) of the Public Art. At the time of Building Permit submittal, Developer shall provide to City: (i) the name of the artist, designer, or design studio and their bios and representative work, and (ii) the final Public Art design, which shall be subject to City review and approval, not to be unreasonably withheld, conditioned or delayed. Upon City's request, Developer shall provide confirmation of the cost of the Public Art, including costs, commissions, and fees associated with procurement, creation, and installation of such Public Art. The Public Art location shall be included on the Building Permit for construction of the Social Spine or POPA Open Space, as applicable, and installation of the Public Art shall be completed prior to final inspection under that Building Permit.

5.5.5 **Eco Gem Dedicated Parkland Site Contribution.** To contribute towards the unique improvements within the Eco Gem as determined through City's park design process, Developer shall pay to City an amount equal to the sum of Five Million Dollars ($5,000,000) plus the product of $5,000,000 (or the remaining balance thereof) times the percentage increase in CPI between the Effective Date and the date on which such payment is made ("**Eco Gem Developer Funding**"). Developer shall provide the Eco Gem Developer Funding at a rate of $3.83 per gross square foot (as of the Effective Date) of North Bayshore Nonresidential Bonus FAR, payable at such time that Developer has obtained Building Permits for North Bayshore Nonresidential Bonus FAR space. Prior to issuance of the first Building Permit for any building in the Master Plan area, Developer shall make an Irrevocable Offer for Eco Gem; City agrees to defer acceptance of the Irrevocable Offer of the land for Eco Gem until December 15, 2030, at which time Developer shall cause the land for Eco Gem to be in the Required Condition. Except as provided in this Section 5.5.5, and subject to any continuing obligations of Developer with respect to the Required Condition, upon City's acceptance of the Irrevocable Offer to the land for Eco Gem, Developer shall have no further obligation with respect to Eco Gem.

Developer may offer to advance the Eco Gem Developer Funding for design and construction costs by providing written notice to City (the "**Advanced Eco Gem Developer Funding Notice**"). If Developer provides the Advanced Eco Gem Developer Funding Notice the Parties will met and confer to attempt to develop a mutually agreeable timeline for the development of Eco Gem and the extent of Developer's involvement in the Eco Gem development process.

5.5.6 **Tax Point of Sale Designation.** Developer shall use Good Faith Efforts to the extent allowed by Applicable Law to require all persons providing bulk lumber, concrete, structural steel, and pre-fabricated building components, such as roof trusses, to be used in connection with construction and development of, or incorporated into, the Project, to (a) obtain a use tax direct payment permit; (b) elect to obtain a subcontractor permit for the job site of a contract valued at Five Million Dollars ($5,000,000) or more; or (c) otherwise designate the applicable portion of the Property as the place of use of material used in construction of the Project in order to have the local portion of the sales and use tax distributed directly to City instead of through the County-wide pool. Unless Developer demonstrates to City that such information is not reasonably obtainable, then Developer shall on an annual basis provide City with such information as shall be reasonably requested by City regarding subcontractors working on the Project with contracts in excess of the amount set forth above, including a description of all applicable work and the dollar value of such subcontracts. City may use such information to contact each subcontractor who may qualify for local allocation of sales and use taxes to City. To facilitate implementation of these tax point of sale designation requirements, Developer shall use Good Faith Efforts to include in each contract for the construction of Building core and/or shell work the following contract provision:

> "Contractor shall, to the extent allowed by the California Department of Tax and Fee Administration and applicable sales and use tax laws and regulations ("**Sales and Use Tax Laws**"), coordinate with the City of Mountain View to designate the City of Mountain View as the place of use of any materials, goods, or services, purchased by Contractor and the origin of any local sales taxes generated by Contractor and its subcontractors; provided, however, in no event shall Contractor be required to do anything that is in violation of or inconsistent with such Sales and Use Tax Laws."

5.6 **Condition of Dedicated Properties.** Title to all real property to be granted or offered for dedication by Developer to City (or its assignee or designee) pursuant to the Existing Approvals and this Agreement, including dedication of land for parks and Affordable Housing, shall be free and clear of all title defects, liens, encumbrances, conditions, covenants, restrictions, or other such exceptions of record or known to Developer, except for incidental easements and liens for current, non-delinquent taxes and assessments and such other incidental exceptions, if any, as City may approve in its reasonable discretion, and Developer shall obtain any subordination agreements, deed of trust reconveyances or other documentation as necessary to remove any exceptions reasonably disapproved by City. To the extent any Hazardous Materials are located on, under, or about such property offered for dedication or the property offered for dedication is a Contaminated Site, then to the extent not capable of mitigation by City or the affordable housing developer subject to Section 5.6.1 below, Developer, at its expense, shall be responsible for abating and remediating or causing the abatement and remediation of such property in compliance with Applicable Law and City requirements as identified in the Existing Approvals so that City may make use of such property for its intended use as a park or Affordable Housing Site without having to incur any expenses to abate or remediate Hazardous Materials or Contaminated Site conditions.

5.6.1 **Developer Payment of Vapor Intrusion Control Costs.** Developer acknowledges that vapor intrusion controls may be required under Applicable Law as part of the development for residential uses of dedicated Affordable Housing Sites. As such Developer shall pay to City an amount equal to the product of Fourteen Dollars and 27/100 ($14.27) (subject to

annual escalations based on increases in CCI during the period from the Effective Date and the date on which such payment is made as set forth in the Conditions of Approval) multiplied by the number of square feet in the proposed building's ground floor area subject to mitigation as described and executed in accordance with Existing Approvals.

5.7 **Irrevocable Offers and Dedications; Conveyance of Title to City.** Within ninety (90) days after the date on which Developer gives City notice that the Affordable Housing Site or Dedicated Parkland Site is in the Required Condition, City shall either (a) confirm such Required Condition and accept the dedication of the property that is the subject of the Irrevocable Offer, or (b) notify Developer that the property is not in the Required Condition (which notice shall specify how the property is not in the Required Condition and include the City's recommendations for how Developer can correct such failure of the property to be in the Required Condition) in which case Developer shall cause the property to be in the Required Condition prior to acceptance by City.

ARTICLE VI
OBLIGATIONS OF THE PARTIES

6.1 **Developer.**

6.1.1 **Development in Conformance with Agreements and Approvals.** In consideration of City entering into this Agreement, Developer agrees that, so long as this Agreement is in effect, the Project shall be developed in conformance with all of the applicable terms, covenants, and requirements of this Agreement and the Approvals, as they may each be hereafter amended with the consent of City and Developer in accordance with the provisions of Sections 8.5, 8.6, 8.8, or 8.9. Nothing in this Agreement shall prohibit Developer from challenging any City action or inaction with respect to the Property or Project, including any City decisions regarding Subsequent Approvals.

6.1.2 **Prevailing Wage Laws.** Certain contracts for work on the Property, including contracts for construction and installation of public improvements, may be public works contracts if paid for in whole or in part out of public funds, as the terms "public work" and "paid for in whole or in part out of public funds" are defined in and subject to exclusions and further conditions under California Labor Code Sections 1720-1720.6 or be subject to payment of prevailing wages under the federal Davis-Bacon Act (40 U.S.C. 3141 *et seq.*) (collectively, **"Prevailing Wage Laws"**). In connection with the Project, Developer shall comply, and shall include in its contracts with its general contractors a provision that requires the contractors to comply, with the requirements of all Prevailing Wage Laws as and to the extent required by Applicable Law.

6.2 **City.**

6.2.1 **City's Good Faith in Proceedings.** As further provided in Section 3.3 and Article 9 of this Agreement, in consideration of Developer entering into this Agreement, City agrees that it will accept, process, and review, using Good Faith Efforts to do so in a timely manner, all applications for Subsequent Approvals, including applications for environmental and design review, demolition, grading, and construction permits, or other permits or entitlements for use of

the Property, in accordance with the terms of this Agreement, the Approvals and, if applicable, the Staffing and Processing Agreement.

6.2.2 **Other Agency Approvals.** City shall cooperate with Developer, at Developer's expense, in Developer's endeavors to obtain such other permits and approvals, if any, as may be required from Other Agencies having jurisdiction over the Project as set forth in Section 9.4.

ARTICLE VII
DEFAULT, REMEDIES, TERMINATION

7.1 **Remedies for Breach.** City and Developer acknowledge that the purpose of this Agreement is to carry out the Parties' objectives and local, regional, and statewide objectives by developing the Project. The Parties acknowledge that City would not have entered into this Agreement had it been exposed to damage claims from Developer for any breach thereof. As such, the Parties agree that in no event shall Developer be entitled to recover any actual, consequential, punitive, or other monetary damages against City for breach of this Agreement. City and Developer agree that, in the event of a breach of this Agreement, each of the Parties hereto may pursue the following: (a) specific performance; (b) suits for declaratory or injunctive relief; (c) suits for mandamus or special writs; or (d) cancellation of this Agreement. In addition to the foregoing remedies, City shall be entitled to recover monetary damages with respect to amounts payable by Developer to City under this Agreement, but in no event may City seek to recover any consequential or punitive damages. City shall also be entitled to the remedies set forth in the Parks Delivery Plan and Affordable Housing Delivery Plan. All of the above remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy.

7.2 **Notice of Breach.**

7.2.1 Prior to the initiation of any action for relief specified in Section 7.1 above because of an alleged breach of this Agreement, the Party claiming breach shall deliver to the other Party a written notice of breach (a "**Notice of Breach**"). The Notice of Breach shall specify with reasonable particularity the reasons for the allegation of breach and the manner in which the alleged breach may be satisfactorily cured.

7.2.2 The breaching Party shall cure the breach within thirty (30) days following receipt of the Notice of Breach; provided, however, if the nature of the alleged breach is nonmonetary and such that it cannot reasonably be cured within said thirty (30) day period, then the commencement of the cure within such time period and the diligent prosecution to completion of the cure thereafter at the earliest practicable date shall be deemed to be a cure, provided that if the cure is not so diligently prosecuted to completion, then no additional cure period shall be required to be provided. If the alleged breach is cured within the time provided above, then no default shall exist, and the noticing Party shall take no further action to exercise any remedies available hereunder. If the alleged breach is not cured, then a default shall exist under this Agreement and the noticing Party may exercise any of the remedies available under this Agreement.

7.2.3 If, in the reasonable determination of the alleged breaching Party, such event does not constitute a breach of this Agreement, the Party to which the Notice of Breach is directed, within ten (10) Business Days following receipt of the Notice of Breach, shall deliver to the Party giving the Notice of Breach written notice (a "**Compliance Notice**") which sets forth with reasonable particularity the reasons that a breach has not occurred. Such Compliance Notice shall not lengthen the thirty (30) day cure period specified in Section 7.2.2. If the non-breaching Party does not agree with the Compliance Notice, then, within ten (10) Business Days following receipt of the Compliance Notice, the non-breaching Party shall notify the breaching Party that it still is considered in breach and the reason(s) why it is still considered in breach, and after expiration of the applicable cure period the non-breaching Party may exercise any of its available remedies.

7.3 **Breach or Default by One Party Comprising Developer.** If Developer has conveyed or transferred its interest in some but not all of the Property to a Transferee in accordance with Section 10.1 or a Mortgagee or Transferee has taken title to a portion of the Property through foreclosure or other action, so that more than one Party is responsible for the obligations of "Developer" under this Agreement, there shall be no cross-default between the separate Parties that have Developer obligations. Accordingly, if one such Party is in breach or default, it shall not be a breach or default by any other Party that acts as Developer under this Agreement as to a different portion of the Property; provided, however, other Developer(s) may be affected by a Developer's breach or default based on (i) City's exercise of its termination rights as to the defaulting Developer; (ii) City's right to withhold construction permits, certificates of occupancy and Subsequent Approvals from the breaching or defaulting Developer, and (iii) City's rights and remedies under the Affordable Housing Delivery Plan and Parks Delivery Plan.

7.4 **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California without reference to its choice of laws rules.

ARTICLE VIII
ANNUAL REVIEW, PERMITTED DELAYS, AND AMENDMENTS

8.1 **Annual Review.**

8.1.1 **Annual Review of Developer.** The annual review required by California Government Code Section 65865.1 shall be conducted pursuant to City Code Section 36.54.30 by the Community Development Director every twelve (12) months following the Effective Date for compliance with the provisions hereof. Developer shall provide, in writing and with documentation, any evidence which the Community Development Director deems reasonably required from Developer in order to demonstrate Developer's compliance with the terms of this Agreement. The annual review must be submitted by Developer to City on or before October 1st of each year following the Effective Date. Such annual review provision supplements, and does not replace, the provisions of Section 7.2 above whereby either City or Developer may, at any time, assert matters which either Party believes have not been undertaken in accordance with this Agreement by delivering a written Notice of Breach and following the procedures set forth in Section 7.2.3. Developer shall pay City's actual costs for its performance of the annual review, including staff time required to perform the annual review. Further details regarding payment of

annual review costs may be set forth in a Staffing and Processing Agreement, if the Parties opt to enter into such agreement.

8.1.2 **Annual Review of Assignees.** If a Transferee or Mortgagee becomes the "Developer" subject to this Agreement as to a portion of the Property, annual review shall be conducted separately, but concurrently, with respect to each such Developer, and determinations as to compliance with this Agreement shall be made separately. If City takes action against one such Developer for noncompliance, such action shall apply only as to the Developer involved and the portions of the Property in which such Developer has an interest, and shall not affect other Developers unless they or their portions of the Property are involved in the noncompliance.

8.2 **Permitted Delays.**

8.2.1 **Force Majeure.** Subject to the limitations set forth below, the time within which either Party shall be required to perform any act under this Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed unavoidably and beyond the reasonable control of the Party seeking the extension of time, by any of the following events: (1) strikes, lockouts, stoppages, boycotts, and other labor difficulties; (2) acts of God; (3) unusually severe weather, but only to the extent that such weather or its effects (including, without limitation, dry-out time) result in delays that cumulatively exceed twenty (20) days for any winter season occurring after Commencement of Construction; (4) failure or inability to secure materials or labor by reason of priority or similar regulations or order of any governmental or regulatory body or by reason of an embargo or trade dispute where, in each case, Developer is unable to obtain alternative or replacement materials, within the same or substantially similar time period at substantially the same cost (and without having to forfeit any significant deposits or advance payments); (5) changes in local, State, or Federal laws or regulations; (6) any development moratorium or any action of Other Agencies that regulate land use, development, or the provision of services that prevents, prohibits, or delays construction of the Project; (7) enemy action; (8) civil disturbances; (9) wars; (10) terrorist acts; (11) fire or earthquake; (12) condemnation or unavoidable casualties; (13) mediation, arbitration, litigation, or other administrative or judicial proceeding involving the Approvals or this Agreement other than between City and Developer; (14) epidemics and other public health crises affecting the workforce by actions such as quarantine restrictions (excluding COVID-19 related restrictions occurring as of the Effective Date); (15) Economic Recession; or (16) delays caused by restrictions on external construction or large-scale/intensive landscaping involving heavy equipment or loud noise within 200 feet of the egret rookery in accordance with Section 5.1.3 of the Precise Plan (each a "**Force Majeure Event**"); provided, except as otherwise provided in Section 8.2.2 below, the Term shall not be extended by reason of any Force Majeure Delay. An extension of time for any such cause (each a "**Force Majeure Delay**") shall be for the period of delay caused by the Force Majeure Event and shall commence to run from the time of commencement of the Force Majeure Event, if written notice by the Party claiming such extension is sent to the other Party within sixty (60) days of commencement of the Force Majeure Event. If notice is sent after such sixty (60) day period, then the extension shall commence to run no sooner than sixty (60) days prior to the giving of such notice. Times of performance under this Agreement may also be extended in writing by the mutual agreement of the City Manager and Developer. Developer's inability or failure to obtain financing shall not be deemed to be a cause outside the reasonable control of the Developer and shall not be the basis for Force Majeure Delay unless such inability, failure, or delay is a direct result of an

Economic Recession. "**Economic Recession**" means two consecutive quarters of negative GDP recession as defined and determined by the National Bureau of Economic Research during which the cumulative GDP decline is -3.0% or more.

8.2.2 **Extension of Term.** The Term may be extended by one or more Force Majeure Delays, up to a cumulative maximum of three (3) years. The extension(s) for Force Majeure Delays can either be applied to the Initial Term or Extended Term or a combination thereof, but in no event shall the Term exceed thirty three (33) years. Nothing herein shall be deemed to prevent the Parties from later agreeing, each in its sole and absolute discretion, to a further extension of the Term, but any such extension will be subject to processing as a Material Change in accordance with the Development Agreement Statute and Development Agreement Ordinance, as they may be amended from time to time. Notwithstanding the foregoing, Force Majeure delays associated with ~~site preparation and~~ restrictions on external construction ~~restrictions~~ or large-scale/intensive landscaping involving heavy equipment or loud noise within 200 feet of the egret rookery pursuant to Section 8.2.1(16) shall not count toward the cumulative maximum of three (3) years of Force Majeure Delays, but such delays cannot cause the Term to exceed thirty three (33) years.

8.3 **Certain Waivers.** City shall have the right, but not the obligation, to waive or reduce the burden of provisions of the Approvals as they apply to any portion of the Property, with the consent of the Developer of such portion, so long as: (a) the waiver, reduction, or revision does not conflict with the land uses or improvements that are the subject of the Approvals (or any permit or approval granted thereunder); (b) such reduction or waiver does not increase the burden imposed upon a portion of the Property owned by any other Developer or property owner; (c) the waiver, reduction, or revision is not inconsistent with the purpose and goals of the General Plan or Precise Plan; and (d) such waiver or reduction is made with the written consent of the Developer of the portion of the Project as to which such waiver or reduction is granted.

8.4 **Life Safety and Related Matters.** Nothing contained herein shall be deemed to prevent adoption and application to improvements upon the Property of laws, ordinances, uniform codes, rules, or regulations pertaining to or imposing life-safety, fire protection, environmental, energy or resource efficiency, mechanical, electrical, and/or building integrity requirements at the time permits for construction of such improvements are issued. This Section 8.4 is not intended to be used for purposes of general welfare or to limit the intensity of development or use of the Property, but to protect and recognize the authority of City to deal with material endangerments to persons on or about the Property not adequately addressed in the Approvals.

8.5 **Modification Because of Conflict with State or Federal Laws.** In the event that local (non-City) State or Federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps, or permits approved by City, such modifications shall be governed by the provisions of Section 3.6.2 above. Any such amendment or suspension of this Agreement shall be approved by the City Council in accordance with the City Code and this Agreement and by Developer.

8.6 **Amendment by Mutual Consent.** This Agreement may be amended in writing from time to time by mutual consent of City and Developer, subject to approval by the City Council

(except as otherwise provided in Section 8.8), and in accordance with the procedures of the Development Agreement Statute and the City's Development Agreement Ordinance.

8.7 **City Costs for Review.** During the Term of this Agreement, Developer shall promptly reimburse City for costs incurred by City to have its staff, consultant, or outside legal counsel review, approve, or issue assignments, estoppel certificates, transfers, amendments to this Agreement, and the like. Developer's reimbursement obligations may be more specifically set forth in a Staffing and Processing Agreement executed by the Parties. Developer's obligations under this Section 8.7 shall survive the expiration or earlier termination of this Agreement.

8.8 **Amendment of this Agreement.** This Agreement may be amended, refined or clarified from time to time, in whole or in part, by mutual written consent of the Parties, as follows:

8.8.1 **Non-Material Changes by Operating Memoranda.**

8.8.1.1 The Parties acknowledge that the provisions of this Agreement require a close degree of cooperation between City and Developer, and, during the course of implementing this Agreement and developing the Project, refinements, clarifications, and non-Material Changes of this Agreement may become appropriate and desired with respect to the details of performance of City and Developer. If, and when, from time to time during the Term of this Agreement, City and Developer agree that such a refinement, clarification or other non-Material Change is necessary or appropriate, City and Developer shall effectuate such refinement, clarification or non-Material Change through a memorandum (the "**Operating Memorandum**") approved in writing by City and Developer, which, after execution, shall be attached hereto as an addendum and become a part hereof. Any Operating Memorandum may be further refined from time to time as necessary with future approval by City and Developer. No Operating Memorandum shall constitute an amendment to this Agreement requiring public notice or hearing.

8.8.1.2 By way of illustration but not limitation of the above criteria for an Operating Memorandum, any refinement, clarification or other change of this Agreement which does not affect a Material Change shall be deemed suitable for an Operating Memorandum and shall not, except to the extent otherwise required by Applicable Law, require notice or public hearing before the Parties execute the Operating Memorandum; provided, that such Operating Memorandum shall first be approved by Developer and the Community Development Director; and provided further, that the Community Development Director in consultation with the City Attorney shall make the determination on behalf of City whether a requested refinement, clarification or other change may be effectuated pursuant to this Section 8.8.1 or whether the requested refinement, clarification or other change is of such a character to constitute an amendment hereof pursuant to Section 8.6 or 8.8.2. The Community Development Director shall be authorized to execute any Operating Memoranda hereunder on behalf of City. Minor modifications to the Project as to the location, operational design, or requirements for maintenance of improvements shall be suitable for treatment through Operating Memoranda subject to the provisions of this Section 8.8.1, and shall not be deemed a Material Change and shall not require a formal Agreement Amendment as provided in Section 8.8.2.

8.8.1.3 ~~Concurrently with this Agreement, the Parties are entering into an Option to Ground Lease Lot C pursuant to which the Developer has the option to lease all or a~~

~~portion of Lot C for "District Parking" use as contemplated in the Master Plan. In the event that~~ As contemplated by the Existing Approvals, the Parties will enter into the Option to Ground Lease Lot C. The key terms of the Option to Ground Lease Lot C are set forth in Exhibit A of City Council Resolution No. 18813. If, following execution of the Option to Ground Lease Lot C, Developer exercises its option to lease all or a portion of Lot C and the Parties enter into a ground lease, then those portions of Lot C included in the ground lease will become part of the "Property" that is the subject of this Agreement and will enjoy the vesting protections of this Agreement, including the protections against the applicability of New City Laws to such portions of Lot C. Upon request of either Party, the Parties shall enter into an Operating Memorandum in recordable form memorializing the addition of such portion(s) of Lot C to this Agreement.

8.8.2 **Material Change by Agreement Amendments.** Any revision to this Agreement which involves a Material Change or is otherwise determined not to qualify for an Operating Memorandum as set forth in Section 8.8.1 shall require a formal "**Agreement Amendment,**" which will require submittal of a subsequent zoning permit application and review thereof in order to process the Agreement Amendment, and duly noticed public hearings before the Zoning Administrator and City Council in accordance with the City Code and the Development Agreement Statute. Approval of any Material Change to this Agreement shall require approval by both the City Council and Developer.

8.9 **Amendment of Approvals.** As provided in the Existing Approvals, any major modification to the Project or the Approvals proposed by Developer requires City Council approval whereas minor modifications do not require City Council approval. What constitutes a major or a minor modification to the Project or Approvals is set forth in the Conditions of Approval. Modifications of the Project or Approvals will not require an amendment of this Agreement unless the modification constitutes a Material Change. Any related amendment to this Agreement shall be limited to those Agreement provisions that are implicated by the applicable modification.

8.10 **Cancellation by Mutual Consent.** Except as otherwise permitted in this Agreement, this Agreement may be canceled in whole or in part only by the mutual consent of City and Developer or its successors-in-interest, in accordance with the provisions of the City Code. Except as otherwise set forth in this Agreement or under Applicable Law, any fees or monetary amounts paid by Developer to City pursuant to this Agreement prior to the date of cancellation shall be retained by City, and any sums then due and owing to City shall be paid as part of the cancellation.

ARTICLE IX
COOPERATION AND IMPLEMENTATION

9.1 **Cooperation.** It is the Parties' express intent to cooperate with one another and to diligently work to implement all land use, zoning and building approvals for development of the Project, including off-site and on-site public improvements, in accordance with the terms hereof. City will not use its discretionary authority in considering any application for a Subsequent Approval to change the policy decisions reflected by this Agreement and the Existing Approvals or otherwise to prevent development of the Project.

9.2 **Processing and Implementation.**

9.2.1 **By City.** City shall cooperate with Developer in a reasonable and expeditious manner, in compliance with the deadlines mandated by applicable statutes or ordinances, to complete, at Developer's expense, all steps necessary for implementation of this Agreement and development of the Project in accordance herewith, including, without limitation, in performing the following functions to process the Project:

9.2.1.1 Scheduling all required public meetings and hearings in accordance with City's regularly established meeting schedule for the reviewing bodies, which may include the Development Review Committee, Zoning Administrator and/or City Council;

9.2.1.2 Processing and reviewing all maps, plans, land use permits, building plans and specifications, and other plans relating to development of the Project filed by Developer or its nominees;

9.2.1.3 Due diligence in confirming environmental compliance with CEQA, including review of any supplemental or subsequent studies or information; and

9.2.1.4 Due diligence in determining whether any property that is the subject of an Irrevocable Offer is in the Required Condition.

9.2.2 **By Developer.** When Developer elects to proceed with construction of the Project or any part thereof, Developer, in a timely manner, shall provide City with all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder, and Developer shall cause its planners, engineers, and all other consultants to submit in a timely manner all necessary materials and documents.

9.3 **Staffing and Processing Agreement.** If the Parties enter into a Staffing and Processing Agreement for the Project, then the Staffing and Processing Agreement shall control in the event of any conflict between the general staffing and processing procedures set forth in this Agreement and whatever more specific staffing and processing procedures may be set forth in the Staffing and Processing Agreement.

9.4 **Other Agency Approvals.** Developer shall apply prior to expiration of the Term of this Agreement for Other Agency Approvals which may be required from Other Agencies having jurisdiction over the Project or Property as may be required for development of, or provision of services to, the Project. City shall cooperate reasonably with Developer in its endeavors to obtain such Other Agency Approvals at no cost to City. Developer acknowledges that if, pursuant to Applicable Law, such cooperation by City requires approval by the City Council, that approval cannot be predetermined because decisions are made by a majority vote of the City Council.

9.5 **Additional Inclusionary Housing.** In the spirit of collaboration, Developer and City agree to meet from time to time to explore potential opportunities to facilitate the voluntary provision of up to 5% inclusionary housing units (at rental rates not to exceed 120% of AMI and at for sale prices not to exceed 135% of AMI). This collaborative approach may include options

whereby City may identify alternative funding pathways to facilitate the voluntary provision of such units into the Project, to the extent financially feasible, at Developer's sole discretion.

ARTICLE X
TRANSFERS AND ASSIGNMENTS

10.1 **Transfers and Assignments.** Developer shall have the right to convey, assign, or transfer all of its right, title and interest in and to all or any part of the Property (a "**Transfer**") with the express written consent of City, not to be unreasonably withheld, conditioned or delayed, provided Developer also transfers to such party (the "**Transferee**") all of Developer's interest, rights, or obligations under this Agreement with respect to the portion of the Property that is the subject of the Transfer (the "**Transferred Property**"). City agrees that it will not withhold, condition, or delay approval of a Transfer to a Transferee that is a Qualified Developer. Nothing shall preclude City from consenting to a Transfer to a Transferee that does not meet one or more of the criteria for a Qualified Developer. Because a Phase may contain different product types, the Parties agree there may be more than one Developer in each Phase. As set forth in Section 10.2, Developer and the Transferee shall make clear in the Assignment and Assumption Agreement which party(ies) are assuming responsibility for (i) completion of the public improvements, park improvements and POPA Open Space improvements in that Phase and (ii) satisfaction of the payment and other obligations applicable to that Phase. Notwithstanding the foregoing, Developer may Transfer this Agreement, without City's consent, upon delivery to City of an Assignment and Assumption Agreement and satisfaction of the other requirements in this Article 10, to (a) an Affiliated Party, (b) Lendlease, and (c) any Lendlease Affiliate. In the case of a Transfer to an Affiliated Party, Lendlease or any Lendlease Affiliate, Developer shall provide verifiable documentation that the affiliated Transferee qualifies as an Affiliated Party or constitutes Lendlease or a Lendlease Affiliate, with such documentation in each case to be sufficient and acceptable in City's reasonable discretion, and such Transfer shall not occur without City's written confirmation of such qualification, which City shall provide within ten (10) Business Days after receipt of adequate supporting documentation. The Parties acknowledge that the following constitute and are qualified as Affiliated Parties of Developer: (i) Alphabet, Inc., the parent company of Google LLC; (ii) any Affiliated Party of Alphabet, Inc.; and (iii) any entity resulting from the merger or acquisition of Alphabet, Inc. or Google LLC, or division of Alphabet, Inc. or Google LLC, or by operation of law or by order of a court of competent jurisdiction. City acknowledges that Developer currently intends to Transfer the Project's residential parcels to Lendlease Affiliates.

10.1.1 **Non-Transfers.** Subject to the terms and conditions of this Section 10.1.1, the following shall not be considered a "Transfer" and shall not require City's consent: (i) leases, subleases, licenses, easements, or other occupancy agreements; financing transactions, such as sale-leaseback or grant of a mortgage or deed of trust, for purposes of financing development of the Project; or any foreclosure thereof or deed-in-lieu with respect thereto; (ii) any change, directly or indirectly, of the equity or ownership interests of Developer or any Transferee which individually or cumulatively with prior changes does not result in a change in Control of Developer or Transferee; and (iii) any transfer of land or improvements to City or City's designee or to non-profits approved by City in satisfaction of obligations under this Agreement or the Approvals. With respect to clause (ii) above, if Developer or a Transferee is a publicly traded company, then a sale or transfer of shares in such company shall not be deemed a change in Control of Developer

or such Transferee. Notwithstanding the foregoing provisions of this Section 10.1.1 but subject to Article 11 below, if any such transaction includes the transfer of rights and obligations under this Agreement and results in the transferee having a legal or equitable interest in the Property or a portion thereof, then Developer and the transferee shall enter into an Assignment and Assumption Agreement as described herein above, provide a copy of such agreement to City, and such transaction described in this Section 10.1.1 shall be treated as a "Transfer" under this Agreement and the transferee with respect thereto be a treated as a "Transferee".

10.2 **Notice of Transfer; Assignment and Assumption Agreement.** Developer shall provide not less than thirty (30) days' notice to City before any proposed Transfer of its interests, rights, and obligations under this Agreement, together with a copy of the assignment and assumption agreement for the applicable parcel or parcels ("**Assignment and Assumption Agreement**"); if the Transfer requires City's consent under the terms of this Agreement, City shall grant or withhold its consent in accordance with this Article 10 no later than thirty (30) days after receipt of Developer's notice and supporting documentation deemed adequate by City in its reasonable discretion. The parties to an Assignment and Assumption Agreement shall use Good Faith Efforts to coordinate with City (including City's attendance at meetings) to address in detail whether and how each obligation and right set forth in this Agreement shall be divided, allocated, assigned or otherwise Transferred, in whole or in part, between Developer and a Transferee so as to avoid later confusion regarding what obligations and rights have and have not been Transferred. Developer shall reimburse City for City's costs of coordination with the Developer and each potential Transferee, whether or not the coordination results in a Transfer. Where a ~~transfer~~ Transfer of a portion of the Property has been completed, Developer and said Transferee shall be jointly and severally liable and obligated to City to fulfill any duty or obligation under this Agreement (and under the other Approvals) where Developer and a Transferee do not agree as to which party is responsible (between Developer or a Transferee) for fulfilling or performing a duty or obligation under an Assignment and Assumption Agreement. Where a Transfer of a portion of the Property has been completed but City has not received an Assignment and Assumption Agreement that transfers a particular duty or obligation under this Agreement or under the other Approvals in question, then, notwithstanding the foregoing, City shall have the right to look to Developer (i.e., the assignor), and such Developer shall remain liable and obligated to City to fulfill those duties or obligations under this Agreement. The Assignment and Assumption Agreement shall be in recordable form, in substantially the form attached as **Exhibit L** (including the indemnifications, the agreement and covenant not to challenge the enforceability of this Agreement, and not to sue City for disputes between Developer and any Transferee) and any material changes to the attached form will be subject to the review and approval of the City Manager and City Attorney, not to be unreasonably withheld, conditioned or delayed. City shall administer the provisions of Section 10.1 and this Section 10.2 through the City Manager; provided, however that nothing shall preclude the City Manager from requesting the City Council's consent to any ~~transfer~~ Transfer that requires City's consent as expressly set forth in this Agreement.

10.3 **Release of Liability.** Except as otherwise provided in Section 10.2 above, upon recordation of any Assignment and Assumption Agreement (following City's approval of any material changes thereto), the assignor shall be released from any prospective liability or obligation under this Agreement related to the Transferred Property, except for obligations retained by the assignor as specified in the Assignment and Assumption Agreement, and the assignee/Transferee

shall be deemed to be "Developer" under this Agreement with all rights and obligations related thereto with respect to the Transferred Property. If a Transferee Defaults under this Agreement, such default shall not constitute a Default by the assignor Developer or any other Transferee with respect to any other portion of the Property and shall not entitle City to terminate or modify this Agreement with respect to such other portion of the Property.

10.4 **Responsibility for Performance.** City is entitled to enforce each and every such obligation assumed by each Transferee directly against the Transferee as if the Transferee were an original signatory to this Agreement with respect to such obligation. Accordingly, in any action by City against a Transferee to enforce an obligation assumed by the Transferee, the Transferee shall not assert as a defense against City's enforcement of performance of such obligation that such obligation (i) is attributable to Developer's breach of any duty or obligation to the Transferee arising out of the Transfer or the Assignment and Assumption Agreement or any other agreement or transaction between Developer and the Transferee, including any obligation retained by Developer to provide land for Affordable Housing Sites or parks within the applicable Phase, or (ii) relates to the period before the Transfer. The foregoing notwithstanding, the Parties acknowledge and agree that a failure to Complete a Mitigation Measure, comply with the Affordable Housing Delivery Plan, and comply with the Parks Delivery Plan, may, if not Completed, delay or prevent another Transferee or Developer Party's ability to start or Complete a specific Building or improvement under this Agreement if and to the extent the Completion of the Mitigation Measure, the Affordable Housing, or Completion of the Parks and POPA Open Spaces is a condition to the other Party's right to proceed, as specifically described in the Mitigation Measure, the Approvals, the Affordable Housing Delivery Plan, the Parks Delivery Plan and/or Phasing Plan, and Developer and all Transferees assume this risk.

10.5 **Constructive Notice.** For so long as this Development Agreement is in effect (i) every person or entity who now or hereafter owns or acquires any right, title, or interest in or to any portion of the Property is, and shall be, constructively deemed to have consented to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property, and (ii) every person or entity who now or hereafter owns or acquires any right, title, or interest in or to any portion of the Property and undertakes any development activities at the Property, is, and shall be, constructively deemed to have consented and agreed to, and is obligated by all of the terms and conditions of this Agreement (as such terms and conditions apply to the Property or applicable portion thereof), whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

10.6 **Covenants Run with the Land.** For so long as this Development Agreement is in effect (i) all of the provisions, agreements, rights, powers, standards, terms, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation, or otherwise), and assigns, devisees, administrators, representatives, lessees, and all of the persons or entities acquiring the Property or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, including foreclosure or deed in lieu of foreclosure, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation, or otherwise), and assigns; (ii) all of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to Applicable Law, including, but not limited to, Section

1468 of the Civil Code of the State of California; and (iii) each covenant to do or refrain from doing some act on the Property hereunder, or with respect to any City-owned property: (a) is for the benefit of such properties and is a burden upon such property; (b) runs with such properties; (c) is binding upon each Party and each successive owner during its ownership of such properties or any portion thereof, and each person or entity having any interest therein derived in any manner through any owner of such properties, or any portion thereof; and (d) shall benefit each property hereunder, and each other person or entity succeeding to an interest in such properties.

10.7 **Notice of Completion, Revocation or Termination.** Upon any early revocation or termination of this Agreement (as to all or any part of the Property or Project) under the circumstances and in the manner permitted herein, the Parties agree to execute, if requested in writing by the other Party, a written statement acknowledging such revocation or termination in the form attached as **Exhibit P**, signed by the appropriate agents of City and Developer, and record such instrument in the Official Records. In addition, Developer shall have the right to terminate this Agreement (i) with respect to each Completed building(s) and the legal parcel on which such building(s) is located when one or more of the Project's buildings have received its or their Certificate of Occupancy and (ii) with respect to portions of the Property on which improvements other than buildings are to be constructed, and which constitute a separate legal parcel, when such improvements have been Completed and, if applicable, have received a Certificate of Occupancy, and, with respect to each of (i) and (ii), all of the Required Exactions, Community Benefits and Public Benefits, and any other obligations and requirements tied to the specific building(s) or legal parcel have been provided or otherwise satisfied, in accordance with this Agreement (and provided that any and all ongoing Developer or owner obligations, including but not limited to any Community Benefit and Public Benefit obligations, shall survive such termination and remain in full force and effect as required by the Approvals or this Agreement), by submitting a completed Notice of Completion to City that demonstrates the foregoing, as set forth in the checklist attached to such notice, and which identifies the Community Benefit, Public Benefit and other obligations, if any, that are ongoing and shall remain in full force and effect. Following any early revocation or termination of this Agreement, including a termination following Completion as set forth in this Section 10.7, the restrictions on Transfers shall no longer apply to the portion of the Project as to which this Agreement has been revoked or terminated. The completed checklist shall be consistent with (a) Developer's obligations under the Approvals, this Agreement, and the Subsequent Approvals for such building(s) or legal parcel(s), and (b) any written summary of such obligations that Developer submitted in connection with the most-recent annual review, if any, of such buildings or legal parcel pursuant to Section 8.1 of this Agreement. Subject to the foregoing and upon Developer's request, City and Developer shall execute and record a Notice of Completion and Termination substantially in the form attached as **Exhibit P** for the applicable property on which the buildings are located or for the applicable legal parcel on which other improvements or facilities have been constructed.

ARTICLE XI
MORTGAGE PROTECTION; CERTAIN RIGHTS OF CURE

11.1 **Mortgage Protection.** This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Agreement, including the lien of any deed of trust or mortgage ("**Mortgage**"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish, or impair the lien of any Mortgage made

in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("**Mortgagee**") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

11.2 **Mortgagee Not Obligated.** Notwithstanding the provisions of Section 11.1 above, no Mortgagee shall have any obligation or duty under this Agreement to construct or Complete the construction of improvements or to guarantee such construction or Completion; provided, however, a Mortgagee shall not be entitled pursuant to this Agreement to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement or otherwise under the Approvals.

11.3 **Notice of Default to Mortgagee.** If City receives a notice from a Mortgagee requesting a copy of any notice of default given to Developer hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Developer, any Notice of Breach given to Developer with respect to any claim by City that Developer has committed an event of default, and, if City makes a determination of noncompliance hereunder, City shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service thereon on Developer. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in City's Notice of Breach, plus additional time not to exceed one hundred fifty (150) days, as reasonably determined by the Community Development Director, to allow Mortgagee sufficient time to make the election to cure and thereafter prosecute such cure to completion. If a Mortgagee shall be required to obtain title or possession in order to cure any default or breach, then the time to cure shall be tolled so long as the Mortgagee is diligently attempting to obtain possession, including by appointment of a receiver or foreclosure, and provides City upon written request from time to time reasonable evidence of such diligent efforts; provided the tolling shall not exceed 180 days or such longer period as City may agree in its sole discretion. A delay or failure by City to provide such notice required by this Section shall extend, for the number of days until notice is given, the time allowed to the Mortgagee for cure, but shall not extend Developer's time to cure.

ARTICLE XII
GENERAL PROVISIONS

12.1 **Project is a Private Undertaking.** It is specifically understood and agreed by the Parties that the development contemplated by this Agreement is a private development, that City has no interest in or responsibility for or duty to third persons concerning any of said improvements, and that Developer shall have full power over and exclusive control of the Property herein described subject only to the limitations and obligations of Developer under this Agreement.

12.2 **Notices, Demands, and Communications between the Parties.** Whenever this Agreement requires or provides for a notice to be given, regardless of whether this Agreement describes such notice as "written notice", such notice shall be given in writing in accordance with this Section 12.2, unless this Agreement expressly provides for another form or manner of notice with respect to the particular notice. Formal written notices, demands, correspondence, and communications between City and Developer will be sufficiently given if dispatched by first-class

mail, postage prepaid, or overnight courier, to the offices of City and Developer indicated below. Such written notices, demands, correspondence, and communications may be sent in the same manner to such persons and addresses as either Party may from time to time designate by mail or courier as provided in this Section:

City:	City Manager's Office—City of Mountain View Attn: City Manager 500 Castro Street P.O. Box 7540 Mountain View, CA 94039-7540
With a copy to:	City Attorney's Office Attn: City Attorney City of Mountain View 500 Castro Street P.O. Box 7540 Mountain View, CA 94039-7540
And to:	Community Development Department Attn: Community Development Director City of Mountain View 500 Castro Street P.O. Box 7540 Mountain View, CA 94039-7540
And to:	Public Works Department Attn: Public Works Director City of Mountain View 500 Castro Street P.O. Box 7540 Mountain View, CA 94039-7540
Developer:	Google LLC Attn: DevCo North Bayshore Team Mountain View Real Estate Team 1600 Amphitheatre Parkway Mountain View, CA 94043
With a copy to:	Google LLC Attn: Legal Department/Real Estate Matters 1600 Amphitheatre Parkway Mountain View, CA 94043

Notices delivered by deposit in the United States mail as provided above shall be deemed to have been served two (2) Business Days after the date of deposit or if sent via overnight courier on the next Business Day.

12.3 **No Joint Venture or Partnership.** Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as making City and Developer joint venturers or partners.

12.4 **Severability.** Except as otherwise provided herein, if any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected and shall remain in full force and effect unless amended or modified by mutual consent of the Parties.

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

12.6 **Entire Agreement.** This Agreement, including the Recitals and the exhibits attached to this Agreement, each of which is incorporated herein by reference, constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof. The exhibits are listed in the Agreement Table of Contents.

12.7 **Estoppel Certificate.** Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party: (a) this Agreement is in full force and effect and a binding obligation of the Parties; (b) this Agreement has not been amended or modified orally or in writing, and, if so amended, identifying the amendments; (c) the requesting Party is not subject to an uncured breach or in default in the performance of its obligations under this Agreement, or if in breach or default, to describe therein the nature and amount of any such breaches or defaults; and (d) any other matter reasonably requested by the requesting Party, including the findings of City with respect to the most recent annual review performed pursuant to Section 8.1 of this Agreement. The requesting Party shall be responsible for all reasonable costs incurred by the Party from whom such certification is requested and shall reimburse such costs within thirty (30) days of receiving the certifying Party's request for reimbursement. The Party receiving a request hereunder shall execute and return such certificate, or give a written, detailed response explaining why it is not obligated to do so, within twenty (20) Business Days following the receipt thereof. Either the City Manager or the Community Development Director shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by Transferees, Mortgagees and investors in Developer.

12.8 **Statement of Intention.** 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 therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development and controlling the parties' agreement, it is the intent of City and Developer to hereby acknowledge and provide for the right of Developer to develop the Project in such order and at such rate and times as Developer deems appropriate within the exercise of its sole and subjective business judgment, subject to the terms of this Agreement (including without limitation phasing and timing requirements specified for Required Exactions, Community Benefits, Public Benefits, and public improvements). City acknowledges that such a right is consistent with the intent, purpose, and understanding of the Parties to this Agreement, and that without such a right, Developer's development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Statute and this Agreement.

12.9 **Indemnification and Hold Harmless.** Developer shall indemnify, defend (with counsel reasonably acceptable to City), and hold harmless City and its elected and appointed officials, boards, commissions, officers, employees, contractors, agents, and representatives (individually, a "**City Party**" and, collectively, "**City Parties**") from and against any and all third party liabilities, obligations, orders, claims, damages, fines, penalties, and expenses, including attorneys' fees and costs (collectively, "**Claims**"), including Claims for any bodily injury, death, or property damage, arising during the Term, directly or indirectly from the development, construction, or operation of the Project and, if applicable, from failure to comply with the terms of this Agreement, and/or from any other acts, omissions, negligence, or willful misconduct of Developer or any of Developer's employees, partners, members, shareholders, contractors, subcontractors, agents, or representatives (individually a "**Developer Party**" and collectively, "**Developer Parties**") under this Agreement; provided that (i) Developer's indemnity and hold harmless obligations in this Section 12.9 shall also include reasonable first party attorneys' fees and costs that may be incurred by City Parties in the defense of any third party Claims, and (ii) Developer's obligations in this Section 12.9 to indemnify and hold harmless the City Parties (but not Developer's duty to defend the City Parties) shall be limited (and shall not apply) to the extent such Claims are found to arise from the gross negligence or willful misconduct of a City Party. This Section 12.9 includes any and all present and future Claims arising out of or in any way connected with Developer's or its contractors' or ~~subcontractor's~~ subcontractors' obligations to comply with the requirements of the Prevailing Wage Laws, including any and all Claims that may be asserted by contractors, subcontractors, or other third-party claimants pursuant to California Labor Code Sections 1726 and 1781. Developer's obligations under this Section 12.9 with respect to any Claims accruing during the Term of this Agreement shall survive expiration or earlier termination of this Agreement.

12.10 **Defense and Cooperation in the Event of a Litigation Challenge.**

12.10.1 **Cooperation.** City and Developer shall cooperate in the defense of any claim, action, or court proceeding instituted by a third party or other governmental entity or official seeking to attack, set aside, void, annul, or otherwise challenge City's review, processing, consideration, and/or approval of this Agreement, the Approvals, or any related decision, including the processing or adoption of any environmental documents or determinations under CEQA, which relate to the Approvals, or challenging the validity of any provision of this Agreement or the Approvals ("**Litigation Challenge**"), and the Parties shall keep each other informed of all developments relating to such defense, subject only to confidentiality requirements that may prevent the communication of such information. Developer shall take the lead role defending such Litigation Challenge and may elect to be represented by the legal counsel of its choice, with the costs of such representation, including Developer's administrative, legal, and court costs, paid solely by Developer. City may elect to retain separate counsel to monitor Developer's defense of the Litigation Challenge at Developer's expense. City shall have the right to approve all significant decisions concerning the manner in which defense of the Litigation Challenge is conducted, and to approve any and all settlements, all such approvals not to be unreasonably withheld, conditioned or delayed. Per Government Code Section 66474.9, City shall promptly notify Developer of any proceeding thereunder. The Parties shall affirmatively cooperate in defending the Litigation Challenge and shall execute a joint defense and confidentiality agreement in order to share and protect information under the joint defense privilege recognized under Applicable Law.

12.10.2 **Indemnification.** Developer shall indemnify, defend, and hold harmless City Parties from any and all Claims, including cost awards and attorneys' fees awarded under Code of Civil Procedure Section 1021.5, assessed or awarded against City by way of judgment, settlement, or stipulation, and any costs, expenses, reasonable attorneys' fees, or expert witness fees that may be asserted or incurred by the City Parties, arising out of or in connection with a Litigation Challenge. Any proposed settlement of a Litigation Challenge shall be subject to City's and Developer's approval not to be unreasonably withheld, conditioned, or delayed. The City Attorney is hereby authorized to approve settlements on City's behalf; provided, however, if the terms of the proposed settlement would constitute an amendment or modification of this Agreement or any Approvals, then the settlement shall not become effective unless such amendment or modification is approved by City and Developer in accordance with Applicable Law, and City reserves its full legislative discretion with respect to any such City approval. If Developer elects not to contest or defend such Litigation Challenge, City shall have no obligation to do so, but Developer shall be liable for any costs or awards that may arise from resolving the Litigation Challenge in favor of the party bringing the Litigation Challenge, including, but not limited to, reasonable costs City incurs to void approval of this Agreement or the Approvals or take other action as resolution of the Litigation Challenge may direct. Developer shall reimburse City for its reasonable costs incurred in connection with the Litigation Challenge within thirty (30) days following City's written demand therefor, which may be made from time to time during the course of such litigation. Developer's obligations under this Section 12.10 shall survive expiration or earlier termination of this Agreement and shall remain in full force and effect throughout all stages of litigation, including appeals of any lower court judgements.

12.11 **Public Records Act Requests.** Developer shall promptly reimburse City for all costs and fees associated with City's response to Public Records Act requests related to this Agreement, the Project Approvals, the Property and the Project. City will confer with Developer prior to responding to any Public Records Act requests; provided, City will have full control and authority over its response. Notwithstanding the foregoing, to the extent that Developer in good faith believes that any financial materials reasonably requested by City constitutes a trade secret or confidential proprietary information protected from disclosure under the Public Records Act and other Applicable Laws, Developer shall mark any such materials as such. When a City official or employee receives a request for information that has been so marked or designated, City may request further evidence or explanation from Developer. If City determines, in its reasonable discretion, that the information does not constitute a trade secret or proprietary information protected from disclosure, City shall notify Developer of that conclusion and that the information will be released by a specified date in order to provide Developer an opportunity to obtain a court order prohibiting disclosure. If Developer fails to timely seek or obtain such a court order, City may thereafter release the information, in which case City shall have no liability to Developer or any other person with respect to such release.

12.12 **Recordation.** Promptly after the Effective Date of this Agreement, the City Clerk shall have this Agreement recorded in the Official Records. If the Parties to this Agreement or their successors in interest amend or cancel this Agreement or if City terminates or modifies this Agreement as hereinabove provided, the City Clerk shall record such amendment, cancellation, or termination instrument in the Official Records.

12.13 **No Waiver of Police Powers or Rights.** In no event shall this Agreement be construed to limit in any way City's rights, powers, or authority under the police power and other powers of City to regulate or take any action in the interest of the health, safety, and welfare of its citizens.

12.14 **City Representations and Warranties.** City represents and warrants to Developer that, as of the Effective Date:

12.14.1 City is a California charter city and municipal corporation and has all necessary powers under the laws of the State of California to enter into and perform the undertakings and obligations of City under this Agreement.

12.14.2 The execution and delivery of this Agreement and the performance of the obligations of City hereunder have been duly authorized by all necessary City Council action, and all necessary City approvals have been obtained.

12.14.3 This Agreement is a valid obligation of City and is enforceable in accordance with its terms.

During the Term of this Agreement, City shall, upon learning of any fact or condition which would cause of any of the warranties and representations in this Section 12.14 not to be true, immediately give written notice of such fact or condition to Developer.

12.15 **Developer Representations and Warranties.** Developer represents and warrants to City that, as of the Effective Date:

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

12.15.2 The execution and delivery of this Agreement and the performance of the obligations of Developer hereunder have been duly authorized by all necessary corporate action and all necessary corporate authorizations have been obtained.

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

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

During the Term of this Agreement, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 12.15 not to be true, immediately give written notice of such fact or condition to City.

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

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

12.18 **Time is of the Essence.** Time is of the essence of this Agreement and of each and every term and condition hereof. All references to time in this Agreement shall refer to the time in effect in the State of California.

12.19 **Venue.** Any legal action regarding this Agreement shall be brought in the Superior Court for Santa Clara County, California, except for actions that include claims in which the Federal District Court for the Northern District of the State of California has original jurisdiction, in which case the Northern District of the State of California shall be the proper venue.

12.20 **Surviving Provisions.** In the event this Agreement is terminated, neither Party shall have any further rights or obligations hereunder, except for those obligations of Developer which by their terms survive expiration or termination hereof, including, but not limited to, those obligations set forth in Sections 2.3, 3.7, 8.7, 10.7, 12.9, and 12.10, and in **Exhibit H** (POPA Open Space Terms).

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

[*Signatures on following page*]

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

"City":

CITY OF MOUNTAIN VIEW,
a California charter city and municipal corporation

By: _____
Kimbra McCarthy
City Manager
Notary acknowledgement required.

Attest: _____
Heather Glaser
City Clerk

APPROVED AS TO CONTENT:

_____
Name: Aarti Shrivastava
Assistant City Manager/Community Development Director

FINANCIAL APPROVAL:

_____
Name: Derek Rampone
Finance and Administrative Services Director

APPROVED AS TO FORM:

_____
Name: Jennifer Logue
City Attorney

"Developer":

GOOGLE, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____
Notary acknowledgement required.

_____
Taxpayer I.D. Number

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 20___ before me, _____,
(insert name of notary)
Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____ (Seal)

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 20___ before me, _____,
(insert name of notary)

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

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

WITNESS my hand and official seal.

Signature: _____ (Seal)

EXHIBIT A

Property Legal Description

NORTH BAYSHORE DEVELOPMENT AGREEMENT

TRACT ONE:

PARCEL ONE:

PARCEL A: (1804 N Shoreline Blvd, APN 116-10-077)

LOT 6, AS SHOWN ON THAT CERTAIN MAP ENTITLED MAP OF LOS ALAMOS ACRES, NORTH OF MOUNTAIN VIEW, SITUATED IN SECTIONS 9 AND 16, T. 6 S. R. 2 W., M.D.B. & M., WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON MARCH 19, 1929, IN BOOK X OF MAPS PAGE(S) 28 AND 29.

PARCEL B: (1764 N Shoreline Blvd, APN 116-10-078)

THE NORTHERLY 1⁄2, FRONT AND REAR MEASUREMENTS, OF LOT 7, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF LOS ALAMOS ACRES", WHICH SAID MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 19, 1929 IN BOOK "X" OF MAPS, PAGES 28 AND 29.

PARCEL C: (1758 N Shoreline Blvd, APN 116-10-079)

THE SOUTHERLY 1/2, FRONT AND REAR MEASUREMENTS OF LOT 7, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF LOS ALAMOS ACRES", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON MARCH 19, 1929 IN BOOK X OF MAPS, AT PAGES 28 AND 29.

PARCEL TWO:

PARCEL A: (1708 N Shoreline Blvd, APN 116-10-080)

PARCEL 1 AS SHOWN UPON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON MAY 21, 1980 IN BOOK 463 OF MAPS, PAGE 37.

PARCEL B:

A NONEXCLUSIVE EASEMENT FOR CONSTRUCTION, INSTALLATION, OPERATION, USE, INSPECTION, MAINTENANCE, REPAIR, REPLACEMENT, ALTERATION, RECONSTRUCTION AND REMOVAL OF AN UNDERGROUND PIPELINE AS GRANTED IN THAT CERTAIN GRANT OF EASEMENT (M4 GASLINE) RECORDED MARCH 16, 2006 AS INSTRUMENT NO. 18846393, OFFICIAL RECORDS.

PARCEL C:

A NONEXCLUSIVE EASEMENT FOR CONSTRUCTION, INSTALLATION, OPERATION, USE, MAINTENANCE, REPAIR, REPLACEMENT AND REMOVAL OF UNDERGROUND

LANDFILL GAS PIPELINES AS GRANTED IN THAT CERTAIN EASEMENT AGREEMENT RECORDED SEPTEMBER 8, 2005 AS INSTRUMENT NO. 18567119, OFFICIAL RECORDS.

PARCEL D:

A NONEXCLUSIVE EASEMENT FOR OPERATION, USE, MAINTENANCE, REPAIR, REPLACEMENT AND REMOVAL OF AN UNDERGROUND LANDFILL GAS PIPELINES AND ADJACENT COMMUNICATION PIPELINE AS GRANTED IN THAT CERTAIN EASEMENT AGREEMENT RECORDED MARCH 20, 2008 AS INSTRUMENT NO. 19784223, OFFICIAL RECORDS.

PARCEL E:

NON-EXCLUSIVE EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, OPERATION, USE, INSPECTION, MAINTENANCE, REPAIR, REPLACEMENT, ALTERATION, RECONSTRUCTION AND REMOVAL OF THE COMPRESSOR FACILITY AND PIPELINES AS GRANTED IN THAT CERTAIN EASEMENT AND ENCROACHMENT AGREEMENT BETWEEN THE CITY OF MOUNTAIN VIEW AND ALZA CORPORATION PERTAINING TO A PRIVATE LANDFILL GAS COMPRESSOR FACILITY AND PIPELINES FOR TRANSMISSION OF LANDFILL GAS RECORDED JULY 31, 2008 AS INSTRUMENT NO. 19941667, OFFICIAL RECORDS.

PARCEL THREE: (1890 N Shoreline Blvd, APN 116-10-084)

LOT 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "MAP OF LOS ALAMOS ACRES, NORTH OF MOUNTAIN VIEW, SITUATED IN SEC'S 9 AND 16, T. 6 S.R. 2 W., M.D.M", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON MARCH 19, 1929 IN BOOK "X" OF MAPS, AT PAGE(S) 28 AND 29.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE CITY OF MOUNTAIN VIEW BY DEED RECORDED ON FEBRUARY 25, 1981 IN BOOK F925 OF OFFICIAL RECORDS, PAGE 214, AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE MOST NORTHEASTERLY CORNER OF SAID LOT, SAID CORNER BEING ALSO THE POINT OF INTERSECTION OF THE CENTERLINE OF STIERLIN ROAD, WITH THE CENTERLINE OF CHARLESTON ROAD, AS SAID ROADS ARE SHOWN ON SAID MAP; THENCE ALONG THE EASTERLY LINE OF SAID LOT, BEING COMMON TO SAID CENTERLINE OF STIERLIN ROAD, SOUTH 122.93 FEET TO THE MOST SOUTHEASTERLY CORNER OF SAID LOT; THENCE LEAVING SAID COMMON LINE, ALONG THE SOUTHERLY LINE OF SAID LOT N. 86° 01‘ 00" W. 40.10 FEET TO A POINT IN A LINE THAT IS PARALLEL WITH AND 40.00 FEET WESTERLY MEASURED AT RIGHT ANGLES FROM SAID CENTERLINE; THENCE ALONG SAID PARALLEL LINE NORTH 74.21 FEET, THENCE ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 85° 02' 22" AN ARC LENGTH OF 29.68 FEET; THENCE N. 85° 02' 22" W. 297.08 FEET TO A POINT IN THE WESTERLY LINE OF SAID LOT, THENCE ALONG THE WESTERLY LINE OF SAID LOT, NORTH 25.06 FEET TO SAID CENTERLINE OF CHARLESTON ROAD, THENCE ALONG SAID

CENTERLINE BEING COMMON TO THE NORTHERLY LINE OF SAID LOT, S. 86° 00’ 16" E. 355.10 FEET TO THE POINT OF BEGINNING.

PARCEL FOUR: (1842 N Shoreline Blvd, APN 116-10-089)

PARCEL 1, AS DELINEATED UPON THAT CERTAIN MAP ENTITLED, "PARCEL MAP", FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON FEBRUARY 11, 1985 IN BOOK 539 OF MAPS AT PAGES 21 AND 22.

PARCEL FIVE: (1489 Charleston Rd, APN 116-10-107 and 1055 Joaquin Rd, APN 116-10-108)

BEING ALL OF LOT 26, AS SHOWN ON THE MAP ENTITLED "MAP OF LOS ALAMOS ACRES NORTH OF MOUNTAIN VIEW", FILED FOR RECORD IN BOOK X OF MAPS, AT PAGES 28 AND 29 SANTA CLARA COUNTY RECORDS AND ALL OF PARCEL 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP BEING ALL OF LOTS 21, 22, 23, 24, AND 27 AS SHOWN ON THAT CERTAIN MAP ENTITLED MAP OF LOS ALAMOS ACRES" FILED FOR RECORD IN BOOK 598 OF MAPS, AT PAGES 23 AND 24, SANTA CLARA COUNTY RECORDS, LOCATED IN CITY OF MOUNTAIN VIEW, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND AS SHOWN AND DELINEATED ON THAT CERTAIN NOTICE OF LOT LINE ADJUSTMENT RECORDED SEPTEMBER 20, 2007 AS INSTRUMENT NO. 19591793, OFFICIAL RECORDS OF SANTA CLARA COUNTY.

TRACT TWO:

PARCEL ONE: (1500 Plymouth St. & 1550 Plymouth St., APN 116-10-095) (CHANGED FROM PARCEL I)

PARCEL A, AS SHOWN ON THAT PARCEL MAP FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON JANUARY 21, 1987, IN BOOK 570 OF MAPS, PAGES 32 AND 33.

PARCEL TWO:

PARCEL A: (1565 Charleston Rd. & 1585 Charleston Rd, APN 116-10-102)

PARCEL ONE AS SHOWN ON THAT CERTAIN MAP ENTITLED "PARCEL MAP BEING A RESUBDIVISION OF ALL OF PARCEL "A" OF PARCEL MAP, IN BOOK 557 OF MAPS, PAGES 1 AND 2, AND LYING WITHIN THE CITY OF MOUNTAIN VIEW, CALIFORNIA," WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON JULY 22, 1991, IN BOOK 628 OF MAPS, PAGES 45 TO 46, INCLUSIVE.

PARCEL B:

EASEMENTS FOR VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS AS CONTAINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CHARLESTON PLACE DATED JULY 19, 1991 EXECUTED BY CHARLESTON PLACE ASSOCIATES, A CALIFORNIA GENERAL PARTNERSHIP RECORDED JULY 22, 1991 IN BOOK L797, PAGE 22, INSTRUMENT NO. 10989807, OFFICIAL RECORDS.

PARCEL THREE:

PARCEL A: (1545 Charleston Rd, APN 116-10-105)

PARCEL TWO AS SHOWN ON THAT CERTAIN MAP ENTITLED "PARCEL MAP BEING A RESUBDIVISION OF ALL OF PARCEL "A" OF PARCEL MAP, IN BOOK 557 OF MAPS, PAGES 1 AND 2, AND LYING WITHIN THE CITY OF MOUNTAIN VIEW, CALIFORNIA," WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON JULY 22, 1991, IN BOOK 628 OF MAPS, PAGES 45 TO 46, INCLUSIVE.

PARCEL B:

EASEMENTS FOR VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS AS CONTAINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CHARLESTON PLACE DATED JULY 19, 1991 EXECUTED BY CHARLESTON PLACE ASSOCIATES, A CALIFORNIA GENERAL PARTNERSHIP RECORDED JULY 22, 1991 IN BOOK L797, PAGE 22, INSTRUMENT NO. 10989807, OFFICIAL RECORDS.

PARCEL FOUR:

PARCEL A: (1010 Joaquin Rd, APN 116-10-104)

PARCEL THREE AS SHOWN ON A PARCEL MAP RECORDED JULY 22, 1991 IN BOOK 628, PAGE 45 OF MAPS, RECORDS OF SANTA CLARA COUNTY.

PARCEL B:

NON-EXCLUSIVE EASEMENTS GRANTED IN THE DEED RECORDED JULY 22, 1991 IN BOOK L797, PAGE 105, AS FURTHER DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED JULY 22, 1991 IN BOOK L797, PAGE 22, BOTH OF OFFICIAL RECORDS.

PARCEL C:

NON-EXCLUSIVE EASEMENT CREATED IN THE DOCUMENT RECORDED JULY 22, 1991 IN BOOK L797, PAGE 111, FOR INSTALLING, MAINTAINING, REPAIRING AND REPLACING UNDER GROUND CONDUITS AND CABLES ON, OVER, UNDER AND ACROSS THE LAND DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT CERTAIN PARCEL SHOWN AS "PARCEL A" ON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN BOOK 557 OF MAPS AT PAGE 2, SANTA CLARA COUNTY RECORDS AND LYING WITHIN THE CITY OF MOUNTAIN VIEW, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID "PARCEL A" AND THE EASTERLY RIGHT-OF-WAY LINE OF HUFF AVENUE AS SHOWN ON SAID MAP; THENCE LEAVING SAID POINT OF BEGINNING ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTH 0° 17' 32" EAST 2.51 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID TRUE POINT OF BEGINNING AND CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTH 0° 17' 32" EAST 2.51 FEET; THENCE LEAVING SAID

EASTERLY RIGHT-OF-WAY LINE SOUTH 85° 44' 13" EAST 18.17 FEET; THENCE SOUTH 4° 15' 47" WEST 2.50 FEET; THENCE SOUTH 85° 44' 13" EAST 36.63 FEET TO THE BACK OF AN EXISTING CONCRETE CURB; THENCE ALONG THE BACK OF SAID CONCRETE CURB AND ITS EXTENSIONS THEREOF THE FOLLOWING COURSES AND DISTANCES: SOUTH 0° 17' 32" WEST 0.47 FEET AND SOUTH 89° 42' 28" EAST 136.79 FEET; THENCE LEAVING SAID EXTENSION SOUTH 0° 17' 32" WEST 2.50 FEET; THENCE NORTH 89° 42' 28" WEST 130.16 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF SAID "PARCEL A"; THENCE ALONG SAID SOUTHERLY BOUNDARY LINE NORTH 85° 44' 13" WEST 48.45 FEET; THENCE LEAVING SAID SOUTHERLY BOUNDARY LINE AT RIGHT ANGLES NORTH 4° 15' 47" EAST 2.50 FEET; THENCE SOUTH 85° 44' 13" EAST 13.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL D:

NON-EXCLUSIVE EASEMENT CREATED IN THE DOCUMENT RECORDED JULY 26, 1991 IN BOOK L802, PAGE 262, FOR PEDESTRIAN ACCESS ON, OVER AND ACROSS THE LAND DESCRIBED AS FOLLOWS: BEING A PORTION OF THAT CERTAIN PARCEL SHOWN AS "PARCEL A" ON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN BOOK 557 OF MAPS AT PAGE 2, SANTA CLARA COUNTY RECORDS AND LYING WITHIN THE CITY OF MOUNTAIN VIEW, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID "PARCEL A" AND THE EASTERLY RIGHT-OF-WAY LINE OF HUFF AVENUE AS SHOWN ON SAID MAP; THENCE LEAVING SAID POINT OF BEGINNING ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTH 0° 17' 32" EAST 10.02 FEET; THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE SOUTH 85° 44' 13" EAST 54.63 FEET TO THE BACK OF AN EXISTING CONCRETE CURB; THENCE ALONG THE BACK OF SAID CONCRETE CURB AND ITS EXTENSIONS THEREOF THE FOLLOWING COURSES AND DISTANCES: SOUTH 0° 17' 32" WEST 7.98 FEET AND SOUTH 89° 42' 28" EAST 136.79 FEET; THENCE LEAVING SAID BACK OF CURB LINE SOUTH 0° 17' 32" WEST 11.54 FEET TO SAID SOUTHERLY LINE OF "PARCEL A"; THENCE ALONG SAID SOUTHERLY LINE OF "PARCEL A" NORTH 85° 44' 13" WEST 191.76 FEET TO THE POINT OF BEGINNING.

PARCEL E:

A NON-EXCLUSIVE EASEMENT FOR INSTALLATION, MAINTENANCE, REPAIR AND REPLACEMENT OF UNDERGROUND CONDUITS AND CABLES AS GRANTED IN THAT CERTAIN COMMUNICATIONS EASEMENT AGREEMENT RECORDED JULY 22, 1991 IN BOOK L797, PAGE 127, OFFICIAL RECORDS.

TRACT THREE:

PARCEL ONE: (1201, 1345, 1355, & 1365 Shorebird Way, APN 116-11-038)

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF MOUNTAIN VIEW, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING ALL OF LOTS 1 & 2 AS SHOWN ON THE PARCEL MAP FILED IN BOOK 510 OF MAPS, PAGES 43-44, AND ALL OF

PARCEL A AS SHOWN ON THE PARCEL MAP FILED IN BOOK 459 OF MAPS, PAGES 54-55, SANTA CLARA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1, SAID POINT BEING ON THE SOUTH LINE OF SHOREBIRD WAY AS SHOWN ON SAID PARCEL MAP, THENCE EAST, A DISTANCE OF 699.49 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 90.00 FEET, THROUGH A CENTRAL ANGLE OF 92° 50' 26", AN ARC DISTANCE OF 145.83 FEET TO THE WEST LINE OF SAID PARCEL A; THENCE NORTH 02° 50' 26" WEST, A DISTANCE OF 167.57 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 465.00 FEET, THROUGH A CENTRAL ANGLE OF 26° 20' 27", AN ARC DISTANCE OF 213.77 FEET; THENCE NORTH 23° 30' 00" EAST, A DISTANCE OF 26.54 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 86° 02' 47", AN ARC DISTANCE OF 30.04 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1,129.00 FEET, THROUGH A CENTRAL ANGLE OF 19° 53' 22", AN ARC DISTANCE OF 391.92 FEET; THENCE NORTH 89° 39' 26" EAST, A DISTANCE OF 7.55 FEET TO THE NORTHEAST CORNER OF SAID PARCEL A; THENCE SOUTH 00° 20' 34" EAST, A DISTANCE OF 859.64 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTH 89° 33' 08" WEST, A DISTANCE OF 1,249.45 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 00° 20' 34" WEST, A DISTANCE OF 409.37 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL RIGHTS TO MINERALS, GAS, OIL, TARS, HYDROCARBON AND METALLIFEROUS SUBSTANCES OF EVERY KIND, TO THE EXTENT THAT SAID RIGHTS CURRENTLY VEST IN GRANTOR, TOGETHER WITH THE RIGHT TO DRILL OR MINE FOR THE SAME, WITHOUT, HOWEVER, THE RIGHT TO DRILL OR MINE THROUGH THE SURFACE OF THE UPPER 500 FEET OF THE SUBSURFACE OF SAID LAND, AS RESERVED TO THE NEWHALL LAND AND FARMING COMPANY, A CALIFORNIA CORPORATION, BY DEED RECORDED JUNE 01, 1979 IN BOOK E535, PAGE 168, OFFICIAL RECORDS. TITLE TO CERTAIN SUCH RIGHTS RESERVED WERE TRANSFERRED TO NEWHALL RESOURCES, A CALIFORNIA LIMITED PARTNERSHIP, BY MINERAL DEED RECORDED MARCH 22, 1983 IN BOOK H417, PAGE 631, OFFICIAL RECORDS, AND SUBSEQUENTLY TO THE NEWHALL LAND AND FARMING COMPANY, A CALIFORNIA LIMITED PARTNERSHIP, BY CONVEYANCE AND ASSIGNMENT RECORDED FEBRUARY 02, 1989 IN BOOK K838, PAGE 977 AND MARCH 02, 1989 IN BOOK K865, PAGE 1105, AND ASSIGNMENT AND ASSUMPTION RECORDED MARCH 02, 1989 IN BOOK K865, PAGE 1107, OFFICIAL RECORDS.

PARCEL TWO: (1380 Shorebird Way, APN 116-11-024)

LOT 3, SO DESIGNATED AND DELINEATED ON THE MAP OF TRACT NO. 7033 RECORDED FEBRUARY 25, 1981 IN BOOK 479 OF MAPS, PAGES 45 AND 46, SANTA CLARA COUNTY RECORDS. EXCEPTING THEREFROM ALL RIGHTS TO MINERALS, GAS, OIL, TARS, HYDROCARBON AND METALLIFEROUS SUBSTANCES OF EVERY KIND, TO THE EXTENT THAT SAID RIGHTS CURRENTLY VEST IN GRANTOR, TOGETHER WITH THE RIGHT TO

DRILL OR MINE FOR THE SAME, WITHOUT, HOWEVER, THE RIGHT TO DRILL OR MINE THROUGH THE SURFACE OF THE UPPER 500 FEET OF THE SUBSURFACE OF SAID LAND, AS RESERVED TO THE NEWHALL LAND AND FARMING COMPANY, A CALIFORNIA CORPORATION, BY DEED RECORDED JUNE 1, 1979 IN BOOK E535, PAGE 168, OFFICIAL RECORDS. TITLE TO CERTAIN SUCH RIGHTS RESERVED WERE TRANSFERRED TO NEWHALL RESOURCES, A CALIFORNIA LIMITED PARTNERSHIP, BY MINERAL DEED RECORDED MARCH 22, 1983 IN BOOK H417, PAGE 631, OFFICIAL RECORDS, AND SUBSEQUENTLY TO THE NEWHALL LAND AND FARMING COMPANY, A CALIFORNIA LIMITED PARTNERSHIP, BY CONVEYANCE AND ASSIGNMENT RECORDED FEBRUARY 2, 1989 IN BOOK K838, PAGE 977 AND MARCH 2, 1989 IN BOOK K865, PAGE 1105, AND ASSIGNMENT AND ASSUMPTION RECORDED MARCH 2, 1989 IN BOOK K865, PAGE 1107, OFFICIAL RECORDS.

PARCEL THREE: (1385 Charleston Rd, APN 116-11-039)

LOT 1, SO DESIGNATED AND DELINEATED ON THE MAP OF TRACT NO. 7033 RECORDED FEBRUARY 25, 1981 IN BOOK 479 OF MAPS, PAGES 45 AND 46, SANTA CLARA COUNTY RECORDS.

PARCEL FOUR: (1393 Shorebird Way, APN 116-11-021)

LOT 4, SO DESIGNATED AND DELINEATED ON THE MAP OF TRACT NO. 7033 RECORDED FEBRUARY 25, 1981 IN BOOK 479 OF MAPS, PAGES 45 AND 46, SANTA CLARA COUNTY RECORDS.

PARCEL FIVE: (1383 Shorebird Way, APN 116-11-022) (1371 & 1375 Shorebird Way, APN 116-11-028)

LOT "B", SO DESIGNATED AND DELINEATED ON THE PARCEL MAP RECORDED APRIL 07, 1982 IN BOOK 498 OF MAPS, PAGES 36 AND 37, SANTA CLARA COUNTY RECORDS.

PARCEL SIX: (1215, 1230, 1245, 1295, 1310, & 1350 Charleston Rd, APN 116-11-030)

LOT "A", SO DESIGNATED AND DELINEATED ON THE PARCEL MAP RECORDED APRIL 7, 1982 IN BOOK 498 OF MAPS, PAGES 36 AND 37, SANTA CLARA COUNTY RECORDS.

EXCEPTING THEREFROM ALL RIGHTS TO MINERALS, GAS, OIL, TARS, HYDROCARBON AND METALLIFEROUS SUBSTANCES OF EVERY KIND, TO THE EXTENT THAT SAID RIGHTS CURRENTLY VEST IN GRANTOR, TOGETHER WITH THE RIGHT TO DRILL OR MINE FOR THE SAME, WITHOUT, HOWEVER, THE RIGHT TO DRILL OR MINE THROUGH THE SURFACE OF THE UPPER 500 FEET OF THE SUBSURFACE OF SAID LAND, AS RESERVED TO THE NEWHALL LAND AND FARMING COMPANY, A CALIFORNIA CORPORATION, BY DEED RECORDED JUNE 1, 1979 IN BOOK E535, PAGE 168, OFFICIAL RECORDS. TITLE TO CERTAIN SUCH RIGHTS RESERVED WERE TRANSFERRED TO NEWHALL RESOURCES, A CALIFORNIA LIMITED PARTNERSHIP, BY MINERAL DEED RECORDED MARCH 22, 1983 IN BOOK H417, PAGE 631, OFFICIAL RECORDS, AND SUBSEQUENTLY TO THE NEWHALL LAND AND FARMING COMPANY, A CALIFORNIA LIMITED PARTNERSHIP, BY CONVEYANCE AND ASSIGNMENT RECORDED FEBRUARY

2, 1989 IN BOOK K838, PAGE 977 AND MARCH 2, 1989 IN BOOK K865, PAGE 1105, AND ASSIGNMENT AND ASSUMPTION RECORDED MARCH 2, 1989 IN BOOK K865, PAGE 1107, OFFICIAL RECORDS.

PARCEL SIX-A:

EASEMENTS AND RIGHTS AS GRANTED IN THAT CERTAIN INSTRUMENT ENTITLED "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE SHORELINE BUSINESS PARK REGARDING DRAINAGE FACILITIES" RECORDED JUNE 1, 1979, AS BOOK E535 PAGE 186, OFFICIAL RECORDS, AS AMENDED BY THAT CERTAIN AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE SHORELINE BUSINESS PARK RECORDED JULY 27, 2000 AS INSTRUMENT NO. 15332963, OFFICIAL RECORDS.

PARCEL SIX-B:

EASEMENTS AND RIGHTS AS GRANTED IN THAT CERTAIN INSTRUMENT ENTITLED "RECIPROCAL UTILITY LINE EASEMENT AGREEMENT" RECORDED JULY 27, 2000 AS INSTRUMENT NO. 15332973, OFFICIAL RECORDS.

PARCEL SEVEN: (1390 Shorebird Way, APN 116-11-025)

LOT 2, AS DESIGNATED AND DELINEATED ON THE MAP OF TRACT NO. 7033 RECORDED FEBRUARY 25, 1981 IN BOOK 479 OF MAPS, PAGES 45 AND 46, SANTA CLARA COUNTY RECORDS. EXCEPTING THEREFROM ALL RIGHTS, MINERALS, OIL, GAS, TARS, HYDROCARBON AND METALLIFEROUS SUBSTANCES OF EVERY KIND, TOGETHER WITH THE RIGHT TO DRILL OR MINE FOR SAME, WITHOUT HOWEVER, THE RIGHT TO DRILL OR MINE THROUGH THE SURFACE OF THE UPPER 500 FEET OF THE SUBSURFACE OF SAID LAND, AS RESERVED IN THAT CERTAIN GRANT DEED FROM NEWHALL LAND AND FARMING COMPANY TO NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, RECORDED JUNE 1, 1979 IN BOOK E535, OFFICIAL RECORDS, PAGE 168.

PARCEL SEVEN-A:

TOGETHER WITH A NON-EXCLUSIVE RIGHT AND EASEMENT TO USE THE COMMON AREAS, DRAINAGE EASEMENTS, UTILITY FACILITIES AND UTILITY LINE EASEMENTS, ALONG WITH RIGHTS OF INGRESS AND EGRESS TO AND FROM SAID EASEMENTS, AS SUCH TERMS ARE DEFINED IN AND SAID EASEMENTS CREATED BY THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE SHORELINE BUSINESS PARK REGARDING DRAINAGE FACILITIES, RECORDED JUNE 1, 1979 IN BOOK E535, AT PAGE 186, AS DOCUMENT NO. 6390798, OF SANTA CLARA COUNTY OFFICIAL RECORDS, AND AS AMENDED BY THAT CERTAIN AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE SHORELINE BUSINESS PARK, RECORDED JULY 27, 2000 IN THE OFFICIAL RECORDS OF SANTA CLARA COUNTY, AS DOCUMENT NO. 15332963.

TRACT FOUR:

PARCEL ONE: (1340 Space Park Way & 1675 N Shoreline Blvd, APN 116-14-066)

A PORTION OF LOT 7, AS SHOWN ON THE MAP OF LOS ALAMOS, RECORDED APRIL 1, 1912 IN BOOK N PAGE 91 OF MAPS, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT AN IRON PIPE SET ON THE NORTHERLY LINE OF SAID LOT 7, DISTANT THEREON SOUTH 89° 34' EAST 40.00 FEET FROM THE NORTHWESTERLY CORNER THEREOF IN THE CENTERLINE OF STIERLIN ROAD (50.00 FEET IN WIDTH); THENCE FROM SAID POINT OF BEGINNING SOUTH 89° 34' EAST ALONG SAID NORTHERLY LINE OF LOT 7, FOR A DISTANCE OF 452.50 FEET; THENCE AT RIGHT ANGLES SOUTH 0° 26' WEST 135.00 FEET; THENCE AT RIGHT ANGLES NORTH 89° 34' WEST AND PARALLEL WITH SAID NORTHERLY LINE OF LOT 7, FOR A DISTANCE OF 431.63 FEET; THENCE WESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, TANGENT TO THE PRECEDING COURSE, WITH A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 89° 34' FOR AN ARC DISTANCE OF 31.27 FEET; THENCE NORTH AND PARALLEL WITH SAID CENTERLINE OF STIERLIN ROAD 115.16 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

AN EASEMENT FOR THE INSTALLATION, MAINTENANCE, OPERATION, REPAIR AND REPLACEMENT OF PUBLIC UTILITIES AND SANITARY SEWERS OVER A STRIP OF LAND 10 FEET IN WIDTH THE NORTHERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 7 IN THE CENTERLINE OF STIERLIN ROAD (50 FEET IN WIDTH), AS SHOWN ON THE MAP ABOVE REFERRED TO; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 7, SOUTH 89° 34' EAST 492.50 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE FROM SAID TRUE POINT OF BEGINNING CONTINUING ALONG SAID NORTHERLY LINE OF LOT 7, SOUTH 89° 34' EAST 867.50 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 7.

PARCEL THREE: (1300 Space Park Way, APN 116-14-072)

PORTION OF LOT 7, AS SHOWN ON THE MAP OF LOS ALAMOS, RECORDED APRIL 1, 1912 IN BOOK N, PAGE 91 OF MAPS, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF LOT 7, AS SHOWN ON THE MAP ABOVE REFERRED TO, WITH THE WESTERLY LINE OF PARCEL ONE, AS DESCRIBED IN THE DEED FROM W.R. MCILVAINE, ET UX, TO JACOBSEN ENTERPRISES, RECORDED JUNE 11, 1964 IN BOOK 6538, PAGE 700 OF OFFICIAL RECORDS; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 7, SOUTH 89° 34' EAST 307.70 FEET TO A POINT THEREON; THENCE LEAVING LAST SAID LINE AND PARALLEL WITH THE WESTERLY LINE OF SAID PARCEL ONE, ABOVE REFERRED TO, SOUTH 0° 26' WEST 130.00 FEET TO A POINT ON THE NORTHERLY LINE OF THAT CERTAIN 5.00 FOOT STRIP OF LAND DESCRIBED IN THE INSTRUMENT TO THE CITY OF MOUNTAIN VIEW, A MUNICIPAL CORPORATION, RECORDED APRIL 8, 1964 IN BOOK 6454, PAGE 217 OF OFFICIAL RECORDS; THENCE ALONG THE NORTHERLY LINE OF LAST SAID 5.00 FOOT STRIP OF LAND, NORTH 89° 34' WEST 307.70 FEET TO A POINT ON THE WESTERLY LINE

OF THE ABOVE REFERRED TO PARCEL ONE; THENCE ALONG LAST SAID WESTERLY LINE, NORTH 0° EAST 130.00 FEET TO THE POINT OF BEGINNING.

PARCEL FOUR:

AN EASEMENT FOR THE INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF PUBLIC UTILITIES AND SANITARY SEWERS, OVER A STRIP OF LAND 10 FEET IN WIDTH THE NORTHERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 7 IN THE CENTERLINE OF STIERLIN ROAD (50 FEET IN WIDTH), AS SHOWN ON THE MAP HEREINABOVE REFERRED TO;

THENCE ALONG THE NORTHERLY LINE OF LOT 7, SOUTH 89° 34' EAST 1,360.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 7.

EXCEPTING FROM PARCEL FOUR ABOVE ALL THAT PORTION THEREOF LYING WITH THE BOUNDS OF PARCEL THREE.

TRACT FIVE:

PARCEL ONE: (1015 Joaquin Rd, APN 116-10-111)

ALL OF LOT 1, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON OCTOBER 30, 1986 IN BOOK 566 OF MAPS, AT PAGE 36. EXCEPTING THEREFROM, ALL THAT PORTION GRANTED TO THE CITY OF MOUNTAIN VIEW, A CALIFORNIA CHARTER CITY AND MUNICIPAL CORPORATION BY DEED RECORDED AUGUST 26, 2021 AS INSTRUMENT NO. 25078800 OF OFFICIAL RECORDS.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR THE INSTALLATION, MAINTENANCE, REPAIR AND REPLACEMENT OF UNDERGROUND CONDUITS AND CABLES AS GRANTED IN THAT CERTAIN EASEMENT AGREEMENT RECORDED JULY 22, 1991 AS INSTRUMENT NO. 10989813, OFFICIAL RECORDS.

PARCEL THREE:

A NON-EXCLUSIVE EASEMENT FOR THE INSTALLATION, MAINTENANCE, REPAIR AND REPLACEMENT OF UNDERGROUND CONDUITS AND CABLES AS GRANTED IN THAT CERTAIN COMMUNICATIONS EASEMENT AGREEMENT RECORDED JULY 22, 1991 AS INSTRUMENT NO. 10989814, OFFICIAL RECORDS.

PARCEL FOUR:

A NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN ACCESS AS GRANTED IN THAT CERTAIN ACCESS EASEMENT AGREEMENT RECORDED JULY 26, 1991 AS INSTRUMENT NO. 10994806, OFFICIAL RECORDS.

PARCEL FIVE:

A NON-EXCLUSIVE EASEMENT FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF AN UNDERGROUND GAS PIPELINE SYSTEM AS GRANTED IN THAT CERTAIN EASEMENT AGREEMENT RECORDED SEPTEMBER 08, 2005 AS INSTRUMENT NO. 18567119, OFFICIAL RECORDS.

PARCEL SIX:

A NON-EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF AN UNDERGROUND GAS PIPELINE AS GRANTED IN THAT CERTAIN EASEMENT AGREEMENT [M-4 GAS LINE] RECORDED MARCH 16, 2006 AS INSTRUMENT NO. 18846393, OFFICIAL RECORDS.

TRACT SIX: (1200, 1210, 1220, & 1230 Charleston Rd, APN 116-11-012)

LOT 3 OF TRACT NO. 6621 AS SHOWN ON THE MAP RECORDED MAY 30, 1979 IN BOOK 442 OF MAPS, AT PAGES 31 AND 32, SANTA CLARA COUNTY RECORDS. EXCEPTING THEREFROM ALL RIGHTS, TO MINERALS, OIL, GAS, TARS, HYDROCARBON AND METALLIFEROUS SUBSTANCES OF EVERY KIND, TOGETHER WITH THE RIGHT TO DRILL OR MINE FOR SAME, WITHOUT HOWEVER, THE RIGHT TO DRILL OR MINE THROUGH THE SURFACE OF THE UPPER 500 FEET OF THE SUBSURFACE OF SAID LAND, AS RESERVED IN THAT CERTAIN GRANT DEED FROM NEWHALL LAND AND FARMING COMPANY TO NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, RECORDED JUNE 1, 1979 IN BOOK E535, OFFICIAL RECORDS, PAGE 168.

TRACT SEVEN:

PARCEL ONE: (1250 Space Park Way, APN 116-144-070)

PORTION OF LOT 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED MAP OF LOS ALAMOS, WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 1, 1912 IN BOOK "N" OF MAPS, PAGE 91, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTHERLY LINE OF LOT 7, AS SHOWN ON THE MAP ABOVE REFERRED TO, WITH THE WESTERLY LINE OF PARCEL ONE, AS DESCRIBED IN THE DEED FROM W.R. MCILVAINE, ET UX TO JACOBSEN ENTERPRISES DATED JUNE 9, 1964 RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON JUNE 11, 1964 IN BOOK 6538 OF OFFICIAL RECORDS, PAGE 700; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 7, S. 89° 34' E. 615.40 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE FROM SAID TRUE POINT OF BEGINNING AND LEAVING LAST SAID LINE AND PARALLEL WITH THE WESTERLY LINE OF SAID PARCEL ONE, S. 0° 26' NW. 130.00 FEET TO A POINT ON A NORTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE INSTRUMENT CONVEYED BY INSPIRATION DEVELOPMENT COMPANY, A NEVADA CORPORATION TO THE CITY OF MOUNTAIN VIEW, A MUNICIPAL CORPORATION, DATED JANUARY 21, 1964 RECORDED APRIL 8, 1964 IN BOOK 6454 OF OFFICIAL RECORDS, PAGE 212, SANTA CLARA COUNTY RECORDS; THENCE ALONG LAST SAID NORTHERLY LINE S. 89° 34' E. 210.41 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 7 ABOVE REFERRED TO; THENCE ALONG THE EASTERLY LINE OF SAID LOT 7, N.

0° 06' 10" W. 130.00 FEET TO THE NORTHEASTERLY CORNER THEREOF; THENCE ALONG THE NORTHERLY LINE THEREOF N. 89° 34' W. 209.19 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL TWO:

AN EASEMENT FOR PURPOSES OF INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF PUBLIC UTILITIES AND SANITARY SEWERS, AS CONVEYED IN THAT CERTAIN CORPORATION GRANT DEED RECORDED APRIL 26, 1965 AS INSTRUMENT NO. 2838083, IN BOOK 6933, PAGE 651 OF OFFICIAL RECORDS, IN, ALONG, OVER, UNDER AND THROUGH A STRIP OF LAND 10 FEET IN WIDTH, THE NORTHERLY LINE FROM WHICH IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 7 IN THE CENTER LINE OF STIERLING ROAD (50 FEET IN WIDTH) AS SHOWN ON THE MAP HEREINABOVE REFERRED TO; THENCE ALONG THE NORTHERLY LINE OF LOT 7, S. 89° 34' E. 1360.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 7. EXCEPTING THEREFROM ALL THAT PORTION THEREOF LYING WITHIN PARCEL ONE ABOVE.

PARCEL THREE:

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS, AS CONVEYED IN THAT CERTAIN GRANT OF EASEMENT RECORDED JUNE 1, 1994 AS INSTRUMENT NO. 12520689 IN BOOK N466, PAGE 0039 OF OFFICIAL RECORDS, OVER THE EASTERLY 20.00 FEET OF LAND DESCRIBED IN THE DEED FROM DAVID D. MILLER AND KARI D. MILLER TO TECHNOLOGY FOR COMMUNICATIONS INTERNATIONAL, RECORDED IN BOOK K326 OF OFFICIAL RECORDS AT PAGES 2179-2181 SANTA CLARA COUNTY RECORDS, MORE PRECISELY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SPACE PARK WAY, SAID POINT BEING THE SOUTHEAST CORNER OF THE ABOVE MENTIONED PARCEL; THENCE ALONG SAID LINE OF SPACE PARK WAY AND THE SOUTHERLY PROPERTY LINE OF SAID PARCEL, NORTH 89° 34' 00" WEST 20.00 FEET; THENCE ALONG A LINE PARALLEL WITH AND 20.00 FEET WESTERLY, MEASURED AT RIGHT ANGLES FROM THE EASTERLY LINE OF SAID PARCEL, NORTH 0° 26' 00" EAST 130.00 FEET TO THE NORTHERLY LINE OF SAID PARCEL; THENCE ALONG SAID NORTHERLY LINE SOUTH 89° 34' 00" EAST 20.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL SOUTH 0° 26' 00" EAST 130.00 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SPACE PARK WAY AND THE POINT OF BEGINNING.

SAID PARCEL BEING THE SAME AS CONVEYED IN THE GRANT DEED FROM THE CHURCH IN MOUNTAIN VIEW, A CALIFORNIA NON PROFIT CORPORATION TO SPACE PARK PROPERTIES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY RECORDED JULY 11, 2008 AS INSTRUMENT NO. 19915493 OF OFFICIAL RECORDS.

TRACT EIGHT: (1674 N Shoreline Blvd, APN 116-10-109)

ALL OF LOT 10 AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF LOS ALAMOS ACRES", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 19, 1929 IN BOOK X OF MAPS, PAGES 28 AND 29.

EXCEPTING THEREFROM THE FOLLOWING: ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF MOUNTAIN VIEW, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF LOT 10, AS SAID LOT IS SHOWN ON THE MAP OF LOS ALAMOS ACRES, RECORDED IN BOOK "X" OF MAPS, AT PAGES 28 AND 29, SANTA CLARA COUNTY RECORDS, AS CONVEYED BY THAT CERTAIN GRANT DEED DATED FEBRUARY 25, 1981 EXECUTED BY LORRAINE C. KIMES AND IN FAVOR OF THE CITY OF MOUNTAIN VIEW AND RECORDED MARCH 17, 1981 IN BOOK F963, PAGE 526 OF OFFICIAL RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A STRIP OF LAND 45.00 FEET IN WIDTH, THE EASTERLY LINE THEREOF LYING ALONG THE CENTERLINE OF STIERLIN ROAD, (NOW SHORELINE BOULEVARD) AS SAID ROAD IS SHOWN ON SAID MAP, THE SOUTHERLY TERMINUS OF SAID STRIP LYING ALONG THE SOUTHERLY LINE OF SAID LOT, AND THE NORTHERLY TERMINUS OF SAID STRIP LYING ALONG THE NORTHERLY LINE OF SAID LOT.

ALSO EXCEPTING THEREFROM, ALL THAT PORTION GRANTED TO THE CITY OF MOUNTAIN VIEW, A CALIFORNIA CHARTER CITY AND MUNICIPAL CORPORATION BY DEED RECORDED AUGUST 26, 2021 AS INSTRUMENT NO. 25078800 OF OFFICIAL RECORDS.

TRACT NINE:

PARCEL ONE: (1220 Pear Ave, APN 116-14-028)

LOT 10, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "MAP OF THE SUBDIVISION OF LOTS 4, 5 AND 6 OF LOS ALAMOS SITUATED IN THE NORTHWEST QUARTER OF SECTION 15 T. 6S. R. 2 W. FILED DECEMBER 6, 1927, IN BOOK "W" OF MAPS, AT PAGE 24, RECORDS OF SANTA CLARA COUNTY.

PARCEL TWO: (1230 Pear Ave, APN 116-14-095)

ALL OF LOT 9, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF THE SUBDIVISION OF LOTS 4, 5 AND 6 OF LOS ALAMOS", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON DECEMBER 6, 1927 IN BOOK W OF MAPS, AT PAGE 24.

TRACT TEN (1599 N Shoreline Blvd & 1601 N Shoreline Blvd, APN 116-14-058)

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 6, AS THE SAME IS LAID DOWN, DESIGNATED AND DELINEATED UPON THAT CERTAIN MAP OF LOS ALAMOS TRACT WHICH SAID MAP IS OF RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA IN BOOK "N" OF MAPS, PAGE 91, AND RUNNING THENCE S. 89o 34" E. ALONG THE NORTHERLY LINE OF SAID LOT 6, 427.42

FEET; THENCE SOUTH 217.83 FEET; THENCE N. 87o W. 428 FEET TO THE WESTERLY LINE OF SAID LOT 6; THENCE NORTH ALONG SAID LAST NAMED LINE, BEING ALSO THE ORIGINAL CENTER LINE OF STIERLIN ROAD 198.71 FEET TO THE POINT OF BEGINNING AND BEING A PART OF LOT 6, AS SHOWN UPON THE MAP HEREINABOVE REFERRED TO. ABOVE DESCRIBED PROPERTY ALSO DESCRIBED AS LOT 1, AS DESIGNATED ON THE MAP ENTITLED, "MAP OF THE SUBDIVISION OF LOTS 4, 5 AND 6 OF LOS ALAMOS", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON DECEMBER 6, 1927 IN BOOK "W" OF MAPS, PAGE 24.

TRACT ELEVEN:

PARCEL ONE: (1555 Plymouth St, APN 116-13-027)

ALL OF PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA ON OCTOBER 25, 1982 IN BOOK 505 OF MAPS, AT PAGES 37 AND 38.

PARCEL TWO:

A NON-EXCLUSIVE PRIVATE INGRESS AND EGRESS EASEMENT OVER THE EASTERLY 3 FEET OF PARCEL 3 OF THE ABOVE REFERRED TO PARCEL MAP.

PARCEL THREE:

A NON-EXCLUSIVE PRIVATE INGRESS AND EGRESS EASEMENT OVER THE EASTERLY 14 FEET OF THE SOUTHERLY 262 FEET OF PARCEL 2 OF THE ABOVE REFERRED TO PARCEL MAP.

TRACT TWELVE:

PARCEL ONE: (1400 N Shoreline Blvd, APN 116-13-034)

ALL OF PARCEL 3, AS SHOWN ON THAT RECORD OF SURVEY MAP, OF A PORTION OF THE NORTHEAST 1/4 OF SECTION 16 TOWNSHIP 6 SOUTH RANGE 2 WEST, MOUNT DIABLO BASE AND MERIDIAN WHICH MAP WAS FILED FOR RECORD ON FEBRUARY 07, 1962 IN BOOK 142 OF MAPS, PAGE 50.

PARCEL TWO:

THE RIGHT OF ACCESS TO STIERLIN ROAD OVER AND ACROSS THE COURSE SOUTH 88° 49' EAST 40 FEET, AS SAID COURSE IS SHOWN IN THE DEED FROM WILBUR L CAMP TO THE STATE OF CALIFORNIA, RECORDED AUGUST 15, 1958 IN BOOK 4150, PAGE 645, AS RESERVED IN THE ABOVE MENTIONED DEED.

TRACT THIRTEEN:

PARCEL ONE: (1400 N Shoreline Blvd, APN 116-13-037)

A PORTION OF STATE PARCEL 24344-1 GRANTED TO THE STATE OF CALIFORNIA BY WILBUR L. CAMP BY DEED RECORDED AUGUST 15, 1958 IN BOOK 4150, PAGE 645, OFFICIAL RECORDS OF SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE EAST LINE OF PARCEL 3 AS SHOWN ON THAT CERTAIN MAP FILED IN BOOK 142 OF MAPS, PAGE 50, SANTA CLARA COUNTY

RECORDS, SAID POINT BEING THE INTERSECTION OF THE NORTH LINE OF THE LANDS OF THE SATE OF CALIFORNIA, PARCEL 24344, WITH THE WESTERLY LINE OF NORTH SHORELINE BOULEVARD, THENCE SOUTH 5° 24' 44" WEST, A DISTANCE OF 207.21 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET THROUGH A CENTRAL ANGLE OF 53° 48' 23", AN ARC DISTANCE OF 46.95 FEET TO THE POINT OF BEGINNING; THENCE FROM THE POINT OF BEGINNING, SOUTH 08° 17' 07" WEST, A DISTANCE OF 42.44 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 60° 22' 56", AN ARC DISTANCE OF 52.70 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 270.38 FEET, THROUGH A CENTRAL ANGLE OF 40° 56' 03", AN ARC DISTANCE OF 193.17 FEET; THENCE SOUTH 27° 44' 00" WEST, A DISTANCE OF 126.89 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 68° 20' 08", AN ARC DISTANCE OF 59.63 FEET; THENCE NORTH 83° 55' 52" WEST, A DISTANCE OF 34.37 FEET; THENCE CONTINUING NORTH 83° 55' 52" WEST, A DISTANCE OF 70.86 FEET TO THE SOUTHEAST LINE OF SAID PARCEL 3; THENCE NORTHEASTERLY ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 101.00 FEET, FROM A RADIAL BEARING OF SOUTH 06° 04' 08" WEST, THROUGH A CENTRAL ANGLE OF 68° 20' 08", AN ARC DISTANCE OF 120.46 FEET; THENCE NORTH 27° 44' 00" EAST, A DISTANCE OF 118.34 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 336.00 FEET, THROUGH A CENTRAL ANGLE OF 49° 18' 38", AN ARC DISTANCE OF 289.17 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 17° 49' 31", AN ARC DISTANCE OF 15.56 FEET TO THE POINT OF BEGINNING.

PARCEL TWO: (1400 N Shoreline Blvd, APN 116-13-038)

A PORTION OF STATE PARCEL 24344-1 GRANTED TO THE STATE OF CALIFORNIA BY WILBUR L. CAMP BY DEED RECORDED AUGUST 15, 1958 IN BOOK 4150, PAGE 645, OFFICIAL RECORDS OF SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE EAST LINE OF PARCEL 3 AS SHOWN ON THAT CERTAIN MAP FILED IN BOOK 142 OF MAPS, PAGE 50, SANTA CLARA COUNTY RECORDS, SAID POINT BEING THE INTERSECTION OF THE NORTH LINE OF THE LANDS OF THE STATE OF CALIFORNIA, PARCEL 24344, WITH THE WESTERLY LINE OF NORTH SHORELINE BOULEVARD, THENCE SOUTH 5° 24' 44" WEST, A DISTANCE OF 207.21 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET THROUGH A CENTRAL ANGLE OF 53° 48' 23", AN ARC DISTANCE OF 46.95 FEET; THENCE SOUTH 08° 17' 07" WEST, A DISTANCE OF 42.44 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 59° 54' 18", AN ARC DISTANCE OF 52.28 FEET TO THE POINT OF BEGINNING; THENCE FROM THE POINT OF BEGINNING CONTINUING ALONG SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 00° 28' 38", AN ARC DISTANCE OF 0.42 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 270.38 FEET, THROUGH A CENTRAL ANGLE OF 40° 56' 03", AN ARC DISTANCE OF 193.17 FEET; THENCE SOUTH 27° 44' 00" WEST, A

DISTANCE OF 126.89 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 68° 20' 08", AN ARC DISTANCE OF 59.63 FEET; THENCE NORTH 83° 55' 52" WEST, A DISTANCE OF 34.37 FEET; THENCE SOUTH 69° 08' 05" EAST, A DISTANCE OF 39.06 FEET; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 170.00 FEET, THROUGH A CENTRAL ANGLE OF 103° 15' 12", AN ARC DISTANCE OF 306.36 FEET; THENCE NORTH 07° 36' 43" EAST, A DISTANCE OF 140.13 FEET TO THE POINT OF BEGINNING.

TRACT FOURTEEN:

PARCEL ONE: (1431 Plymouth St., APN 116-10-088)

LOT 13, AS SHOWN AND DELINEATED UPON THAT CERTAIN MAP ENTITLED, "MAP OF LOS ALAMOS ACRES, NORTH OF MOUNTAIN VIEW, SITUATED IN SEC'S. 9 & 16, T. 6 S. R. 2 W. M. D. M.", AND WHICH SAID MAP WAS FILED MARCH 19, 1929 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, IN VOLUME "X" OF MAPS, AT PAGES 28 AND 29. EXCEPTING THEREFROM THAT PORTION GRANTED TO THE CITY OF MOUNTAIN VIEW IN DOCUMENT RECORDED FEBRUARY 10, 1982 DOCUMENT NO. 7278181.

PARCEL TWO: (1477 Plymouth St, APN 116-10-101)

PARCEL 1 AS SHOWN ON THAT CERTAIN PARCEL MAP FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON DECEMBER 18, 1989 IN BOOK 608 OF MAPS, AT PAGE 20.

TRACT FIFTEEN:

PARCEL ONE: (1161 San Antonio Rd, APN 116-02-037)

COMMENCING AT A POINT IN THE WESTERLY LINE OF THE LANDS OF COASTWISE CONSTRUCTION COMPANY, AS CONVEYED TO SAID COASTWISE CONSTRUCTION COMPANY, BY DEED DATED MAY 23, 1952 AND RECORDED OCTOBER 6, 1952 IN BOOK 2499 OFFICIAL RECORDS, PAGE 644, DISTANT THEREON SOUTH 6° 00’ WEST 60 FEET FROM AN IRON PIPE SET AT THE POINT OF INTERSECTION OF SAID WESTERLY LINE WITH A SOUTHWESTERLY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED IN THE DEED FROM COASTWISE CONSTRUCTION COMPANY TO HERBERT KERTZ, ET UX, DATED APRIL 22, 1954 AND RECORDED APRIL 27, 1954 IN BOOK 2862 OF OFFICIAL RECORDS, PAGE 109; THENCE PARALLEL WITH SAID SOUTHWESTERLY LINE OF SAID LANDS SO CONVEYED TO KERTZ AND DISTANT SOUTHERLY AT RIGHT ANGLE 60 FEET THEREFROM SOUTH 84° 00’ EAST 80 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION, THENCE FROM SAID TRUE POINT OF BEGINNING, ALONG SAID PARALLEL LINE SOUTH 84° 00’ EAST 320.00 FEET, THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 20 FEET THROUGH A CENTRAL ANGLE OF 90° 00’ FOR AN ARC DISTANCE OF 31.42 FEET TO A POINT ON A LINE DRAWN PARALLEL WITH AND DISTANT 60 FEET WESTERLY AT RIGHT ANGLE FROM A WESTERLY LINE OF SAID PARCEL OF LAND SO DEEDED TO KERTZ; THENCE ALONG SAID LAST NAMED PARALLEL LINE SOUTH 6° 00’ WEST 79.43 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS

OF 594.60 FEET THROUGH A CENTRAL ANGLE OF 17° 10’ 26" FOR AN ARC DISTANCE OF 178.23 FEET TO A POINT ON A LINE DRAWN PARALLEL WITH AND DISTANT SOUTHERLY 335 FEET AT A RIGHT ANGLE FROM SAID SOUTHWESTERLY LINE OF THE LAND OF KERTZ HEREINABOVE REFERRED TO; THENCE ALONG SAID LAST NAMED PARALLEL LINE NORTH 84° 00’ WEST 386.51 FEET TO A POINT ON A LINE DRAWN PARALLEL WITH AND DISTANT EASTERLY 60 FEET AT A RIGHT ANGLE FROM SAID LANDS OF COASTWISE CONSTRUCTION COMPANY; THENCE ALONG SAID LAST NAMED PARALLEL LINE NORTH 6° 00’ EAST 255.00 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 20 FEET THROUGH A CENTRAL ANGLE OF 90° 00’ FOR AN ARC DISTANCE OF 31.42 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF THE RANCHO RINCON DE LA SAN FRANCISQUITO.

PARCEL TWO: (1157 San Antonio Rd, APN 116-02-083)

BEGINNING AT THE NORTHWESTERLY CORNER OF PARCEL 1, AS DESCRIBED IN THE TRUSTEE'S DEED FROM CONTINENTAL AUXILIARY COMPANY, A CORPORATION TO THE BANK OF AMERICA, NATIONAL TRUST AND SAVINGS ASSOCIATION, A NATIONAL BANKING ASSOCIATION, DATED FEBRUARY 9, 1968, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON FEBRUARY 13, 1968, IN BOOK 8024, OF OFFICIAL RECORDS, AT PAGE 136, ON THE EASTERLY LINE OF SAN ANTONIO ROAD; THENCE FROM SAID POINT OF BEGINNING AND ALONG THE NORTHERLY LINE OF SAID PARCEL 1, S. 84° 00' 00" E. 218.00 FEET TO A POINT; THENCE LEAVING LAST SAID LINE AND AT A RIGHT ANGLE THERETO, S. 6° 00' 00" W. TO A POINT ON THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE ALONG THE SOUTHERLY LINE OF PARCEL 1, N. 84° 00' 00" W. TO THE SOUTHEASTERLY CORNER OF PARCEL 2, AS DESCRIBED IN SAID DEED TO THE BANK OF AMERICA; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 2, N. 83° 07' 40" W. 106.92 FEET TO THE SOUTHWESTERLY CORNER THEREOF; THENCE ALONG THE SOUTHWESTERLY LIEN THEREOF, N. 53° 37' 40" W. 4.11 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT; THENCE ALONG LAST SAID CURVE WITH A RADIUS OF 80.00 FEET THROUGH A CENTRAL ANGLE OF 22° 43' 10" FOR AN ARC DISTANCE OF 31,.72 FEET TO A POINT ON THE EASTERLY LINE OF SAID SAN ANTONIO ROAD; THENCE ALONG THE EASTERLY LINE OF SAID SAN ANTONIO ROAD; N. 6" 52' 20" E. 62.31 FEET AND N. 6" 00' 00" E. 115.09 FEET TO THE POINT OF BEGINNING.

THE LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE APPROVING A CERTIFICATE OF COMPLIANCE NO. 18, AS INSTRUMENT NO. 21174939, OF OFFICIAL RECORDS.

PARCEL THREE: (2751 Marine Way, APN 116-02-084)

BEGINNING AT A POINT ON THE NORTHERLY LINE OF PARCEL 1, AS DESCRIBED IN TRUSTEE'S DEED FROM CONTINENTAL AUXILIARY COMPANY, A CORPORATION TO THE BANK OF AMERICA, NATIONAL TRUST AND SAVINGS ASSOCIATION, A NATIONAL BANKING ASSOCIATION, DATED FEBRUARY 9, 1968, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON FEBRUARY 13, 1968, IN BOOK 8024 OF OFFICIAL RECORDS, AT PAGE 136, DISTANT THEREON, S. 84°

00' 00" E. 218.00 FEET FROM THE NORTHWESTERLY CORNER THEREOF; THENCE FROM SAID POINT OF BEGINNING LEAVING LAST SAID NORTHERLY LINE AND AT A RIGHT ANGLE THERETO, S. 6° 00' 00" W. TO A POINT ON THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE ALONG THE SOUTHERLY LINE OF PARCEL 1, S. 84° 00' 00" E. TO THE SOUTHEASTERLY CORNER THEREOF ON THE SOUTHWESTERLY LINE OF MARINE WAY, 60.00 FEET IN WIDTH; THENCE ALONG THE SOUTHWESTERLY LINE OF MARINE WAY, 60.00 FEET IN WIDTH; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID MARINE WAY, N. 12° 00' 00" W. 201.70 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT; THENCE ALONG LAST SAID CURVE WITH A RADIUS OF 594.60 FEET THROUGH A CENTRAL ANGLE OF 0° 49' 34" FOR AN ARC DISTANCE OF 8.57 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL 1; THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL 1, N. 84° 00' 00" W. 168.51 FEET TO THE POINT OF BEGINNING. THE LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE APPROVING A CERTIFICATE OF COMPLIANCE NO. 18, AS INSTRUMENT NO. 21174939, OF OFFICIAL RECORDS.

TRACT SIXTEEN:

PARCEL ONE: (2680 Bayshore Pkwy, APN 116-02-054)

ALL OF PARCEL "A" SHOWN ON THAT CERTAIN RECORD OF SURVEY RECORDED ON JUNE 23, 1965 IN BOOK 196 OF MAPS, AT PAGE 4, IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY, CALIFORNIA.

PARCEL TWO: (2672 Bayshore Pkwy, APN 116-02-081)

ALL OF PARCEL 2 AS SHOWN ON THAT CERTAIN PARCEL MAP RECORDED ON JULY 14, 1971 IN BOOK 286 OF MAPS, AT PAGE 14, IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY CALIFORNIA.

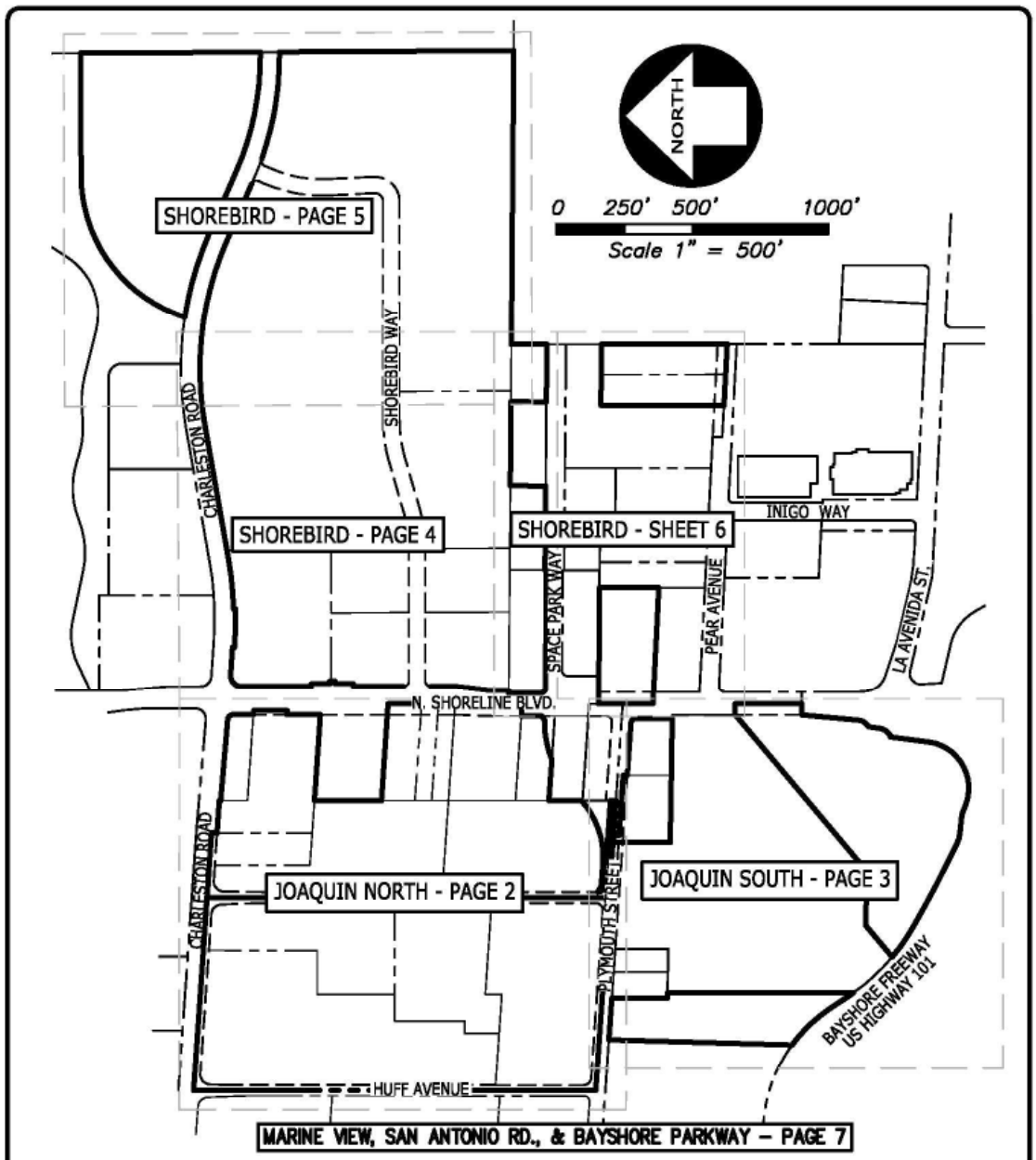
PARCEL THREE: (2665 Marine Way, APN 116-02-088)

ALL OF PARCEL "C" AS SHOWN ON THAT CERTAIN PARCEL MAP RECORDED ON JUNE 9, 1981 IN BOOK 485 OF MAPS, AT PAGE 51, IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY, CALIFORNIA.

AS SHOWN ON EXHIBIT “B” ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

EXHIBIT B

Property Diagram



NOTES:

EXHIBITS DO NOT SHOW THE EASEMENT PARCELS.

KIER+WRIGHT
3350 Scott Boulevard, Building 22
Santa Clara, California 95054
Phone: (408) 727-6665
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EXHIBIT "B"
NORTH BAYSHORE
DEVELOPMENT AGREEMENT
MOUNTAIN VIEW, CALIFORNIA

DATE	FEB., 2023
SCALE	1" = 500'
BY	DFH
JOB NO.	A20107-3
SHEET	1 OF 7

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EXHIBIT B - Property Diagram

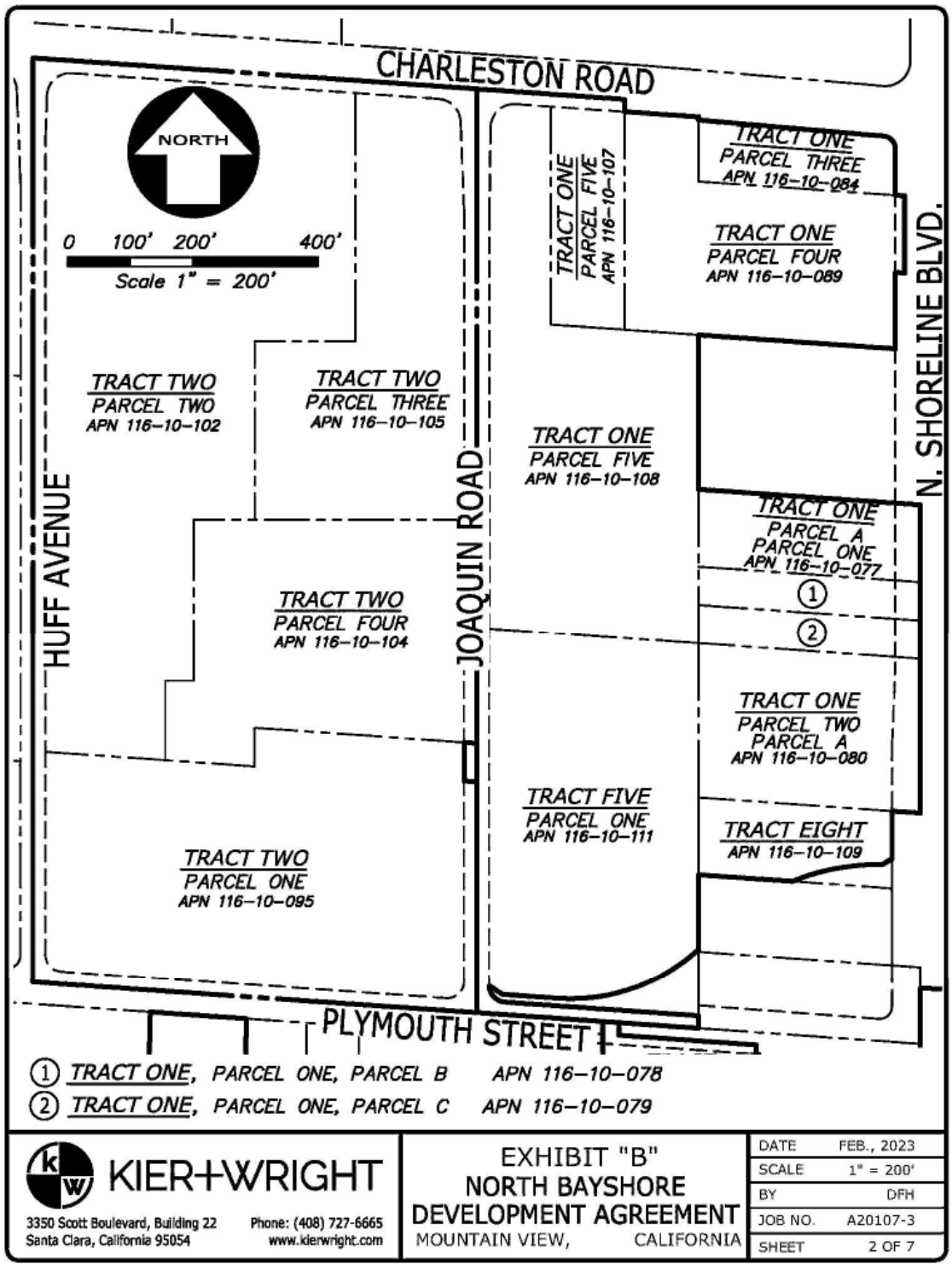

EXHIBIT B - Property Diagram

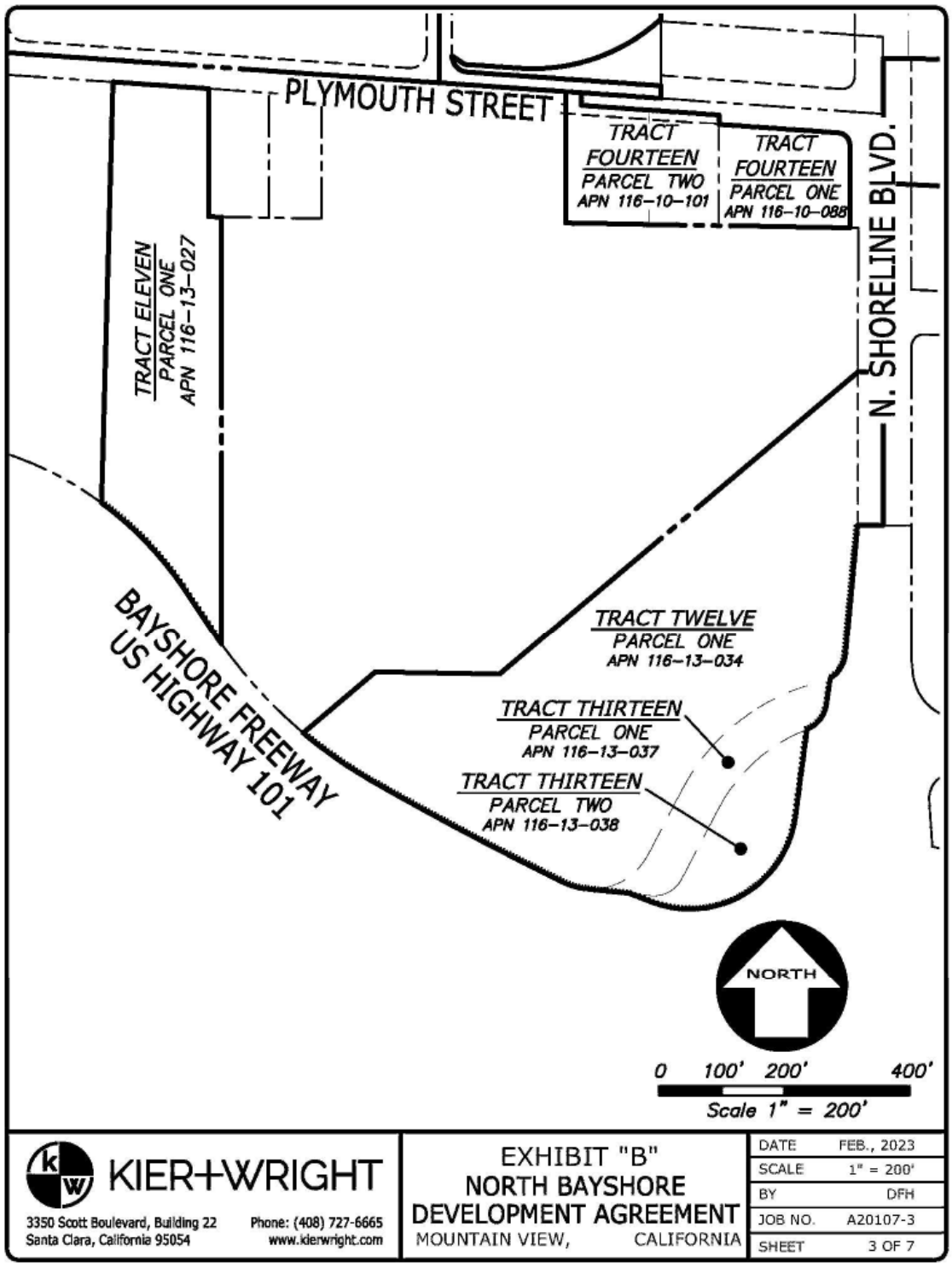

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EXHIBIT B - Property Diagram

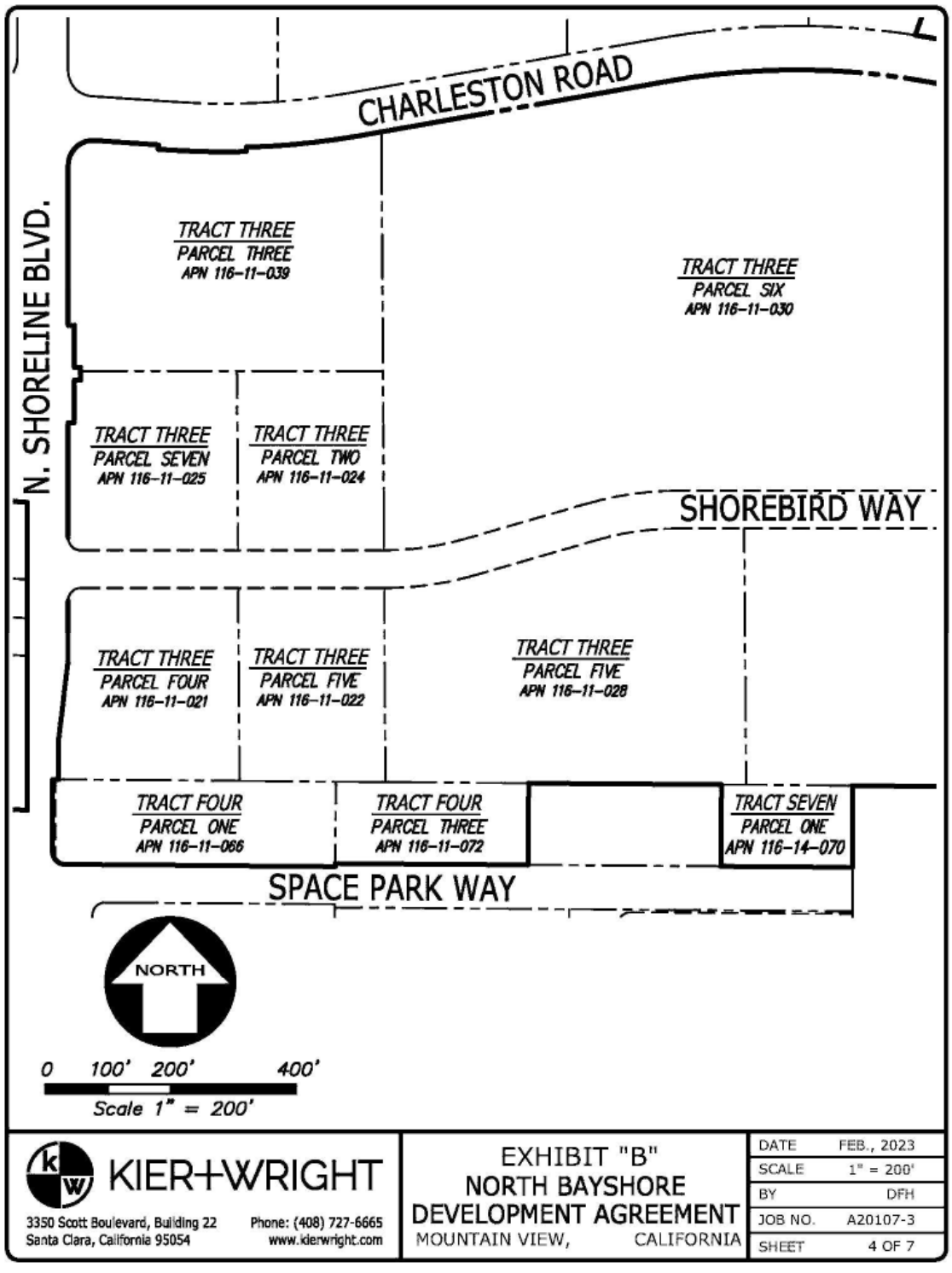

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EXHIBIT B - Property Diagram

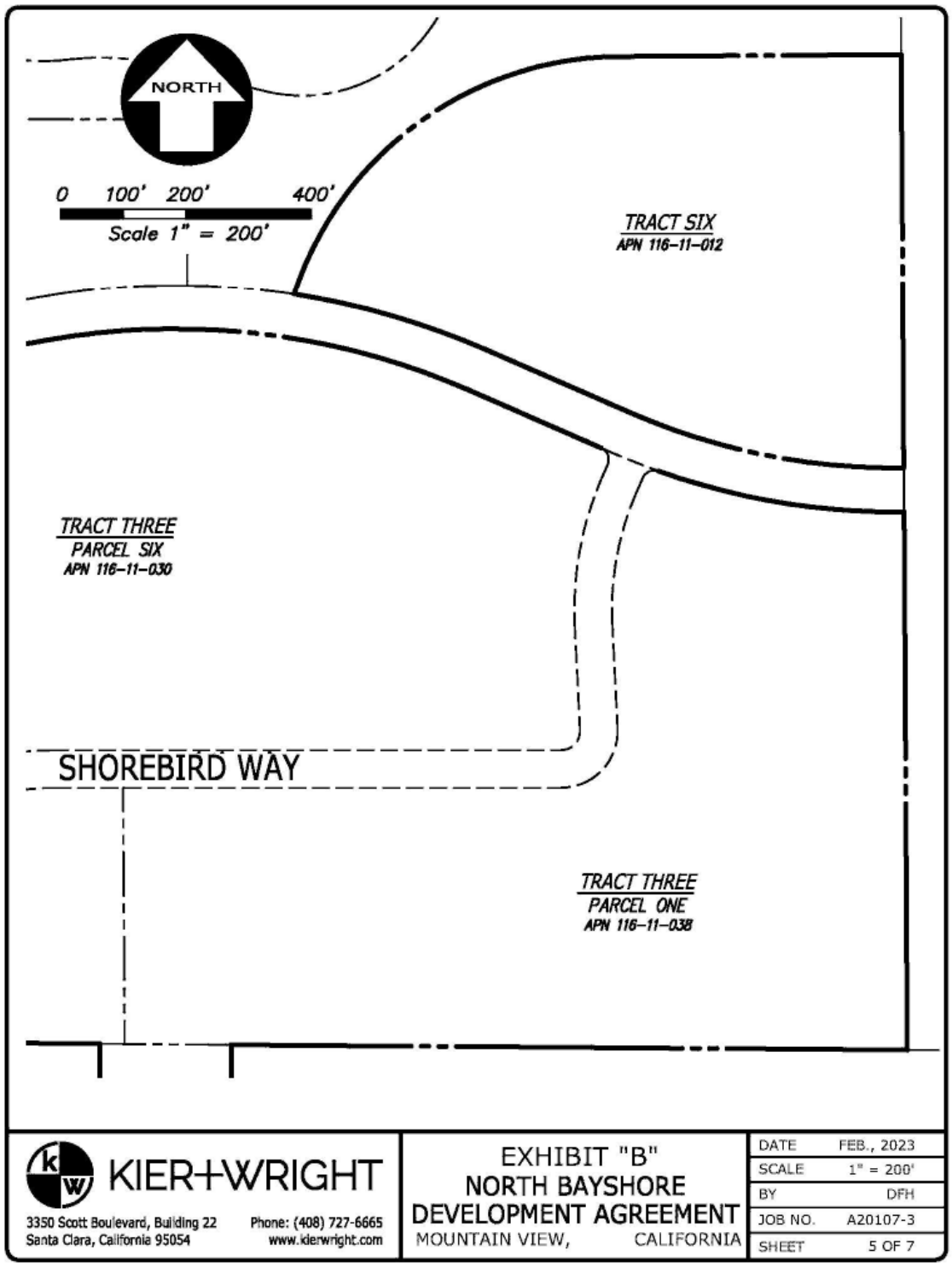

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EXHIBIT "B"
NORTH BAYSHORE
DEVELOPMENT AGREEMENT
MOUNTAIN VIEW, CALIFORNIA

DATE	FEB., 2023
SCALE	1" = 200'
BY	DFH
JOB NO.	A20107-3
SHEET	5 OF 7

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EXHIBIT B - Property Diagram

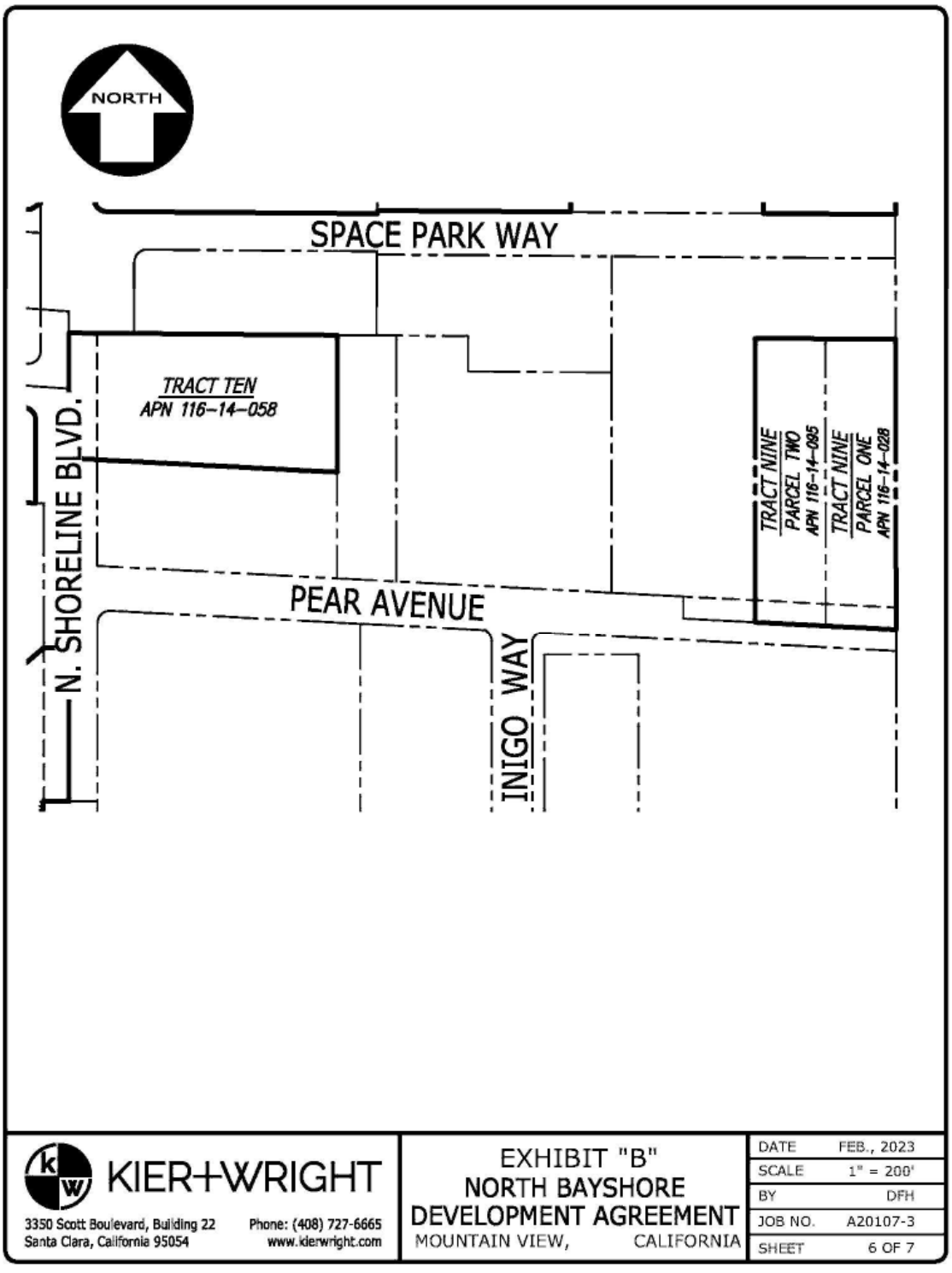

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EXHIBIT "B"
NORTH BAYSHORE
DEVELOPMENT AGREEMENT
MOUNTAIN VIEW, CALIFORNIA

DATE	FEB., 2023
SCALE	1" = 200'
BY	DFH
JOB NO.	A20107-3
SHEET	6 OF 7

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EXHIBIT B - Property Diagram

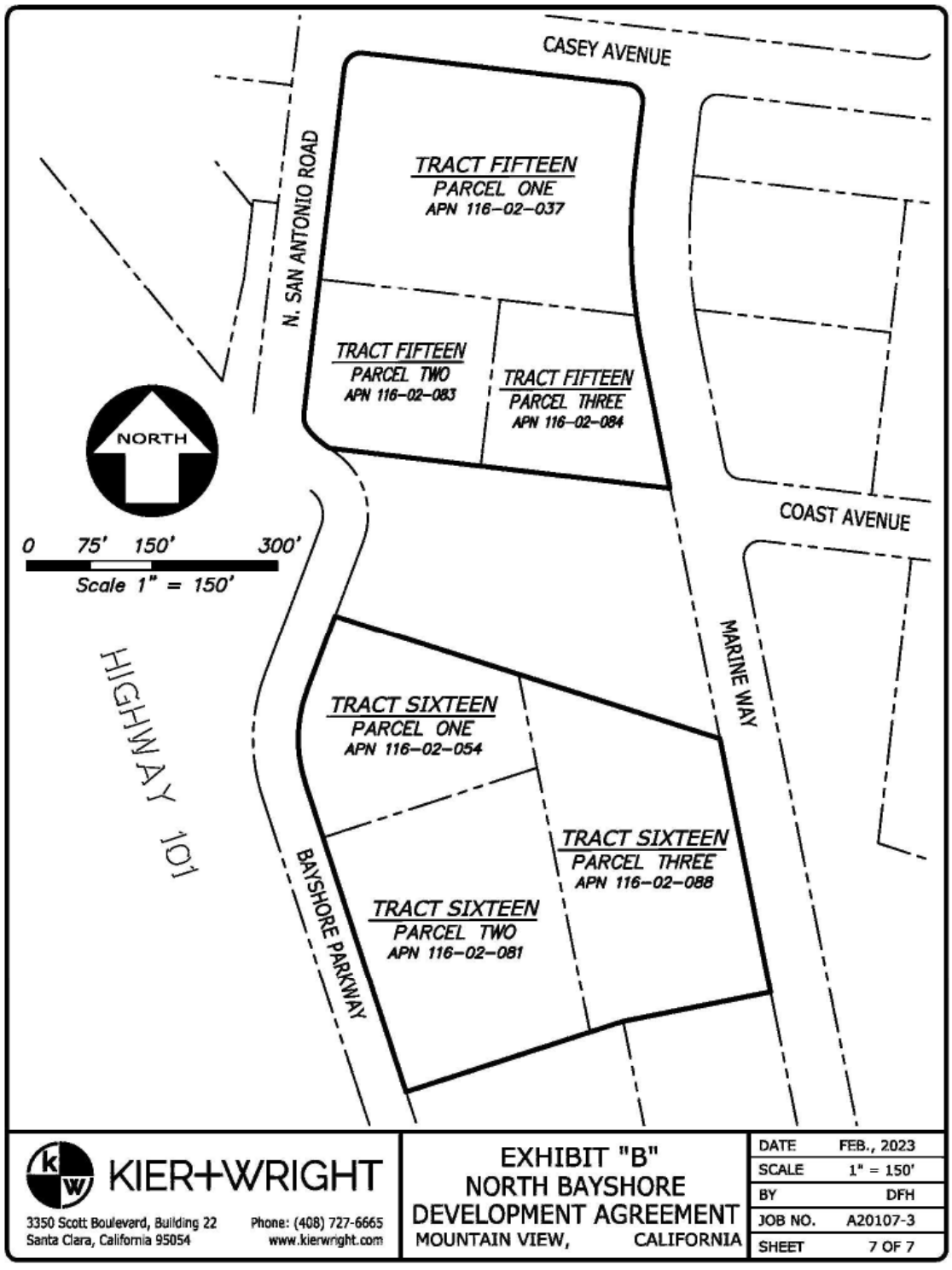

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EXHIBIT B - Property Diagram

EXHIBIT C

Project Summary

TABLE C1: PROJECT SUMMARY

Development Metric	**Total**
Total Residential	**7,000 units**
Affordable Units (via land dedication)	1,050 units via 6.95 acres
Residential Base (1.0 FAR)	5,645,175 sf
Residential Net New (no existing residential)	7,187,342 sf
Above Grade Residential Parking (counted toward FAR)	1,716,000 sf
Total Residential	8,903,342 sf
Residential Bonus FAR	**3,258,167 sf**
Total Office/R&D	**3,117,931 sf**
Existing Office/R&D	1,814,681 sf
Office/R&D Net New FAR/Bonus FAR	1,303,250 sf
Above-Grade Office Parking (SF exempt from FAR)	297,491 sf
Total Active Use Space (exempt from FAR per Precise Plan qualifications)	**288,990 sf**
Existing Active Use	11,056 sf
Active Use Net New FAR	222,934 sf
Community Facilities	55,000 sf
Hotel (exempt from FAR qualifications)	**340,000 sf**
Optional District Systems Central Plant (exempt from FAR per Precise Plan qualifications)	**130,000 sf**

Total Development SF	**12,780,263**
(SF with FAR exemptions)	**12,021,273**

1. The Master Plan does not state the specific amount of Residential Base FAR or Residential Bonus FAR, rather an approximate total residential square footage of ±8.9msf (inclusive of ±1.7msf of above ground parking), estimated to be sufficient to construct up to 7,000 dwelling units, based on an assumption of an average unit size of ±700 net square feet. Up to 7,000 total residential units will be constructed over the course of the Master Plan's build-out, and subject to requisite zoning permit approvals.
2. Base Residential FAR is calculated on 129.6 acres of the Core Master Plan Area as Marine Way and Amphitheatre are located outside of the Complete Neighborhoods.
3. Base Non-Residential FAR is calculated on 129.6 acres of the Core Master Plan Area as the parking garages uses located at Marine Way and Amphitheatre are exempt from FAR per Precise Plan qualifications.

TABLE C2: PROJECT PARCEL SUMMARY

PROJECT SUMMARY							
VTM Reference	**Development Block**	**Proposed Use(s)**	**Square Feet***	**Units***	**Maximum Building Height**	**Parking Stalls**	**Parking SF**
SB5	**SB-BO-1**	Office	511,259	0	110	118	111,714
		Active Retail	33,711			136	
		Office	738,156	0	95	139	65,176
SB6	**Greenway Park West**	Active Use	2,000	0	95	0	0
SB7	**SB-BO-3**	Office	390,179	0	80	73	32,483
SB8	**Greenway Park East**	Active Use	1,000	0	80	0	0
SB1	**SB-BH**	Hotel	160,000	0	110	0	0
		Active Retail	16,731				
SB2	**SB-BR-1**	Residential	360,342	366	160	257	139,000
SB3		Active Retail	27,192			80	
SB20	**SB-BR-2**	Residential	486,000	428	160	233	98,000

PROJECT SUMMARY							
VTM Reference	**Development Block**	**Proposed Use(s)**	**Square Feet***	**Units***	**Maximum Building Height**	**Parking Stalls**	**Parking SF**
SB21		Active Retail	39,707				
SB19	**SB-BR-3**	Residential	202,000	211	160	0	0
		Active Retail	18,552				
SB23	**SB-BR-4**	Residential	296,000	297	160	224	77,000
		Active Retail	12,825				
SB17	**SB-BR-5**	Residential	183,000	176	95	162	68,000
		Active Retail	16,732				
SB25	**SB-BR-6**	Residential	223,000	220	95	155	34,000
SB15	**SB-BR-7**	Residential	161,000	172	95	73	15,000
SB14	**SB-BR-8**	Residential	241,000	215	55	280	117,000
SB10	**SB-FLEX**	Community	55,000	0	45	0	0
		District Systems, Ancillary Retail	35,000				
SB12	**SB-DCP**	District Systems	95,000	0	45	5	0
SB24	**SB-BP**	Active Retail	4,550	0	95	495	151,000
		Hotel Parking	0			105	
JS8	**JS-BO-1**	Office	250,000	0	140	50	25,000
		Active Retail	3,990				
JS1	**JS-BR-1**	Residential	426,000	409	160	220	54,000
JS2							

PROJECT SUMMARY							
VTM Reference	**Development Block**	**Proposed Use(s)**	**Square Feet***	**Units***	**Maximum Building Height**	**Parking Stalls**	**Parking SF**
JS3	**JS-BR-2**	Residential	288,000	276	160	161	47,000
JS4		Active Retail	10,010				
JS10	**JS-BR-3**	Residential	327,000	318	160	241	107,000
		Active Retail	7,000				
JS6	**JS-FLEX**	Hotel	180,000	0	140	250	332,579
		Active Retail	4,000				
JS7		Office	0			450	
JN1	**JN-BO-1**	Office	754,709	0	95	141	72,478
JN10	**JN-BO-2**	Office	473,628	0	110	87	46,497
JN4	**JN-BR-1**	Residential	970,000	922	160	688	186,000
JN5							
JN6							
JN7	**JN-BR-3**	Residential, Parking	953,000	881	160	1,059	404,215
JN8							
JN9							
JN12	**JN-BR-4**	Residential	367,000	375	160	220	74,000

PROJECT SUMMARY							
VTM Reference	**Development Block**	**Proposed Use(s)**	**Square Feet***	**Units***	**Maximum Building Height**	**Parking Stalls**	**Parking SF**
		Active Retail	7,748				
JN14	**Joaquin Portal**	Active Use	1,000	0	110	0	0
JN13	**JN-BR-6**	Residential	380,000	391	160	182	76,000
JN15		Active Retail	20,655				
JN17	**JN-BR-7**	Residential	805,000	771	160	560	210,000
JN18							
JN19		Active Retail	6,597				
PE1	**PE-BR-1**	Residential	287,000	341	160	184	77,000
		Active Retail	10,000				
PE2	**PE-BR-2**	Residential	232,000	231	95	151	63,000
MW1	**MW-BP-1**	Parking	0	0	80	416	477,411
MW2	**MW-BP-2**	Parking	0	0	80	474	362,120
-	**SA-BP-1**	Parking	0	0		4,584	1,516,800
	Basement (SB-BH, SB-BO-1, SB-BO-2, SB-BR-1)	Office, Residential, Hotel, Active Use	0	0	160	800	653,483
SB Basement stall count supersedes individual stall counts for SB-PO-1, SB-PO-2, SB-PH, SB-PR-1 and adds 70 stalls for active uses							

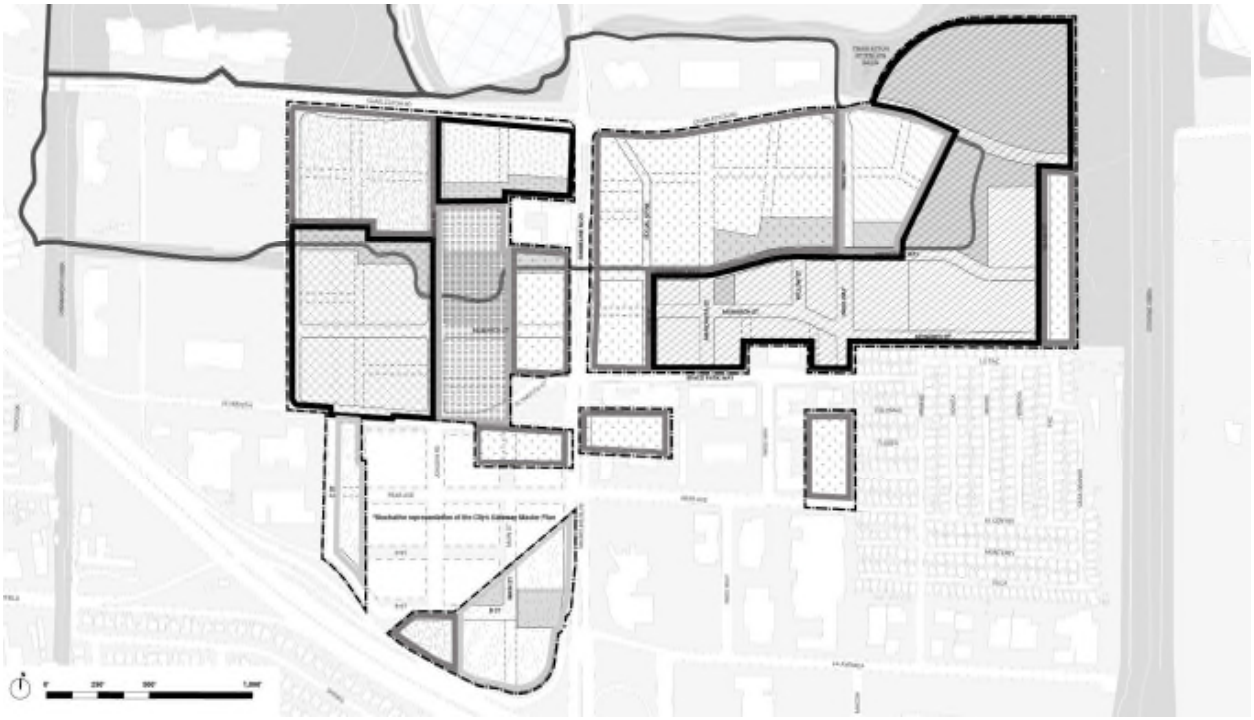
TABLE C3: EXISTING PROPERTIES

Neighborhood	NBPP Character Area	Existing APN #	Existing Address	Existing Parcel Size	Existing Building SF
Joaquin	Gateway	116-10-088	1431 Plymouth Dr	0.75 ac	2,220 sf
		116-10-101	1477 Plymouth St	1.03 ac	8,836 sf
		116-13-027	1555 Plymouth St	3.13 ac	42,992 sf
		116-13-034	1400 N Shoreline Blvd	6.79 ac	91,392 sf
	Core	116-10-077	1804 N Shoreline Blvd	1.00 ac	13,756 sf
		116-10-079	1758 N Shoreline Blvd	0.50 ac	4,283 sf
		116-10-080	1708 N Shoreline Blvd	2.00 ac	28,070 sf
		116-10-084	1890 N Shoreline Blvd	0.69 ac	10,468 sf
		116-10-089	1824 N Shoreline Blvd	2.68 ac	36,436 sf
		116-10-095	1500 Plymouth St	6.47 ac	77,942 sf
		116-10-102	1565 Charleston Rd (incl.1585 Charleston Rd)	9.55 ac	129,950 sf
		116-10-104	1010 Joaquin Rd	3.81 ac	55,800 sf
		116-10-105	1545 Charleston Rd	4.13 ac	55,800 sf
		116-10-107	1489 Charleston Rd	1.00 ac	15,316 sf
		116-10-108	1055 Joaquin Rd	5.00 ac	61,176 sf
		116-10-109	1674 N Shoreline Blvd	5.00 ac	13,004 sf
		116-10-111	1015 Joaquin Rd	5.00 ac	65,093 sf
Pear	Core	116-14-058	1599 N Shoreline Blvd (Incl. 1601 N Shoreline Blvd)	2.04 ac	18,000 sf
	General	116-14-095	1230 Pear Ave	0.92 ac	13,720 sf
	Edge	116-14-028	1220 Pear Ave	0.72 ac	16,800 sf
Shorebird	Core	116-11-021	1393 Shorebird Way	1.97 ac	29,299 sf
		116-11-022	1383 Shorebird Way	1.65 ac	24,720 sf
		116-11-024	1380 Shorebird Way	1.52 ac	21,108 sf

Neighborhood	NBPP Character Area	Existing APN #	Existing Address	Existing Parcel Size	Existing Building SF
		116-11-025	1390 Shorebird Way	1.75 ac	22,125 sf
		116-11-039	1395 Charleston Rd	4.16 ac	63,991 sf
		116-14-066	1340 Space Park Way (Incl. 1675 N Shoreline Blvd)	1.38 ac	26,434 sf
	General	116-11-028	1371 Shorebird Way (Incl. 1375 Shorebird Way)	4.86 ac	74,940 sf
		116-11-030	1215 Charleston Rd (Incl. 1225, 1230, 1245, 1295 Charleston Rd; 1230, 1310, 1350 Shorebird Way)	19.17 ac	279,716 sf
		116-14-072	1300 Space Park Way	0.92 ac	13,960 sf
	Edge	116-11-012	1200 Charleston Rd (Incl. 1210, 1220, 1230 Charleston Rd)	10.76 ac	121,536 sf
		116-11-038	1201 Charleston Rd (Incl. 1345, 1355, 1365 Shorebird Way)	16.73 ac	241,292 sf
		116-14-070	1250 Space Park Way	0.63 ac	13,000 sf
Marine	General	116-02-037	1161 San Antonio Rd (Incl. 2761 Marine Way)	2.39 ac	34,090 sf
		116-02-081	2672-2680 Bayshore Pkwy	2.39 ac	42,434 sf
		116-02-083	1157 San Antonio Rd	1.02 ac	16,824 sf
		116-02-084	2751 Marine Way	1.02 ac	12,856 sf
		116-02-088	2665 Marine Way (Incl. 2685 Marine Way)	1.84 ac	26,358 sf

EXHIBIT D

Illustrative Phasing Plan and Diagram



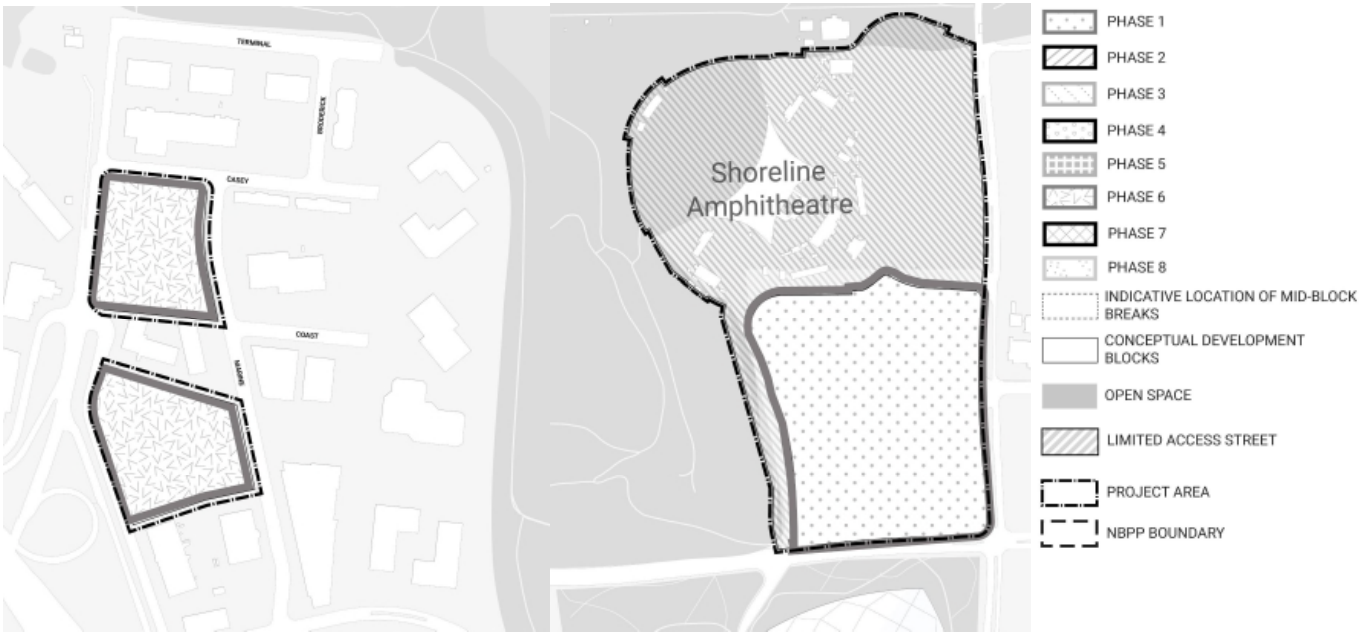


EXHIBIT E

Project Compliance Plan

EXHIBIT E

PROJECT COMPLIANCE PLAN

TABLE E1: AFFORDABLE HOUSING COMPLIANCE STRATEGY BASED ON CONCEPTUAL PHASING PLAN

	Prior to first Building Permit being issued	**Phase 1**	**Phase 2**	**Phase 3**	**Phase 4**	**Phase 5**	**Phase 6**	**Phase 7**	**Phase 8**
No. of Market Rate Units Proposed	0 du	1,766 du	1,071 du	0 du	0 du	906 du	0 du	1,636 du	571 du
Projected Development Capacity - Affordable Housing Units on Dedicated Affordable Housing Sites Based on 2023 Zoning Regulations									
Land Dedication / Irrevocable Offer	VTM Parcels JS3 & JS4 **±276 du / 1.60ac (IO)** VTM Parcel PE2 **±231 du / 2.15 ac (IO)**	—	VTM Parcel SB25 **±220 du / 1.40 ac**	—	—	—	—	VTM Parcel JN6 **±167 du / 0.83 ac**	VTM Parcel JS2 **±156 du / 0.97 ac**
Projected Number of Affordable Housing Units on Affordable Housing Sites Based on 2023 Zoning Regulations	±507 du	0 du	±220 du	—	—	0 du	—	±167 du	±156du
Number of Affordable Housing Units required (met through dedication of Affordable Housing Sites)									

Total Affordable Housing Units Required	0 du x 15% = **0 du**	1,766 du x 15% = **312 du**	1,071 du x 15% = **189 du**	—	—	906 du x 15% = **160 du**	—	1,636 du x 15% = **289 du**	571 du x 15% = **101 du**

Balance of Affordable Housing Land Obligations Owed to City									
Affordable Housing Units Owed	0 – 507 = **-507 du**	312 – 507 = **-195 du**	501 – 727 = **-226 du**	—	—	661 – 727 = **-66 du**	—	950 – 894 = **56 du**	1,050 – 1,050 = **0 du**
Letter of Credit to the City* (2023 $$)	$0	$0	$0	$0	$0	$0	$0	$4.3 m *(land required for 56 units x land value)*	$0
Percent Compliant	—	163%	145%	—	—	110%	—	94%	100%

EXHIBIT E

TABLE E2: PARK LAND COMPLIANCE STRATEGY BASED ON CONCEPTUAL PHASING PLAN

	Prior to first Building Permit being issued	**Phase 1**	**Phase 2**	**Phase 3**	**Phase 4**	**Phase 5**	**Phase 6**	**Phase 7**	**Phase 8**
No. of Market Rate Units Proposed	0 du	1,766 du	1,071 du	0 du	0 du	906 du	0 du	1,636 du	571 du
Park Land Proposed									
Land Dedication / Irrevocable Offer	Eco Gem **10.8 ac (IO)**	—	Shorebird Square **0.3 ac**	—	—	Joaquin Commons **2.5 ac**	—	—	Gateway Plaza **0.9 ac** Shorebird

									Square **0.3 ac**
POPA Credit	**—**	The Portal **0.7 ac**	Gateway Park West **1.8 ac** Shorebird Wilds **4.5 ac**	Gateway Park East **0.6 ac**	Joaquin Grove **1.4 ac**	**—**	**—**	Joaquin Terraces **2.2 ac**	**—**
Total Proposed	**10.8 ac**	**0.7 ac**	**6.6 ac**	**10.6 ac**	**1.4 ac**	**2.5 ac**	**0.0 ac**	**2.2 ac**	**1.2 ac**
Park Land required (Per City Code)									
Total Land Dedication Required	0 du x 0.0060 = **0 ac**	1,766 du x 0.0060 = **10.6 ac**	1,071 du x 0.0060 = **6.4 ac**	0 du x 0.0060 = **0 ac**	0 du x 0.0060 = **0 ac**	906 du x 0.0060 = **5.4 ac**	0 du x 0.0060 = **0 ac**	1,636 du x 0.0600 = **9.8 ac**	571 du x 0.0061 = **3.4 ac**
Balance of Park Land Obligations Owed to City									
Land Dedication Owed	0 - 10.8 = **(-10.8 ac)**	10.6 - 11.5 = **(-0.9 ac)**	17.0 - 18.1 = **(-1.1 ac)**	17.0 - 18.7 = (-1.7 **ac)**	17.0 - 20.1 = **(-3.1 ac)**	22.4 - 22.6 = **(-0.2 ac)**	22.4 - 22.6 = **(-0.2 ac)**	32.2 - 24.8 = **7.4 ac**	35.6 - 33.5** = **2.2 ac**
In-Lieu Fee Owed*(2023 $$)**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$86.0m**	**$25.7m**
Percent Compliant	**—**	**108%**	**107%**	**110%**	**118%**	**101%**	**101%**	**100%**	**100%**

* Dollar figures shown are based on 2023 values, actual amounts will be based upon per acre land value escalations per Agreement Section 5.1.3.

** Including payment of $86.0 million in previous phase

***:Dollar figures shown are based on 2023 values, actual amounts will be based upon CCI escalations per Attachment 1 to Exhibit I.

EXHIBIT F

AFFORDABLE HOUSING DELIVERY PLAN

TABLE F1.1: AFFORDABLE HOUSING DELIVERY MILESTONES

Affordable Housing Parcel	Delivery Schedule
Vesting Tentative Map Parcels JS3, JS4, PE2	Developer to make Irrevocable Offer prior to the issuance of the first Building Permit. If Developer has obtained a Building Permit on or before January 31, 2029, Developer shall cause each of VTM Parcels JS3, JS4, and PE2 to be in the Required Condition on or before January 31, 2029. The City will defer acceptance of the dedication to January 31, 2029 for VTM Parcels JS3, JS4, and PE2 or such earlier date as the Parties may mutually agree. If Developer has not obtained a Building Permit prior to February 1, 2029, then as a condition to issuance of the first Building Permit, Developer shall convey to City fee title to VTM Parcels JS3, JS4, and PE2, in the Required Condition. Refer to section 5.1.1.1 of the Development Agreement
All other Affordable Housing Sites	Prior to issuance of the first Building Permit for any building(s) which trigger a requirement to dedicate one or more additional Affordable Housing Sites (i.e. VTM Parcels JS2, JN6 or SB25), Developer shall execute, acknowledge and deliver to City for recordation in the Official Records, an Irrevocable Offer for the applicable Affordable Housing Site(s). Developer shall provide the notification per Section 5.7 of the Agreement and cause each of the additional Affordable Housing Sites to be in the Required Condition on or before the date that is three years and nine months following issuance of such Building Permit, or such later date as the Parties may mutually agree each in its sole discretion. In all instances, no Certificate of Occupancy shall be issued for the building(s) which triggered the Affordable Housing Site dedication requirement, until such time as the Affordable Housing Site is in the Required Condition and ready for acceptance by City. Refer to Section 5.1.1.1 of the Development Agreement

In the event that Developer fails to deliver Irrevocable Offers to any Affordable Housing Site and cause such land to be in the Required Condition and be ready for acceptance by the City within the times set forth in this Affordable Housing Delivery Plan, City may withhold issuance of Subsequent Approvals for market rate residential buildings and market rate residential parcels Project-wide; provided, however, if Developer has delivered the Irrevocable Offer(s) within the time(s) required by the Agreement and also delivered to City cash or other immediately available funds in an amount equal to 125% of the estimated cost of putting the applicable Affordable Housing Site in the Required Condition as reasonably determined by City with input from a third party estimator jointly selected the Parties, the costs of which shall be paid by Developer, City's remedies shall be limited to acceptance of the Affordable Housing Site, and retention of such immediately available funds, and City shall not withhold issuance of such Subsequent Approvals.

TABLE F1.2: AFFORDABLE HOUSING COMPLIANCE PLAN PER PARCEL

Affordable Housing VTM Parcel Ref	Area	Estimated Below Market Rate Yield	Percentage of Total Units	Market Rate Residential Equivalent
JOAQUIN NORTH				
JN6	0.83 ac	±167 du	±2.39%	946 du
JOAQUIN SOUTH				
JS2	0.97 ac	±156 du	±2.23%	884 du
JS3, JS4	1.60 ac	±276 du	±3.94%	1,564 du
PE2	2.15 ac	±231du	±3.30%	1,309 du
SHOREBIRD				
SB25	1.40 ac	±220 du	±3.14%	1,247 du
Total	**6.95 ac**	**1,050 du**	**15%**	**5,950 du**

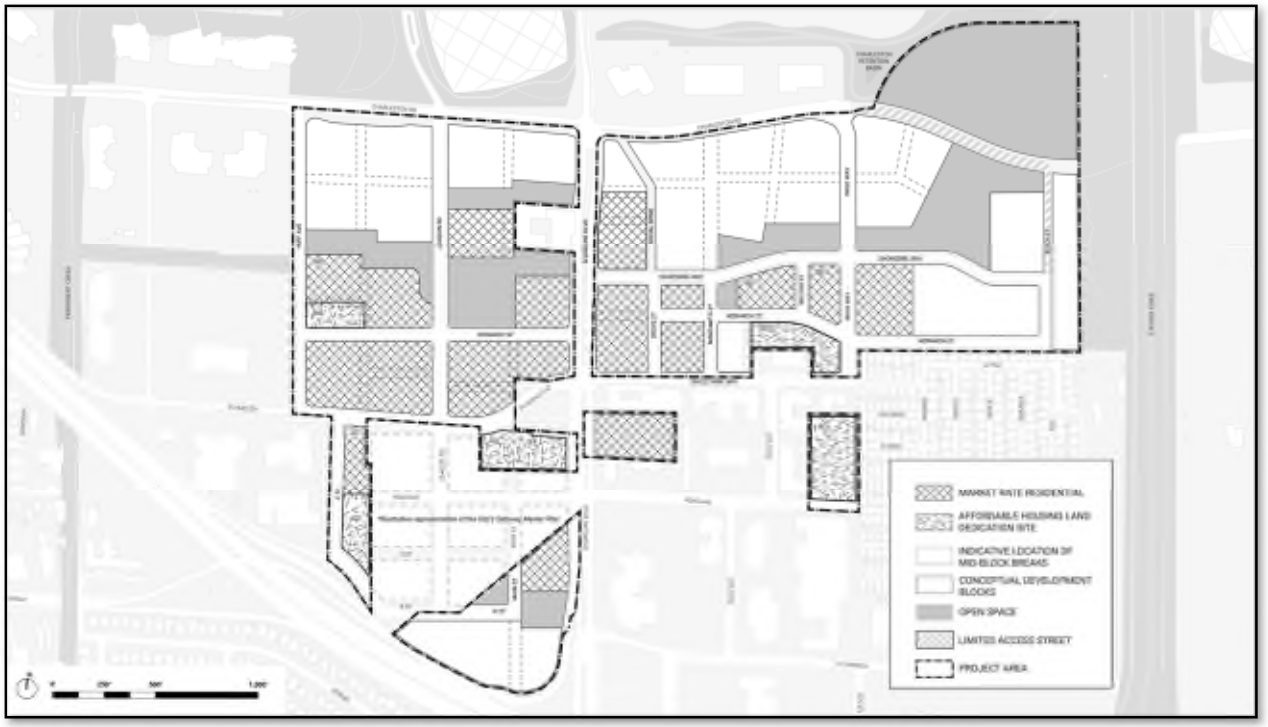


EXHIBIT F - Affordable Housing Delivery Plan

EXHIBIT G

Parks Delivery Plan

TABLE G1.1: PARKLAND DELIVERY MILESTONES

Type of Park	Delivery Schedule
Eco Gem	Developer to make Irrevocable Offer prior to the issuance of the first Building Permit for any building on the Property. Refer to Sections 5.1.2 and 5.5.5 of the Development Agreement. The City will defer acceptance of the Irrevocable Offer of the land for Eco Gem (Vesting Tentative Map Parcel SB 26) until December 15, 2030, unless otherwise mutually agreed to by the Parties.
Dedicated Parkland Site	Prior to issuance of the first Building Permit for the building(s) which trigger a Dedicated Parkland Site requirement, Developer shall execute, acknowledge and deliver to City for recordation in the Official Records, an Irrevocable Offer for the applicable Dedicated Parkland Site. If the zoning permit application (PCP) which triggered the Dedicated Parkland Site requirement includes one building Developer shall provide the notification per Section 5.7 of the Agreement and cause the applicable Dedicated Parkland Site to be in the Required Condition and ready for acceptance by City no later than the date that is three years and nine months following issuance of such Building Permit, or such later date as the Parties may mutually agree each in its sole discretion. Where the zoning permit application (PCP) which triggered the Dedicated Parkland Site requirement includes more than one building, Developer shall provide the notification per Section 5.7 of the Agreement and cause the applicable Dedicated Parkland Site to be in the Required Condition and ready for acceptance by City on or before the date that is seven (7) years following issuance of the first Building Permit, or such later date as the Parties may mutually agree each in its sole discretion. In all instances, no Certificate of Occupancy shall be issued for the building(s) which triggered the Dedicated Parkland Site requirement, until such time as the Dedicated Parkland Site is in the Required Condition and ready for acceptance by City. In the event that Developer fails to deliver Irrevocable Offers to Eco Gem or any other Dedicated Parkland Site and cause such land to be in the Required Condition and be ready for acceptance by City within the times set forth in this Parks Delivery Plan, and if there are not

	sufficient parkland credits available based on Dedicated Parkland Sites and POPA spaces previously dedicated or completed as applicable, City may withhold issuance of Subsequent Approvals for any other building(s) Project-wide for the same type of use (i.e. residential or commercial use) as the building(s) that triggered the requirement to dedicate the Dedicated Parkland Site; provided, however, if Developer delivers to City cash or other immediately available funds in an amount equal to 125% of the estimated cost of putting the applicable Dedicated Parkland Site in the Required Condition, as reasonably determined by City with input from a third party estimator jointly selected the Parties, the costs of which shall be paid by Developer, City's remedy shall be limited to acceptance of the Dedicated Parkland Site and retention of such immediately available funds, and City shall not withhold issuance of such Subsequent Approvals.
POPA	Prior to issuance of the first Building Permit for the building(s) which trigger a POPA Open Space requirement, Developer shall execute, acknowledge and deliver to City for recordation in the Official Records, a POPA Agreement for the applicable POPA Open Space. If the zoning permit application (PCP) which triggered the POPA Open Space requirement includes one building, Developer shall cause the applicable POPA Open Space to be Completed and ready for use by the public no later than the date that is four (4) years following issuance of such Building Permit, or such later date as the Parties may mutually agree each in its sole discretion. Where the zoning permit application (PCP) which triggered the POPA Open Space requirement includes more than one building, Developer shall cause the applicable POPA Open Space to be Completed and ready for use by the public on or before the date that is seven (7) years after issuance of the first Building Permit, or such later date as the Parties may mutually agree each in its sole discretion. In all instances, no Certificate of Occupancy shall be issued for the building(s) which triggered the POPA Open Space requirement, until such time as the POPA Open Space is fully complete and ready for use by the public. In the event that Developer fails to complete any POPA Open Space and make it available for use by the public within the times set forth in this Parks Delivery Plan, and if there are not sufficient parkland credits available based on parkland and POPA spaces previously dedicated or completed as applicable, City may withhold issuance of Subsequent Approvals for any other building(s) Project-wide for the same type of use (i.e. residential or commercial use) as the building(s) that triggered the requirement to deliver the POPA Open Space; provided, however, if Developer converts the POPA Open Space to dedicated parkland by complying with the POPA Open Space/parkland conversion requirements of Section 5.1.2.3 and executing, acknowledging and

	delivering to City an Irrevocable Offer with respect to the former POPA Open Space and also delivers to City cash or other immediately available funds in an amount equal to 125% of the estimated cost of putting the applicable parkland parcel in the Required Condition as reasonably determined by City with input from a third party estimator jointly selected the Parties, the costs of which shall be paid by Developer, City's remedy shall be limited to acceptance of the dedicated parkland site and retention of such immediately available funds, and City shall not withhold issuance of such Subsequent Approvals.

TABLE G1.2: PARKLAND COMPLIANCE PLAN PER PARCEL

Park	Park VTM Parcel Ref	Type	Area	Market Rate Residential Equivalent at 0.006 ac/unit
JOAQUIN NORTH				
Joaquin Commons	JN16	Dedicated	2.5 ac	425 du
Joaquin Grove	JN11	Dedicated or POPA	1.4 ac	236 du
Joaquin Terrace East	JN3	Dedicated or POPA	1.3 ac	214 du
Joaquin Terrace West	JN2	Dedicated or POPA	0.9 ac	150 du
The Portal	JN14	Dedicated or POPA	0.8 ac	124 du
JOAQUIN SOUTH				
Gateway Plaza	JS9	Dedicated	0.9 ac	151 du
Shoreline Square	JS5	Dedicated	0.3 ac	54 du
SHOREBIRD				
Eco Gem	SB26	Dedicated	10.8 ac	1,793 du
Greenway Park East	SB8	Dedicated or POPA	0.6 ac	108 du
Greenway Park West	SB6	Dedicated or POPA	1.8 ac	306 du
Shorebird Square	SB18	Dedicated	0.3 ac	51 du
Shorebird Wilds	SB9	Dedicated or POPA	4.5 ac	745 du

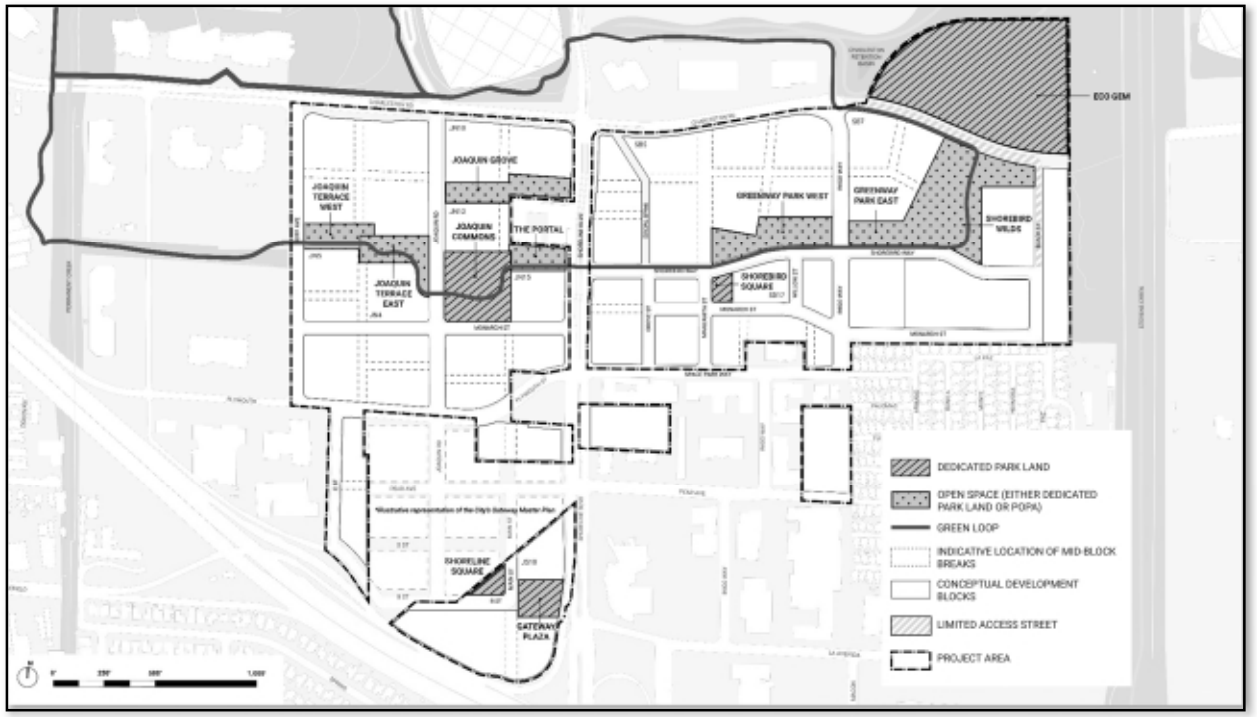


EXHIBIT G - Parks Delivery Plan

EXHIBIT H

POPA Open Space Terms

This Exhibit includes key terms for a future POPA Agreement between the Parties, which are exclusively related to Project-specific definitions, operations, use, and public access for POPA Open Space within the Project, specifically the Greenway Parks, Joaquin Grove, Joaquin Terraces, ~~the~~ The Portal and Shorebird Wilds, or as otherwise renamed in the future, should such parks remain POPA, as set forth in Section 5.1.2.3 of the Development Agreement. These terms are in addition to all other standard terms in the City's POPA Agreement. The POPA Agreement for each POPA Open Space will be in the City's standard agreement template form approved by the City Attorney as of the date of execution, with additional provisions in accordance with this Exhibit.

I. Additional Defined Terms

Capitalized terms that are used but not defined in this exhibit shall have the meaning given to such terms in the Agreement.

"**Elements**" means improvements installed or constructed for recreational purpose or enjoyment included in POPA Open Space in accordance with an approved zoning permit.

"**Greenway Parks POPA Open Space**" means the approximately 2.48 acres of privately-owned, publicly accessible (POPA) open space, consisting of two parcels, Greenway Park East (approximately 0.7 acres), and Greenway Park West (approximately 1.8 acres), and the improvements thereon to be developed, operated, maintained and repaired by Grantor and its successors and assigns, at their expense.

"**Grantor**" means the Developer that holds fee title to the property that includes the POPA Open Space executing the POPA Agreement and its successors and assigns.

"**Joaquin Grove POPA Open Space**" means the approximately 1.41 acres of privately-owned, publicly accessible (POPA) open space and the improvements thereon to be developed, operated, maintained and repaired by Grantor and its successors and assigns, at their expense.

"**Joaquin Terraces POPA Open Space**" means the approximately 2.2 acres of privately-owned, publicly accessible (POPA) open space, consisting of two contiguous parcels, Joaquin Terrace East (approximately 1.3 acres) and Joaquin Terrace West (approximately 0.90 acres), and the improvements thereon to be developed, operated, maintained and repaired by Grantor and its successors and assigns, at their expense.

"**Multi-Use Path(s)**" means the primary paths on, over and through the POPA Open Space that functions as emergency vehicle access for buildings and as a public path for bike and pedestrians in accordance with the North Bayshore Master Plan. The Multi-Use Path(s) is governed by a separately recorded public access easement (Instrument No. _____).

"**Operating Hours**" shall mean those operating hours of City parks, which may change from time to time, but are generally 6:00 a.m. to thirty minutes after sundown, on all calendar days.

"**Other Agencies**" means any other regional, state, or federal agency with oversight or interest in the operations of the POPA Open Space, including, but not limited to, California Public Utilities Commission.

"**POPA Open Space**" means the privately-owned, publicly-accessible open spaces within the Project.

"**Property**" shall mean the land on which a particular POPA Open Space is located.

"**Public Purposes**" means public access and open space purposes in designated areas and consistent with the intended purposes and uses of the Elements, including, but not limited to, walking, sitting, picnicking, dining, active and passive recreational uses (including of the Elements), and travel by non-automotive means, and further, includes the following uses by the public in POPA Open Space:

1. to enjoy the gardens, naturalized areas, and landscaping;
2. to sit on a park chair or one seat on a bench designed for sharing;
3. to deposit waste in trash or recycling receptacles;
4. to walk dogs on a leash so long as the person walking the dog cleans up after the dog and deposits waste into appropriate receptacles;
5. to take souvenir photos; commercial photography by Grantor/owner permission only; and
6. unrestricted use by emergency vehicles for fire and life safety access at all times.

"**Shorebird Wilds POPA Open Space**" means the approximately 4.5 acres of privately-owned, publicly accessible (POPA) open space and the improvements thereon to be developed, operated, maintained and repaired by Grantor and its successors and assigns, at their expense.

"**Special Event**" shall mean a Grantor, tenant or subtenant, or other third-party entity or organization event, including but not limited to private events, employee gatherings, property management events for residents, business meetings, etc., during the Operating Hours and Extended Operating Hours, but in no event more than fifteen (15) hours in duration (not including reasonable set-up and break-down) in any thirty-six (36) hour period. These events may limit or restrict attendees to specific persons, and reasonably limit or restrict physical access in a certain subarea(s) within the POPA Open Space (e.g. café kiosk, educational garden, sport court), but in no way may physical access be restricted to the extent that prohibits or prevents required public access in the POPA Open Space or restricts the Public Purposes. "Special Event" as used herein excludes programming events produced by the Grantor, tenant or subtenant, or other third-party entity or organization within the POPA Open Space to activate and serve the Public Purposes, which the public can attend; such events are not subject to the numerical limit applicable to Special Events and may be ticketed events.

"**The Portal POPA Open Space**" means the approximately 0.8 acres of privately-owned, publicly accessible (POPA) open space and the improvements thereon to be developed, operated, maintained and repaired by Grantor and its successors and assigns, at their expense.

II. Events in the POPA Open Space

Each Party agrees and acknowledges that POPA Open Space will be concurrently used by the public and Grantor. Grantor shall not obstruct, use or permit the use of POPA Open Space in any manner that will unreasonably interfere with use for Public Purposes during Operating Hours and extended operating hours. Special Events shall not interfere with the regular access and operations of adjoining buildings and their residents and tenants, including Active Uses located therein.

1. Special Event(s) - Special Events shall occur no more than fifteen (15) days in any calendar year, unless otherwise approved in writing by the City.

III. Other Rules and Regulations.

1. POPA Open Space shall be made available to the public in perpetuity for Public Purposes during the Operating Hours and Extended Operating Hours, subject to Grantor's and its agents' right to exclude the public and/or to temporarily limit access to, and use of, the POPA Open Space as necessary for Grantor or its authorized occupants or users, or their respective employees, agents, and contractors, to construct, repair, maintain, relocate or replace any improvements located upon the Property from time to time, including, without limitation, the buildings, the related improvements, other site improvements, Elements, and/or other improvements.

2. All ground-floor commercial uses in Buildings fronting along POPA Open Space may include furnishings, which may change from time to time. These Furnishings shall not impede use or enjoyment of POPA Open Space; any Furnishings in the POPA Open Space must be open to general public use; and no Furnishings shall be permanently affixed within POPA Open Space. Any improvements permitted under a building permit for construction of the POPA Open Space do not constitute Furnishings.

3. The rights of the public to the POPA Open Space shall not include the use of any motorized-scooters, motorcycles or ATV's, or any automobiles, trucks, recreational vehicles or other motorized vehicles on any portion of the Property, excluding vehicles for fire and emergency access, public safety, vehicles expressly authorized by Grantor (including for Special Events), vehicles associated with Other Agencies as allowable under separate agreements, or in connection with maintenance, cleaning, or repair of POPA Open Space.

4. Grantor shall have the right to adopt, implement, and impose reasonable rules, regulations, and conditions for use of POPA Open Space consistent with this Covenant on the Property to the extent necessary (i) to reasonably impose safety and security requirements in the interest of public health and safety, and (ii) for purposes of preventing (a) interference by any member of the public with the operation of any business conducted by Grantor or its authorized occupants or users of Buildings, Other

Site Improvements, Related Improvements, or the Property, and (b) damage to the Property, including any improvements thereon.

5. The covenants and grant of access over the Property shall not constitute a grant of a public easement over, or dedication of, POPA Open Space.

6. Grantor shall be permitted to install signage citing California Civil Code section 1008 and indicating the purposes of public access on the Property and Grantor's right to regulate safety and security.

EXHIBIT I

EXISTING IMPACT FEES

With the exception of Parkland Impact Fees which are addressed in Attachment 1 hereto, the following impact fees are based on the City's adopted Fiscal Year 2022-23 budget (effective July 1, 2022). Rates are shown as of Effective Date and are adjusted annually as of Effective Date. A fee's annual escalation shall be increased by one of the following factors in the current year (or if not available, the prior year): (a) CPI – Consumer Price Index, or (b) CCI - San Francisco Engineering News-Record Construction Cost Index. *(Note, "SF" = square feet.)*

A. <u>Nonresidential Housing Impact Fee</u> (escalation per CPI – Code §36.40.65(b)(2)).

1. **Office and R&D:** $15.28/net new SF for first 10,000 SF; $30.57/net new SF above 10,000 SF.
2. **Active Use (Retail/Neighborhood Commercial/Community Space/Entertainment/Commercial):** $1.65/net new SF for first 25,000 SF; $3.27/net new SF above 25,000 SF.
   [NOTE: Project is not subject to payment of Below-Market-Rate (BMR) In-Lieu Fees for rental or ownership residential units based on the project providing an Alternative Mitigation per Code §36.40.30.]
3. **Hotel:** $1.65/net new SF for first 25,000 SF; $3.27/net new SF above 25,000 SF.

B. <u>Citywide Transportation Impact Fee</u> (escalation per CCI – Code §43.5(a))**.**

1. **Office and R&D:**
   a. Office/R&D/Industrial: $5.72/net new SF.
2. **Residential:**
   a. Multi-Family Residential, including stacked condominiums: $3,004/dwelling unit.
   [NOTE: Affordable housing is exempt – except if part of a market-rate project and provided pursuant to density bonus law – Code §43.8(a)(2)]
3. **Active Uses (Retail/Neighborhood Commercial/Community/Civic/Service):**
   a. Service and Retail Commercial: $5.72/net new SF.
4. **Hotel:**
   a. Hotels and Motels: $3,317/room
   [NOTE: Accessory commercial uses, such as restaurants, shall be charged a fee on a per-square-foot basis for all new gross floor area – Code §43.5(b)(2)]

C. <u>Water Capacity Fee</u> (escalation per CCI – Code §35.41)**.**

1. **Office and R&D, Hotel, and Active Uses (Retail/Neighborhood Commercial/ Community/ Civic/All Commercial)** (based on water meter size):

   a. Commercial and Nonresidential fee, including irrigation meter(s):

Meter Size	Unit Cost (Per Meter)
¾" Meter:	$7,323
1" Meter:	$12,206
1-1/2" Meter:	$24,409
2" Meter:	$39,055
3" Meter:	$74,349
Greater than 3"	$19.528 per gallons/day estimated water demand

2. **Residential:**
   a. Residential Class 3 (Multi-Family): $2,855/dwelling unit.

D. Sewer Capacity Fee (escalation per CCI – Code §35.41).

1. **Office and R&D:**
   a. Office/R&D: $2,603/1,000 net new SF.
2. **Residential:**
   a. Residential Class 3 (Multi-Family): $2,557/dwelling unit.
3. **Active Uses (Retail/Neighborhood Commercial/Community/Civic):**
   a. Commercial/Retail: $1,777/1,000 net new SF.
   b. Restaurant: $14,974/1,000 net new SF.
3. **Hotel:**
   a. Hotel: $1,643/room

E. North Bayshore Precise Plan Development Impact Fee (escalation per CCI per City Council Resolution No. 18029)

1. Office/R&D*:* $36.20 per net new SF in total, based on the following subtotals:
a. Transportation: $27.11/net new SF
b. Water: $7.66/net new SF
c. Sewer: $1.43/net new SF

2. Retail Active use: $3.79 per net new SF in total, based on the following subtotals:
a. Transportation: $2.83/net new SF
b. Water: $0.01/net new SF
c. Sewer: $0.95/net new SF

3. Hotel: $8,012 per room in total, based on the following subtotals:
a. Transportation: $2,415/room
b. Water: $4,743/room
c. Sewer: $854/room

ATTACHMENT 1

1. Land Required for Dedication: A x B = L
0.0060 acres x 5,950 market-rate units = 35.70 acres

2. Credit for the total amount of parkland site dedications and POPA Open Space deliveries to be made by Developer as provided for in the Agreement = _26.1 acres. The 26.1 acres will satisfy the parkland site/POPA Open Space requirements for 4,358 market-rate residential units.

3. The parkland/POPA Open Space requirement for the remaining 1,592 market-rate residential units (i.e. 5,950 – 4,358 = 1,592 units) is: 9.6 acres. Developer will meet this requirement through payment of the Parkland Impact Fee.

4. Per unit Parkland Impact Fee to be paid beginning with market-rate residential unit number 4,359: 0.006 x $11.76 Million escalated annually by CCI for the Term of the DA. For illustrative purposes the per unit Parkland Impact Fee, calculated in 2023 dollars (i.e. not including CCI escalations), is $70,560, and the total Parkland Impact Fee, calculated in 2023 dollars (i.e. not including CCI escalations) is estimated to be $112,331,520.

EXHIBIT J

Ground Floor Activation Program

I. Program Outline

I.1. Intent

The North Bayshore Ground Floor Activation Program, or "Program", seeks to encourage, welcome and assist businesses and operators in and around the North Bayshore Master Plan ("Master Plan"). The Program also seeks to create opportunities for operators, nonprofits and community uses to provide key community resources, services, and places that foster strong social bonds and contribute to a better quality of life for Mountain View residents. A diverse range of groups and experiences can help enrich the character of this new community. Overall, the Program is designed to provide tailored financial support by the Developer representing $10 million of value to the community. The purpose of this document is to provide a Program framework to be implemented by the Developer or assignee, for the duration of the Development Agreement (DA). The Developer will identify specific partners, the businesses or nonprofits supported, and the location of the activations throughout the Program and build-out of the Master Plan.

I.2. Principles

The Developer will operate the Program under four principles:

I.2.1. Create A Vibrant Community

The Program will respond and align with the City of Mountain View's ("City") citywide goals to create welcoming, inclusive and sustainable neighborhoods and North Bayshore Precise Plan goals to create Complete Neighborhoods (NBPP pages 42-44). As part of this, the Program will support a varied and engaging program of active uses, events and activations that bring the community and business operators together supporting a mix of users at North Bayshore.

I.2.2. Create Pathways To Market And Support Business Operators

The Program will provide tools and resources to help retail and businesses find their footing and create opportunities for them to grow through business incubation, funding for tenant improvements and support services. This aligns with the goal of North Bayshore Precise Plan's guiding principle of promoting retail, entertainment and the arts, as well as promoting economic diversity (NBPP pages 48-51).

I.2.3. Reduce Barriers To Entry For Active Use Operators

The Program will provide resources to facilitate streamlined processes and cost-effective opportunities for operators to come to market and participate across North Bayshore.

I.2.4. **Fill Gaps In Current Neighborhood Services To Respond To Future Community Needs**

The Program will seek out neighborhood serving retail, including a grocery store, businesses, nonprofits and community partners that help meet daily needs of current, future and nearby communities, particularly in areas where those needs are currently unmet. This aligns with the North Bayshore Precise Plan's guiding principle of creating complete neighborhoods with services available for residents and area employees and the broader surrounding communities (NBPP pages 42-44 and 48-51).

I.3. <u>Tools and Resources</u>

To support its principles, the Program establishes a number of tools and resources for participating groups, including:

I.3.1. **Strategic Early Activations**

The Developer will create an early business activation program to target businesses focusing on serving the neighborhood and which will take time to establish. These may include stores, restaurants, and other neighborhood serving uses The program will provide space to allow businesses to successfully develop a customer-base before transitioning them into the new buildings. Approximately 50% of the funding within the Program is expected to be dedicated to this effort.

I.3.2. Public Facing Accessible Events and Interim Uses

The Developer will provide funding and implementation for strategic early activations, events and place development that utilize vendors and are publicly accessible to the wider community. Activations will encourage spending within the community, help to increase visibility for business operators, and create inclusive public events for North Bayshore and broader Mountain View residents and workers. Approximately 5% of the funding is expected to be dedicated to this effort.

I.3.3. **Tenant Improvement Funding**

The Developer will provide an allowance (up to $125 per gross square foot, escalated annually with CPI) to fund a portion of tenant improvements, to help bridge some of the financial gaps in bringing a business or nonprofit's vision to life. This allowance can be used by selected operators to fund the build out and furnishing of physical business and trading spaces. Approximately 40% of the

funding within the Program and any remaining funds from the Strategic Early Activations are expected to be dedicated to this effort.

I.3.4. **Business Services Support and Soft Costs**

The Developer will provide funding for professional services related to starting up a new business, location or nonprofit. These services could include but are not limited to:

- Branding and marketing (e.g. creation of logo, signage, online advertisements and promotions)
- Accounting (e.g. payroll assistance and training, financial reporting advice/assistance)
- Legal & permitting(e.g. legal resources and consultants, permit expeditors and reviews)
- Customer service (e.g. small business operation consultants, advice and assistance)
- Merchandising and sourcing (e.g. market research and feedback on business operations and offerings)
- Funding & Financing (e.g. preparation of funding materials, assistance and expertise with various available funding resources and programs)

The Developer will provide directly to operators and/or financially support training programs, partnerships and workshops Approximately 5% of the funding is proposed to be dedicated to this effort.

I.4. <u>Implementation</u>

The Developer will implement the Program in four stages: initiation, planning, execution, and support. This Program phase and Master Plan phase are not necessarily aligned and could differ in their implementation timing. Implementation of the Program will begin upon approval and execution of the Development Agreement.

I.4.1. **Stage 1: Initiation**

In the initiation stage, the Developer will formally establish the Program and develop the structure and relationships it will need to provide value to the community through the above outlined program. This work will include, but may not be limited to:

a. Establish Program governance and management structure
b. Create Program charter and goals

c. Explore partnerships with local organizations that provide business and nonprofits training and support

I.4.2. **Stage 2: Planning**

In the planning stage, the Program will identify needs and opportunities in the community that may be addressed in a particular phase of the master plan. This work will include, but may not be limited to:

a. Identify operator/tenant needs, challenges and networks
b. Perform sub-market gaps analysis to identify optimal services
c. Refine or shift program offerings to best support businesses
d. Leverage networks to identify potential existing businesses in North Bayshore, greater Mountain View, and beyond to South Bay/Peninsula
e. Survey existing businesses to better understand their growth goals and space needs and leverage this data to inform businesses of the opportunity.
f. Compile an initial list of potential businesses and nonprofits to be targeted
g. Develop an outreach strategy to inform potential businesses and nonprofits of the Program opportunity
h. Draft Covenants, Codes, & Restrictions (CC&R's) and other governance documents, including program process and metrics

No later than 24 months after the commencement of the Term of the Development Agreement, the Developer will submit a detailed implementation plan for the Program.

I.4.3. **Stage 3: Execution**

In the execution stage, the Program will identify and engage specific tenants and operators to be leveraged during Strategic Early Activations and/or participate in the Tenant Improvement Funding Tenant Business Support programs. This work will include, but may not be limited to:

a. Leverage research done in Planning stage
b. Interview potential operators and community partners
c. As needed, sign Letters of Intent
d. Award initial Operators with Tenant Improvements/funding, support funds and agreements
e. Sign Funding Agreements and execute leases
f. Coordinate funding disbursements, tenant fit-outs, marketing, etc.
g. Identify and refresh roster of potential businesses
h. Plan, mobilize and produce events and public activations

i. Fund and connect business support resources to selected operators and businesses

I.4.4. Stage 4: Support

In the Support stage, Program representatives periodically engage participating businesses, offering tailored assistance and guidance, and also monitor their growth in order to better understand and serve their evolving needs. This work will include, but may not be limited to:

a. Conduct regular business reviews with tenants
b. Perform ongoing support per agreements, such as activation, marketing and operations support
c. Track tenant success and lessons learned over time
d. Annually review overall program success, project outcomes and lessons learned
e. Adapt support program as needed to amplify business support and community benefit

I.5. Monitoring

As part of the Annual Review described in the Development Agreement, the Developer shall submit a summary of the Program's activities in the reporting year, including (a) list of all Program participants by business name and location; (b) a list of all Program participants for events, by business/event name and location; (c) reporting on funds expended on key functions of the program of the prior year and cumulatively since inception; (d) a description of all the tools and resources disbursed to the Program participants since the prior Annual Review period; (e) overall Program success review, Project outcomes, lessons learned,; (f)and any updates or modifications proposed to the Program accordingly.

I.6. Valuation of the Program

The value of the Program is $10 million dollars, which is the sum of the value of each of the tools and resources that implement the Program and shall be increased annually by CPI until implemented. The Annual Review will track progress against delivery of the total value.

The figure below summarizes the approximate targets for the following four categories.

Program Components	Value in 2023
Strategic Early Activations	Approximately $5,000,000
Public Facing Accessible Events and Early Activations	Approximately $500,000
1. Tenant Improvement Funding	● Approximately $4,000,000 + remaining balance from Strategic Early Activations Assumption of $100-$125/sf allowance across selected tenants at 32,000-40,000 sf. depending on the amount of allowance.
Business Services Support and Soft Costs	● Approximately $500,000 Assumes an average of 40 hours of professional service support per selected tenants at $100/hr across 50 groups.
1. Total Program Value	● $10,000,000 (increased annually by CPI) until specific program is implemented).

I.7. Definitions

Note: Any capitalized term in this document that is used but not defined in this exhibit shall have the meaning given to such term in the Development Agreement.

I.7.1. Annual Review

A summary of the Program's actions and progress over the past year, delivered to the City as part of a larger annual DA review, which shall include information described in paragraph I.5 above.

I.7.2. North Bayshore Ground Floor Activation Program

Also known as the Program, it consists of a set of tools and resources as further described in this document, which will benefit the North Bayshore community and be credited towards North Bayshore's Public Benefits requirement. Generally, it consists of funding public facing and accessible events and activations, tenant improvements and financial assistance, and additional business services and support, totaling $10M in value (subject to annual CPI escalation until implemented).

EXHIBIT K

Intentionally Omitted

EXHIBIT L

Form of Assignment and Assumption Agreement

APN: _____

PARTIAL ASSIGNMENT AND ASSUMPTION OF RIGHTS AND OBLIGATIONS UNDER DEVELOPMENT AGREEMENT

This Partial Assignment and Assumption of Rights and Obligations Under Development Agreement (this "Assignment") dated for identification purposes only as of ____ day of _____, 20___, is entered into by and between _____ALL CAPS_____, a _____[legal entity—Example: sole proprietorship, partnership, corporation, S corporation, limited liability company, etc., etc.]_____ ("Assignor") and _____ALL CAPS_____, a _____[legal entity—Example: sole proprietorship, partnership, corporation, S corporation, limited liability company, etc., etc.]_____ ("Assignee"). Assignor and Assignee are collectively referred to herein as the "Parties."

RECITALS

A. Assignor and the City of Mountain View, a California charter city and municipal corporation ("City") are Parties to a certain Development Agreement regarding the _____ Project ("Project") dated as of _____, 20___, recorded in the Official Records of Santa Clara County, California, on _____, 20___, as Instrument No. _____ ("DA") and adopted by the City Council by Ordinance No._____.

[*INCLUDE IF ASSIGNOR NOT GOOGLE: If Google is not the current Assignor, replace "Assignor" in Recital A with "Google LLC, a Delaware limited liability company" and add a new recital describing assignment(s) from Google to this Assignor.*]

B. Except as otherwise specifically provided herein, all defined terms used in this Assignment shall have the meanings ascribed to them in the DA. This Assignment is governed by the provisions in Article 10 of the DA.

C. Assignor duly provided notice to City of Assignor's proposed assignment together with a copy of this Assignment instrument pursuant to Section 10.2 of the DA.

[SELECT ONE]

D. Assignor requested approval from City for the assignment to Assignee described herein, and City consented to such assignment, all pursuant to Section 10.1 of the DA.

OR

D. Assignor provided City documentation establishing that Assignee is a qualified Affiliated Party, and Assignor has the right to make the assignment to Assignee described herein, all pursuant to Section 10.1 of the DA.
*****[END OF SELECTION]*****

E. On the Effective Date (defined below), Assignor transferred to Assignee that portion of the Property legally described in Attachment 1, attached hereto and incorporated herein by reference (the "Assigned Property").

F. In conjunction with the transfer of the Assigned Property to Assignee, Assignor desires to assign to Assignee certain of Assignor's rights, duties, and obligations under the DA with respect to the Assigned Property, and Assignee desires to accept and assume certain of Assignor's rights, duties, and obligations under the DA with respect to the Assigned Property (collectively and as described and defined more particularly in Section 1 below, the "Rights and Obligations") subject to the terms, conditions and restrictions set forth in this Assignment.

AGREEMENT

NOW, THEREFORE, in exchange for the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Assignment and Assumption of Interest.**

a. Assignor hereby transfers, assigns, and conveys to Assignee the Rights and Obligations (as defined below). Assignee, for Assignee and Assignee's successors and assigns, hereby accepts the foregoing assignment, assumes all such Rights and Obligations, and expressly agrees for the benefit of City, to pay, perform, and discharge all such Rights and Obligations.

b. "Rights and Obligations" shall mean and include all of Assignor's right, title and interest in and to, and all obligations, duties, responsibilities, conditions, and restrictions under the DA with respect to the Assigned Property that: (1) apply exclusively to the Assigned Property; or (2) apply nonexclusively to the Assigned Property, but then only the extent proportionally allocable to the Assigned Property.

******[*OPTIONAL: Complete following Subsection (c) to the extent there are allocations of responsibility among portions of the Project that the City agrees can be specified as part of an assignment.*]******

c. Notwithstanding anything to the contrary herein:

(1) The Rights and Obligations shall not mean or include, and Assignee shall have no right or obligation with respect to _____, it being expressly understood that Assignor shall retain the obligation to _____.

(2) The Rights and Obligations shall include, without limitation (except for the limitations as expressly described below), and Assignee shall have rights or obligations with respect to:

(a) Only _____ percent (___ %) of the _____ Dollar ($_____) payment is required by DA Section _____; and

(b) DA Sections _____ and _____, of which obligations are tied to the Assigned Property;
*****[END OF OPTIONAL]*****

d. Assignee hereby acknowledges that the Assigned Property shall remain subject to all of the consequences and limitations set forth in Section 10.4 of the DA which may result from failure by other parties with an interest in the Project to satisfy requirements in the DA, including, without limitation, restrictions on the ability or timing to develop the Assigned Property.

2. **Effective Date.** Upon execution by Assignor, Assignee, and City (if City consent is necessary under the DA), the provisions of this Assignment shall be effective as of _____, 20___ (the "Effective Date").

3. **Rights and Remedies.** Subject to City's execution of the consent to this Assignment (if necessary under the DA), any default or breach by Assignor of obligations under the DA, regardless of whether such default or breach occurs before or after the Effective Date ("Assignor Breach"), shall not constitute a breach or default by Assignee under the DA. City shall look solely to Assignor for compliance with obligations under the DA other than the Rights and Obligations. An Assignor Breach shall not affect the Assigned Property and shall not cancel or diminish in any way Assignee's rights under the DA with respect to the Assigned Property, except as described in Section 10.4 of the DA and acknowledged by Assignee in Section 1.d of this Assignment.

4. **Assignee and Assignor Agreements, Indemnifications, and Waivers.**

a. Assignee represents and warrants and acknowledges and agrees for the benefit of City as follows:

(1) Assignee is a duly organized _____[legal entity]_____ organized within and in good standing under the laws of the State of _____ and authorized to do business in the State of California. Assignee has full right, power and lawful authority to undertake all obligations of Assignee as provided herein and execution, performance and delivery of this Assignment by Assignee has been fully authorized by all requisite actions on the part of Assignee.

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

(3) Assignee is not the subject of any bankruptcy proceeding.

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

b. Assignor and Assignee each represents and warrants and acknowledges and agrees for the benefit of City as follows:

(1) City has not made, and will not make, any representation or warranty that the partial assignment and assumption of the DA provided for hereunder will have any particular tax implications for Assignor or Assignee.

(2) The allocations and provisions made in this Assignment were specifically negotiated and agreed to by Assignor and Assignee, and it is the responsibility of Assignor and Assignee (and not City) prior to execution of this Assignment to assess whether the allocations and provisions made in this Assignment fulfill Assignor's and Assignee's respective needs and purposes.

(3) Assignee and Assignor each hereby waives and releases and each hereby agrees to indemnify and hold City harmless from and against any claims, liabilities, or damages, including reasonable attorneys' fees and costs actually incurred arising out of or resulting from any tax consequences for Assignor or Assignee resulting from the allocations of Rights and Obligations under this Assignment and/or disputes related to whether the allocations and provisions made in this Assignment fulfill Assignor's and Assignee's respective needs and purposes.

5. **Governing Law; Venue.** This Assignment shall be interpreted and enforced in accordance with the laws of the State of California without regard to principles of choice of laws. Any action to enforce or interpret this Assignment shall be filed and litigated exclusively in the Superior Court of Santa Clara County, California, or in the Federal District Court for the Northern District of California.

6. **Entire Agreement/Amendment.** This Assignment constitutes the entire agreement among the Parties with respect to the subject matter hereof, and supersedes all prior written and oral agreements with respect to the matters covered by this Assignment. This Assignment may not be amended except by an instrument in writing signed by each of the Parties and consented to in writing by City.

7. **Further Assurances.** Each Party shall execute and deliver such other certificates, agreements, and documents and take such other actions as may be reasonably required to consummate or implement the transactions contemplated by this Assignment and the DA.

8. **Benefit and Liability.** Subject to the restrictions on transfer set forth in the DA, this Assignment and all of the terms, covenants, and conditions hereof shall extend to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.

9. **Rights of City.** All rights of City under the DA and all obligations to City under the DA arising on or after the Effective Date with respect to the Assigned Property which were enforceable by City against Assignor prior to the Effective Date of this Assignment shall be fully enforceable by City against Assignee from and after the Effective Date of this Assignment.

10. **Rights of Assignee.** As of the Effective Date, all rights of Assignor and obligations to Assignor under the DA with respect to the Assigned Property which were enforceable by Assignor against City prior to the Effective Date of this Assignment shall be fully enforceable by Assignee against City from and after the Effective Date of this Assignment.

11. **Release.** Except as set forth in Section 1 above, Assignor hereby relinquishes all rights under the DA with respect to the Assigned Property, and all obligations of Assignor under the DA with respect to the Assigned Property shall be terminated as to, and shall have no more force or effect with respect to, Assignor, except for those obligations specifically retained by Assignor in this Assignment.

12. **Attorneys' Fees.** In the event of any litigation pertaining to this Assignment, the losing party shall pay the prevailing party's litigation costs and expenses, including without limitation reasonable attorneys' fees.

13. **City as Third-Party Beneficiary.** City is an intended third-party beneficiary of this Assignment, and has the right, but not the obligation, to enforce the provisions hereof.

14. **Recordation.** Assignor shall cause this Assignment to be recorded in the Official Records of Santa Clara County, and shall promptly provide conformed copies of the recorded Assignment to City and Assignee.

15. **Address for Notices.** Assignee's address for notices, demands, and communications under Section 12.2 of the DA is as follows:

Assignee: _____
Attn: _____
_____
_____

16. **Captions; Interpretation.** The section headings used herein are solely for convenience and shall not be used to interpret this Assignment. The Parties acknowledge that this Assignment is the product of negotiation and compromise on the part of both Parties, and the Parties agree that since both have participated in the negotiation and drafting of this Assignment, this Assignment shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

17. **Severability.** If any term, provision, condition, or covenant of this Assignment or its application to any Party or circumstances shall be held by a court of competent jurisdiction, to any extent, invalid or unenforceable, the remainder of this Assignment, or the application of the term, provision, condition, or covenant to persons or circumstances other than those as to whom

or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law unless the rights and obligations of the Parties have been materially altered or abridged thereby.

18. **Counterparts.** This Assignment may be executed in counterparts, each of which shall, irrespective of the date of its execution and delivery, be deemed an original, and the counterparts together shall constitute one and the same instrument.

19. **No Waiver.** Failure by a Party to insist upon the strict performance of any of the provisions of this Assignment by any other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Assignment thereafter.

20. **Amendments.** Any amendments or modifications to this Assignment must be in writing, signed by duly authorized representatives of each of the Parties hereto and consented to by the City in writing, and recorded in the Official Records of Santa Clara County, California.

21. **Authority.** Each person executing this Assignment represents and warrants that such person has the authority to bind the respective Party to the performance of the Party's obligations hereunder and that all necessary board of directors, shareholders, partners, members, managers, and other approvals have been obtained.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first set forth above.

"ASSIGNOR": __ALL CAPS___, _____[legal entity]_____	"ASSIGNEE": ALL CAPS___, _____[legal entity]_____
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

CONSENT TO PARTIAL ASSIGNMENT AND ASSUMPTIONS OF RIGHTS AND OBLIGATIONS UNDER DEVELOPMENT AGREEMENT

The City of Mountain View, a California charter city and municipal corporation, hereby consents to the assignment and assumption described in the foregoing Assignment.

"City":
CITY OF MOUNTAIN VIEW,
a California charter city and municipal corporation

By: _____
City Manager

Print Name: _____

Dated: _____

APPROVED AS TO CONTENT:

_____
Community Development Director

Print Name: _____

FINANCIAL APPROVAL:

_____
Finance and Administrative Services Director

Print Name: _____

APPROVED AS TO FORM:

_____
City Attorney

Print Name: _____

EXHIBIT M

Intentionally Omitted

EXHIBIT N

Master Encroachment Agreement for District Utility System Terms

This exhibit summarizes key terms to be included in a future Master Encroachment Agreement (MEA) between the Parties should the Developer pursue a district system in the Project. The Public Works Director, or designee, shall provide Developer with a draft of the Master Encroachment Agreement as part of City's first written response to the first zoning permit application that includes the District Utility System (including the District Systems Implementation Plan as described in the District Systems Concept Plan). The MEA will be in a standard agreement template form approved by the City Attorney. City and Developer shall execute the Master Encroachment Agreement, following approval of the zoning permit and submission of Building Permit application that includes the District Utility System, but prior to issuance of that Building Permit.

Capitalized terms that are used but not defined in this exhibit shall have the meaning given to such terms in the Development Agreement.

- **Scope of Agreement** – All rights granted under the MEA to Developer may be exercised at Developer's sole cost and expense, subject to the terms and conditions of the MEA, including the prior and continuing right of City to use all parts of the public right-of-way and City-owned land exclusively or concurrently with any other person or entity, and subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may, now and in the future, affect the right-of-way and City-owned land.

- **Other Private Rights –** Any future City grant of private rights affecting the Developer's rights under the MEA shall be consistent with, and shall not unreasonably interfere with, Developer's district systems improvements, except where Developer reasonably agrees to such interference.

- **Excavation Permit** – Developer shall apply for an Excavation Permit for the installation and construction of each phase of development with installation of the district system ("district system") within the public right-of-way or on City-owned parcels.

- **Improvements** – City to grant limited right to use portions of the public right of way and limited portions of City-owned property to locate the district system in the same or substantially similar manner as shown in the Existing Approvals and detailed further in Subsequent Approvals. Crossings (perpendicular and non-perpendicular) of the public right-of-way on Joaquin Road, Plymouth Street, Manzanita Street, Monarch Street, N. Shoreline Boulevard, Shorebird Way and Inigo Way are permitted to allow for a continuous district system. The district system must maintain minimum horizontal and vertical clearances from City infrastructure in the right-of-way in accordance with applicable City design standards and specifications. The final district system design will be shown on plans attached to each subsequently approved Excavation Permit for each phase of system installation.

- **Future Exhibits** – The MEA will allow for planned future exhibits to be added from time to time. Once an encroachment location(s) is included in an Improvement Plans/Excavation Permit, with the associated building permit application submission, and the exact location(s) is known, a new exhibit will be created, approved and executed by the parties, and attached and incorporated into the MEA. An exhibit will include a plat and legal description and a cost estimate of the work within the public right-of-way or on a City- owned parcel(s). Each exhibit will be added to the agreement and the agreement, in its entirety, will be recorded with the County. No other changes to the agreement will be allowed by either Party with the future exhibits; otherwise, any other change constitutes an Amendment to the Master Encroachment Agreement.

- **Securities** – The following securities are required: (a) prior to issuance of the Excavation Permit for said work, Developer must provide to the City a cash security (100% of the cost of improvements in the public right-of-way or on City-owned land) securing the proposed improvement(s) in the public right-of-way or City-owned parcel(s), which security shall be held for the life of the encroachment; and (b) prior to issuance of a building permit, Developer is to provide a security to the City as required per the Improvement Agreement to be held during construction of the improvements in the public right of way in accordance with City Code.

- **Terminology/Definitions** - In addition to any important terminology used in reference of the district system which may warrant definition, the MEA shall include clear terminology and definitions for: (a) the responsible party and single point-of-contact for the City for the district system operation ("responsible party"), (b) qualified operator(s) of the system, and (c) joint qualified operator(s) and owner(s) of the district system.

- **Nonexclusive Rights** – Through the MEA, the City will grant nonexclusive rights to Developer to construct and maintain a district system in a defined footprint within the public right of way and on City-owned property. These rights do not constitute a deed or grant of an easement or any other real property interest by the City to the Developer.

- **Permitted Uses** – Developer represents, warrants, and covenants the district system installed will be utilized for the sole purpose of providing identified services to private customers and not to provide services outside of the defined Master Plan area without authorization and approval by the City. Developer shall be responsible for all costs associated with construction, installation, maintenance, and use of the district system. Developer is obligated to obtain any additional required authorizations, approvals, or permits from any City department, board, commission, or other governmental agency that has authority over the Developer's activities involving use of the public right of way and City land.

- **City Access and Form of Notification** – City or City's Agents may enter onto City land and public right of way at all times. Developer shall be a member of the regional notification center for subsurface installations (Underground Services Alert) and shall field-mark, at its sole expense, the locations of its underground facilities upon notification

in accordance with the requirements of Section 4216 of the State of California Government Code, as it now reads or may hereinafter be amended. This will be the form of notification for any work proposed in or near the MEA area.

- **Indemnity** – Developer shall indemnify, defend, protect, and hold City harmless from and against any and all claims, liabilities, penalties, forfeitures, losses and/or expenses related to or arising out of the encroachments or activities under the MEA by Developer or its contractors, agents, officers, employees or invitees, except to the extent such claims result from the City's gross negligence, recklessness, or willful misconduct.

- **Insurance** – Developer to provide minimum insurance requirements for the term of the MEA at rates and in a form required by the City at time of submittal for the Excavation Permit, which may minimally include, but not be limited to, commercial general liability insurance, automobile liability insurance, pollution liability insurance, and workers compensation insurance. The City updates insurance requirements from time to time.

- **Continuity of Service** – Developer will be required to provide continuous district system services to all buildings where services are provided

- **Cease of Service** - Should Developer cease providing one or more district system services entirely, either by election or poor performance, and without any comparable replacement or substitute district system service, then Developer must provide the City 180 days' written notice together with such plans as are necessary for the required City utility system connection or standard public utility connections available in the City, and plans for removal of the district system improvements and restoration of public rights-of-way and City property. Following City approval of Developer's installation and removal plans, completion of the new connections by Developer, and City verification that the substitute City services are operating properly, Developer may terminate the MEA and discontinue system operations as to the affected district system. Termination requires removal of the district system infrastructure for the discontinued service in the public right-of-way and on City-owned property, at no cost to the City; provided, City in its sole discretion may allow some or all of the district system improvements to remain in place. The public right-of- way and City property shall be restored to the same finished condition as exists immediately prior to removal. Developer shall commence removal and restoration within thirty (30) days after all the City substitute services required to replace the district system services are operational, and shall complete removal and restoration within one hundred eighty (180) days, or such longer period of time as may be reasonably approved by the Public Works Director.

- **No Interference** – Developer shall not interfere in any manner with the existence and operation of any other public right-of-way, City infrastructure, public utilities, or City-owned land than explicitly identified in the Excavation Permit scope of work. Any future

City grant of private rights for use of public rights-of-way or City land shall to the extent allowed by Applicable Law not unreasonably interfere with Developer's district systems improvements, except where Developer reasonably agrees to such interference.

- **Maintenance/Repair** – Developer shall, at all times, maintain the area(s) of the encroachment in safe condition and good appearance to the reasonable satisfaction of City's Public Works Director. Any repair or maintenance that requires disrupting the encroachment area(s) (e.g. dig out and repair) requires submittal and approval of an Excavation Permit.

- **Removal and Relocation of Sites** – Upon receiving written notification from the City, Developer shall remove or relocate, without cost or expense to City, any district systems infrastructure installed, used, and maintained under the MEA or subsequent Excavation Permits within a given portion of the public right-of-way or City-owned land if the City or a regional, county, state or federal governmental agency determines to use the right-of-way or City-owned land for a public purpose, or the installation is declared unlawful by a court of competent jurisdiction. For purposes of the MEA or any subsequent Excavation Permit authorized under the MEA, the following shall not constitute a "public purpose" that would merit removal or relocation of any district systems infrastructure: **(1)** subsequent encroachments proposed by private property development projects, whether below, at or above-grade; or (2) subsequent subsurface private or franchised utility infrastructure, unless required by a franchise agreement or otherwise authorized by State or Federal agencies, or Applicable Law. Removal and any associated restoration of the right-of-way or City-owned land shall be completed within 180 days of City's notification, or a longer period that may be determined by the Public Works Director in his or her reasonable discretion subject to time limits that may be imposed by the new required use. City will include the evaluation of any proposed alternative location(s) for district systems infrastructure necessitated by this removal as part of the City's environmental analysis for other planned improvements, if any such environmental analysis is required.

- **Comply with Applicable Laws –** Developer and the district system must comply with all Applicable Laws.

- **Assignments** – Developer may assign the district system improvements and associated rights and obligations in the MEA as follows:

    - Assignment and Assumption Agreement: Any Assignment will require execution of an "Assignment and Assumption Agreement" which evidences that the assignee has assumed all rights and obligations of the assignor pertaining to the district system and the District Systems Transactional Documents (defined in the District Systems Implementation Plan). No Assignment shall be effective until the assignor or assignee provides an executed copy of the Assignment and Assumption Agreement to the Public Works Director. Developer may not partially assign the MEA. Regardless of the ownership or components of the district system, Developer shall identify a single responsible party with responsibility for compliance with the obligations of the MEA.

- Evidence of Qualified Operator: Concurrent with the submittal of the executed Assignment Assumption Agreement, the assignor or assignee shall provide notice and documentation to City's Public Works Department confirming the assigned district system will continue to be operated by a Qualified Operator subsequent to the Assignment (as defined in the District Systems Implementation Plan). No Assignment shall be effective until the assignor or assignee provides the documentation required pursuant to this condition.

- Permitted Assignments: Developer may assign to (i) an Affiliated Party; (ii) Lendlease;; (iii) any Lendlease Affiliate; (iv) any entity in which Developer, an Affiliated Party, Lendlease, or any Lendlease Affiliate are members or hold an interest so long as any of the foregoing parties has Control of such entity (v) any third-party assignee that is an owner of the district system, with appropriate operational and asset management capabilities, directly or via an operating partner; or (vi) a Project master commercial association properly organized under Applicable Law, with CC&Rs, reserves, resources and funding arrangements all approved by the City in its reasonable discretion. Any such assignments other than to a master commercial association as described in the preceding clause (vi) would not require City's consent but would require thirty (30) days prior written notice to City of such assignment; if a third-party assignee as described in the preceding clause (v) is to be an operator of the district system, then written notice to the City must also include documentation that the assignee meets minimum Qualified Operator service requirements. Any assignment of permits or other regulatory obligations under federal, state, regional, or local laws must be in compliance with these laws and any other agency requirements.

EXHIBIT O

NON-DISTRICT UTILITY SYSTEMS ENCROACHMENT AGREEMENT TERMS

The below key terms focus on establishing adequate timeframes for removal and/or relocation of any encroachments (not including District Systems ("DS")). The below text is intended to be integrated into any standard Encroachment Agreements required in the North Bayshore Master Plan ("Master Plan"). (Any standard Encroachment Agreement would likely be required as a future PCP condition of approval.)

1. **Removal and Relocation Timing.** If the City determines that removal or relocation of the improvements installed in the public right-of-way is necessary for governmental purposes, activities, or City installations, said removal or relocation shall be completed within one hundred and eighty (180) days of notification by City, or such later time as may be approved by the Public Works Director in their sole and reasonable discretion, to be no less than one hundred eighty (180) days. City may immediately commence activities to remediate any emergency situation, including removal or relocation of improvements, and shall issue Developer written notice as reasonably practicable. Upon adequate justification, City may require removal or relocation on shorter notice in a non-emergency situation, but in no case less than thirty (30) days' notice.

2. **Revocation of Encroachment Agreement.** If the Public Works Director revokes the encroachment agreement in his/her reasonable discretion for governmental purposes, activities, or City installations, the improvements in the public right-of-way shall be removed within one hundred and eighty (180) days of such request, or within a time frame reasonably determined by the Public Works Director, to be no less than one hundred eighty (180) days.

3. **Discontinuance of use of improvements.** If Developer ceases to use the improvements located in the public right-of-way, Developer shall notify City of Developer's intent to remove or abandon the improvements within one hundred and eighty (180) days of providing notice of nonuse to the City, or within a time frame reasonably agreed to by Developer and City, to be no less than one hundred eighty (180) days.

4. **Indemnification:** except for the Master Encroachment Agreement governing District Systems, all encroachment agreements entered into for the Master Plan shall include an indemnification provision that is substantially as follows: Developer, jointly and severally, for itself, its successors, agents, contractors, and employees, agrees to indemnify, defend (with counsel acceptable to City), and hold harmless City, its City Council, officers, employees, and agents and any successors to City's interest in the property from and against any and all claims, demands, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection there with, including, without limitation, reasonable attorneys' fees and costs of defense (collectively, the "Losses") arising directly or indirectly, in whole or in part, out of or from the construction, implementation, operation, maintenance, repair or removal of the encroachments, or other acts or omissions of Developer or any of Developer's employees, contractors, subcontractors, agents or representatives

(individually a “Developer Party” and collectively, “Developer Parties”) under this Encroachment Agreement, failure of Developer Parties to comply with the terms of this Encroachment Agreement, or arising out of the acts or omissions of Developer Parties in connection with their activities under this Encroachment Agreement on or off the site of the encroachment, except to the extent such Losses are caused by the gross negligence, recklessness, or willful misconduct of City or its City Council, officers, employees, and agents and any successors to City’s interest in the property.

EXHIBIT P

Form of Notice of Completion and Termination

This document shall include exhibits for legal property description, property map and/or relevant building/floor plans, and associated notary forms from the City Manager and Developer, to be recorded in the Official Records. Minor edits or adjustments are permitted to fulfill the details of the particular subject property, signatories, site-specific requirements, or grammatical errors.

(Space above this line reserved for Recorder's use only)

APN: _____

NOTICE OF COMPLETION AND TERMINATION

NOTICE IS HEREBY GIVEN of Completion of Building and Associated Obligations ("Notice") by and between the City of Mountain View, a California charter city and municipal corporation ("City"), and _____, a ____[legal entity type]_____ ("Developer") to be effective on the date this Notice is signed by City and Developer and recorded in the Official Records of Santa Clara County, California.

1. The City and Developer entered into certain Development Agreement dated _____ and recorded in the Official Records of the County of Santa Clara on _____, as Document Number _____ (the "Development Agreement"). Capitalized terms used in this Notice that are not defined shall have meaning given to such terms in the Development Agreement.

2. Under Section 10.7 of the Development Agreement, when one or more buildings or other improvements on a legal parcel have been Completed, have received a Certificate of Occupancy, and all of the Required Exactions, Community Benefits and Public Benefits, and any other obligations and requirements under the Developer Agreement tied to the specific building(s) or legal parcel have been provided or otherwise satisfied, in accordance with the Development Agreement (collectively "Obligations"), then the City and Developer shall execute and record a notice of completion as it relates to the applicable building or improvements.

3. The City confirms that ___[*the building known as…. and/or the improvements known as….*], located on certain real property commonly identified as [enter property address], Mountain View, California, and more particularly described in Exhibits A and B, the attached legal description and Assessor's Parcel Map ("Affected Property"), respectively, together with all of the Obligations associated with ___[*that building and/or those improvements*] through the Development Agreement, have been completed in accordance with

the Development Agreement. The only remaining Obligations are those set forth in separate recordable documents, including the _____ *[Insert POPA Agreement or any other agreement setting forth ongoing obligations] (collectively, the "Continuing Agreement")]* which shall run with the land and continue to be binding with respect to the [*building and/or improvements*] and Affected Property and to any and all parties having or later acquiring any interest in the Affected Property, notwithstanding the recordation of this Notice.

Executed this _____ day of _____ 20____, in Mountain View, California.

CITY OF MOUNTAIN VIEW:

By: _____
City Manager

_____
Printed Name

APPROVED AS TO CONTENT:

_____
Community Development Director

_____
Printed Name

APPROVED AS TO FORM:

_____
City Attorney

_____
Printed Name

DEVELOPER:

_____

_____
Signature

_____
Printed Name

EXHIBIT Q

Form of Irrevocable Offer

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO: CITY OF MOUNTAIN VIEW P.O. Box 7540 Mountain View, CA 94039-7540 Attention: City Clerk *Exempt from Recording Fees per Govt. Code §§ 6103 and 27383*	

SPACE ABOVE THIS LINE FOR RECORDING USE

Assessor's Parcel Nos:_____

IRREVOCABLE OFFER OF DEDICATION

This Irrevocable Offer of Dedication ("Offer") is made and effective this _____ day of _____, 20___ by _____ ("Offeror") for exclusive acceptance by the CITY OF MOUNTAIN VIEW, a municipal corporation ("City").

RECITALS

A. Offeror is the owner in fee of real property located at approximately _____ _____ in the City of Mountain View (the "Site"), Assessor's Parcel No. _____ _____ and more particularly described in Exhibit "A."

B. Offeror and the City are parties to that certain Development Agreement regarding the North Bayshore Master Plan Project ("Project") dated as of _____, 20__, recorded in the Official Records of Santa Clara County on_____, 20__ as Instrument No. _____ (the "DA").

C. Pursuant to Section ___ of the DA, Offeror agreed to offer the Site for dedication to the City for ____[*affordable housing/parkland*]____ purposes.

D. Offeror must record this Offer with the Recorder for the County of Santa Clara pursuant to the requirements of the DA.

NOW THEREFORE, in consideration of the mutual promises, approvals, and covenants made by the parties and other considerations, the value, adequacy and receipt of which are hereby acknowledged, the parties agree as follows:

1. Irrevocable Offer Of Dedication. Offeror does hereby irrevocably offer to dedicate the Site to the City in fee (in the Required Condition as defined in the DA at such time as required by the DA) for ____[*affordable housing/parkland*]____. This Offer is irrevocable and binding as provided in Section 6 below.

2. Condition Of Title. Offeror warrants that there are no current oral or written leases, easements or liens on all or any portion of the Site as of the date of this Offer that would be binding on City as of the date City takes title to the Site, except for liens for current, non-delinquent taxes and assessments and those incidental easements and other incidental exceptions, if any, previously approved by City in writing in accordance with the DA. Offeror agrees to hold City harmless and reimburse City for any and all of its losses and expenses, including attorney's fees, occasioned by reason of any lease, easement, or lien on the Site that is not allowed or has not been pre-approved by City or that City does not approve in its reasonable discretion at the time Offeror delivers the Site in the Required Condition as defined in the DA.

3. Time And Manner Of Acceptance.

3.1. The Site may only be accepted by the City Manager of the City of Mountain View or their designee as authorized by Resolution of the City Council of the City of Mountain View and not in any other manner. Any purported acceptance of this Offer by or on behalf of the City, other than in this manner, shall be null and void and of no force or effect.

3.2. This Offer shall remain in effect until accepted by the City Manager of the City of Mountain View or their designee as authorized by Resolution of the City Council which may not occur, if at all, before _____, _____ ("Earliest Acceptance Date"). This Offer may not be terminated by Offeror or the right to accept the Offer abandoned by City, except by Resolution of the City Council.

4. Use Of Property Prior To Acceptance Of Irrevocable Offer.

4.1. The City shall incur no liability with respect to this Offer and shall not assume any responsibility for the Site or any improvements to the Site except to the extent that the Site has been accepted by the City.

4.2. Before the lawful acceptance of this Offer by the City Offeror agrees that it will not use the Site in any way that will preclude Offeror's ability to dedicate the Site in the Required Condition.

5. Notices. Any notices which either party may desire to give to the other party under this Offer must be in writing and may be given either by (i) personal service; (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery; or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

City:	City Manager's Office—City of Mountain View Attn: City Manager 500 Castro Street P.O. Box 7540 Mountain View, CA 94039-7540
With a copy to:	City Attorney's Office Attn: City Attorney City of Mountain View 500 Castro Street P.O. Box 7540 Mountain View, CA 94039-7540
And to:	Community Development Department Attn: Community Development Director City of Mountain View 500 Castro Street P.O. Box 7540 Mountain View, CA 94039-7540
And to:	Public Works Department Attn: Public Works Director City of Mountain View 500 Castro Street P.O. Box 7540 Mountain View, CA 94039-7540
Offeror:	Google LLC Attn: DevCo North Bayshore Team Mountain View Real Estate Team 1600 Amphitheatre Parkway Mountain View, CA 94043
With a copy to:	Google LLC Attn: Legal Department/Real Estate Matters 1600 Amphitheatre Parkway Mountain View, CA 94043

6. **Offer Runs With Land**. The provisions of this Offer shall inure to the benefit of and be binding upon the owners of the Site and their heirs, successors or assigns, and any other person claiming an interest in the Site through them.

7. **Waiver of Further Compensation**. Offeror hereby expressly and unconditionally waives any and all right to claim, demand, or receive any further compensation for the Site which Offeror may be eligible to receive under the California Relocation Assistance Act (Government Code §7260, et seq.), Article 1, § 19 of the California Constitution, the California Eminent Domain

Law (Code of Civil Procedure §1230.010, et seq.), and/or the California Code of Regulations, Title 25 or other applicable local, state, or federal statute, ordinance, regulation, rule, or decisional law (collectively "Compensatory Laws"), including, but not limited to, the fair market value of the Site, severance damages, loss of goodwill, loss of profits, or relocation benefits and assistance, or claims for unreasonable precondemnation activities or inverse condemnation, or any other compensation as a result of the City's requirement of the Site and/or acceptance of the Site. Furthermore, Offeror hereby expressly releases the City of Mountain View, and its respective elected and appointed officials, officers, employees, representatives, successors and assigns, from any liability, responsibility, or obligation to pay any further compensation for the City's requirement of the Site and/or acceptance of the Site which Offeror may be eligible to receive under the Compensatory Laws as a result thereof.

8. **Authority To Execute**. The person or persons executing this Offer on behalf of Offeror warrants and represents that they has/have the authority to execute this Offer on behalf of their corporation, partnership, or business entity and warrants and represents that they has/have the authority to bind Offeror to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first written above.

CITY:

CITY OF MOUNTAIN VIEW

By:_____
Kimbra McCarthy, City Manager

OFFEROR:

_____

By:_____
Name:_____
Title:_____

By:_____
Name:_____
Title:_____

ATTACHMENT No. 1

Legal Description of Site

EXHIBIT R

Transportation Demand Management Agreement

Framework for Transportation Demand Management ("TDM") Agreement Provisions

Below are the office TDM framework provisions to be included in the TDM Agreement, which shall apply to all Google occupied buildings located in the North Bayshore Precise Plan area (both within and outside of the North Bayshore Master Plan area). It is the intent that Google, LLC and the City shall subsequently negotiate and mutually execute a formal TDM agreement prior to implementation of the Office Trip Cap (as defined below). The subsequent TDM agreement shall contain express provisions that said agreement will survive the term of the Development Agreement.

Developer shall comply with the provisions of this TDM Agreement. The purpose of this TDM Agreement is to establish an Office Trip Cap (defined below) that enables Developer to implement a comprehensive district-wide approach to TDM and parking management that supports the North Bayshore Precise Plan (NBPP) goal of reducing vehicle traffic and supporting non-driving modes.

Provided the conditions set forth herein are achieved, including compliance with the Office Trip Cap (defined below), and payment of penalties if required, Google shall be exempt from the monitoring requirements and penalties under the NBPP gateway trip cap policy for all properties occupied by Google in the NBPP area (including denial of building permits if gateway trip caps are exceeded).

The provisions of this DA TDM Agreement shall supersede all existing project trip and headcount caps and monitoring requirements applicable to all properties occupied by Google or its parent, subsidiaries, or affiliates (collectively, "Google") within the North Bayshore Precise Plan area. This includes, but is not limited to, the following conditions and resolutions[i] (collectively "Existing Google Requirements"):

- North Bayshore Master Plan (Condition No. 264 (Transportation Demand Management Program for Non-Residential [Office] Development) and Condition No. 265 (Transportation Demand Management Monitoring for Non-Residential [Office] Development))

- Charleston East (Resolution No. 18128, approved March 7, 2017, Conditions of Approval Nos. 75,76 and 161)

- Landings (Resolution No. 18476, approved June 23, 2020, Conditions of Approval Nos. 47, 48, and 230); and
- 1625 Plymouth Street (Resolution No. 18083, approved June 21, 2016, Conditions of

[i] Subject to City Council amendment of the previously adopted Resolutions and Conditions of Approval to recognize the applicability of the new district-wide Office Trip Cap to the approved projects during Google's occupation of buildings within the project.

Approval Nos. 58 and 59) which Google, as tenant, is obligated per the lease agreement to abide by and will not apply if Google's occupancy ends, the provisions of Conditions of Approval Nos. 58 and 59 shall apply to any successor occupant.

If a property owned by Google and subject to the Office Trip Cap is sold or leased to a non-affiliated third party and no longer occupied by Google ("Divested Property"), this DA TDM Agreement shall not apply to said Divested Property. Instead, said Divested Property shall be: (1) subject to North Bayshore Master Plan Condition of Approval Nos. 264 and 265 (Transportation Demand Management Program for Non-Residential [Office] Development) if the property contains an office building that was (a) either rebuilt or newly-constructed by Google and (b) located in the North Bayshore Master Plan, or (2) subject to the Conditions of Approval applicable to the Divested Property prior to the effectiveness of this TDM Agreement (e.g., the recorded conditions on the property that were imposed as a condition of the project's approval, or as subsequently amended) if the property contains an office building that is either (a) located within the North Bayshore Master Plan and not rebuilt, or (b) located outside of the North Bayshore Master Plan but within the North Bayshore Precise Plan area.

Office Trip Cap:

Google agrees to implement a North Bayshore district-wide office vehicle trip cap ("Office Trip Cap") that shall apply to all office buildings in the North Bayshore Precise Plan area that are occupied by Google or its parent, subsidiaries, or affiliates (collectively, "Google") as such occupancy may change from time to time. Based on Google's changing building occupancy, Google shall be allowed to add building(s), remove building(s), or modify the portion of a building subject to the Office Trip Cap without adjustments to the Office Trip Cap number so long as the cumulative office square footage occupied by Google in the North Bayshore Precise Plan area does not exceed the total Office Square Footage set forth in Table A below. Subject to Google and City's mutual agreement, the Office Trip Cap may be modified if needed to accommodate changes to Google's occupancy, Google's development plans, or implementation of the City's Priority Transportation Improvements. At the time of the annual DA TDM Reporting (as defined below), Google shall provide the City with a report showing any Divested Property and in such case(s), the Total Office Square Footage used to calculate the Office Trip Cap shall be modified accordingly.

Table A: Total Office Square Footage Included in the Office Trip Cap

Category	Office Square Footage
A) North Bayshore Master Plan	3,117,931
B) Existing office buildings occupied by Google in the NBPP area as of June 27, 2023;*	*To be calculated as part of Office Trip Cap Implementation Plan*
C) Currently entitled Google offices (but not constructed or complete) within	

the North Bayshore Precise Plan area (e.g. Landings, Charleston East)**	
Total:	*To be calculated as part of Office Trip Cap Implementation Plan*

*Excludes office square footage included in the North Bayshore Master Plan
** Landings Office shall not be included in the Office Trip Cap allowance until the Landings Office project receives Certificate of Occupancy.

The Office Trip Cap shall apply to the a.m. and p.m. Peak Periods[ii] and shall be calculated based on the following assumptions:

(i) A 35% single-occupancy vehicle (SOV) mode-share target for existing, rebuilt and net new office square footage in the NBPP Area that Google occupies at the time of full build-out and occupancy of the North Bayshore Master Plan, as shown in Table A;

(ii) Consistency with the peak period vehicle trip generation rate that was used in the North Bayshore Master Plan Subsequent Environmental Impact Report (SEIR) Transportation Analysis or the North Bayshore Multimodal Transportation Analysis;

(iii) A.m. and p.m. trip caps shall be based on peak-direction trips (inbound a.m. trips and outbound p.m. trips): and

(iv) A trip generation rate based on 4 person trips per 1,000 square feet of office space.

The Office Trip Cap number shall be proposed by Google and approved by the City as part of the Office Trip Cap Implementation Plan.

Office Trip Cap Implementation Plan:

Google shall submit an Office Trip Cap Implementation Plan to the City's TDM Coordinator no later than submission of the initial building permit application for the first North Bayshore Master Plan office building. The Office Trip Cap Implementation Plan must be reviewed and approved by the Community Development Director and Public Works Director prior to issuance of the core and shell permit for the first North Bayshore Master Plan office building. Notwithstanding the foregoing, Google may submit the Office Trip Cap Implementation Plan to the City at an earlier date if desired by Google and shall be timely reviewed and approved by the City. Approval by the City of the Office Trip Cap Implementation Plan will constitute formal adoption of the Office Trip Cap, at which point Existing Google Requirements shall no longer apply and those properties shall

[ii] The peak period shall be initially defined as 8:00-11:00 a.m. and 4:00-7:00 p.m. on all weekdays ("Peak Period") but the three hour periods may be adjusted as conditions warrant. For means of clarification, the AM and PM Peak Periods shall not be expanded beyond a three (3) hour period but the periods may be changed to a different three (3) hour period during the day as conditions warrant.

be subject to the Office Trip Cap while occupied by Google. Google shall adhere to the approved Office Trip Cap Implementation Plan.

The Office Trip Cap Implementation Plan shall include the following:

a. The Office Trip Cap, as defined above, including the list of buildings with square footage and details on how the proposed Office Trip Cap was calculated.

b. A detailed plan to collect driveway traffic count data per the requirements of this condition, including the driveway locations and monitoring technology to be used. For shared driveways that have a mix of office and non-office trips, the Office Trip Cap Implementation Plan shall include a methodology to estimate the percentage of trips attributable to office buildings and district parking locations.

c. An acknowledgment that the Office Trip Cap, when approved, shall supersede all Existing Google Requirements.

Other TDM Measures:

Other required TDM measures include:

a. Join and maintain ongoing membership in the Mountain View Transportation Management Association (MVTMA) for the life of the project.

b. Provide an on-site Employee Transportation Coordinator (ETC) to implement, manage and monitor the TDM program and to serve as a liaison between the employer/tenant and the MVTMA. Annual monitoring reports will be submitted to the City's TDM Coordinator. The ETC shall carry out the following tasks in coordination with third parties, such as the MVTMA, vendors, and independent consultants, to ensure successful implementation of the TDM program:

i. Organizing and implementing promotional programs; Develop and distribute marketing and information materials to inform employees and visitors about the TDM program and encourage their participation.

ii. Updating information in physical locations and via the online Intranet/employee HR resource pages;

iii. Providing trip-planning assistance and/or ride-matching assistance to employees and visitors;

iv. Promotion and presentation of transportation alternative choices at new hire/intern orientations (including public/private transit options, Carshare, and bike share etc);

v. Managing and facilitating annual employee commute mode share surveys, visitor surveys, and conducting annual driveway counts with an independent consultant as specified below for TDM monitoring. For district parking locations, the ETC shall refine the commute survey methodology to identify the office buildings with which the trips at garage driveways are associated;

vi. Supplying up-to-date transit schedules, parking availability data, route maps and stop locations for commuter last mile shuttles, VTA transit lines, MVgo, and Caltrain.

c. Provide a flexible, alternative work schedule program to allow employees to travel outside of peak periods; provide telecommute work options.

d. Provide a Guaranteed Ride Home program to encourage use of alternative transportation.

e. Provide publicly accessible shuttle services to connect employees and visitors to existing public transit stops/hubs, either directly or through the MVTMA.

f. Provide bicycle parking, along with showers and changing facilities, as defined in the Precise Plan; Provide sufficient self-repair station(s) for bikes.

h. Provide ride-share matching services to encourage carpooling by employees and provide bike matching services to encourage employees to bike to work together.

g. Include site design features to further alternative modes of travel, such as: (i) give priority parking locations to carpools and vanpools as defined in the Precise Plan; (ii) provide car share parking as defined in the Precise Plan; and (iii) orient building entrances toward sidewalks, transit stops, and bicycle facilities.

Additional measures that shall be considered as needed to maintain compliance with the Office Trip Cap:(i) provide access to a fleet of shared vehicles; (ii) provide subsidized membership to external car sharing organizations; (iii) provide a bike loaner program to provide bikes on an extended basis to visiting or short-term employees for commuting; (iv) for carpool services, employers provide vans, fuel, toll expenses, and vehicle maintenance; (v) provide monetary incentive for employees to purchase bikes; (vi) provide a parking cash out program to encourage use of alternative modes in accordance with California state law AB 2206; (vii) provide commuter shuttle service for employees.

TDM Monitoring:
Google shall prepare an annual Transportation Demand Management (TDM) report and submit it to the City's TDM Coordinator to document the effectiveness of their TDM program in maintaining compliance with the Office Trip Cap. The TDM report shall be prepared by an independent consultant and paid for by Google; the consultant shall work with Google's TDM coordinator. To verify the details of the TDM program, the City can hire a third-party consultant to review, which shall be funded by Google (at contract cost plus the City's administrative fee).

TDM Reporting: The initial TDM report for the project will be submitted to the City's TDM Coordinator on December 1, or the following business day thereafter if a weekend, the earlier of one year after approval of the Office Trip Cap Implementation Plan or one year after the granting of the Certificate of Occupancy for the first North Bayshore Master Plan new office building. Subsequent reports will be submitted to the City's TDM Coordinator annually on December 1.

Office Trip Cap Compliance: To monitor compliance with the Office Trip Cap, driveway traffic counts shall be prepared and provided by an independent, licensed consultant and paid for by

Google. The driveway counts and resulting data shall be included in the TDM report provided to the City's TDM Coordinator. The monitoring period will consist of one full work week (5 days), Monday through Friday

- Driveway traffic counts shall be collected for peak-direction traffic (inbound a.m. trips and outbound p.m. trips) during the a.m. and p.m. three-hour peak periods Monday through Friday
- To monitor compliance with the Office Trip Cap, individual driveway traffic counts shall be added together and compared to the cumulative Office Trip Cap number:
    - A.m. peak period driveway traffic counts shall be added together and compared to the a.m. Office Trip Cap
    - P.m. peak period driveway traffic counts shall be added together and compared to the p.m. Office Trip Cap
- Compliance with the Office Trip Cap shall be calculated using the average of the three highest volume weekdays of a.m./p.m. counts to determine compliance for the a.m./p.m. peak period
- Any penalty amount would be the greater of either the a.m. or the p.m. exceedance
    - For example, if the 3-day average for the a.m. peak period counts show an exceedance of the a.m. trip cap, and 3-day average for the p.m. peak period counts show an exceedance of the p.m. trip cap, applicant shall pay the greater of the two exceedances

The City may conduct vehicle counts on its own accord at the same driveway locations used for Google's counts, under contract with an independent consultant, to verify compliance with Google's district trip cap. Should the City's counts exceed Google's counts by 2% or more and result in non-compliance with the trip cap and the applicant does not accept calculation of penalties based on City's count, a third-party traffic consultant mutually acceptable to the City and Google, and paid for by Google, shall be hired to assess the validity of the count data for purposes of determining compliance with the district trip cap and any applicable penalties for non-compliance.

Report Conclusions/Program Modifications:

The TDM report shall either state: (1) the total trips of all office buildings subject to the Office Trip Cap are below the required peak period Office Trip Cap, providing supporting statistics and analysis to establish attainment of the goal; or (2) the total trips of all office buildings subject to the Office Trip Cap exceed the peak period Office Trip Cap, providing an explanation of how and why the goal has not been reached and a description of additional measures that will be adopted in order to attain the TDM goal required to remain below the Office Trip Cap.

If the Office Trip Cap is exceeded, Google shall submit a revised TDM plan to the City's TDM Coordinator identifying new programs or measures to address the exceedance and reduce the number of site-specific vehicle trips. If the following annual monitoring report indicates that, despite changes to the TDM program, the site still does not comply with the Office Trip Cap, then the City will assess Google a financial penalty.

Penalty for Noncompliance: If, after an initial TDM report shows noncompliance, the next annual TDM report indicates that, in spite of the changes in the TDM program, the Office Trip Cap is

still not being met, or if Google fails to submit such a TDM report at the times described above, the City may assess a penalty in the maximum amount of Three Hundred Thousand Dollars ($300,000) for the first percentage point above the specified Office Trip Cap and an additional One Hundred Thousand Dollars ($100,000) for each additional percentage point above thereafter ("TDM Penalty"). The penalty applies whether a.m. or p.m. trips are exceeded; the monetary penalty is based on whichever trip cap is the highest percent above the Office Trip Cap. In determining whether the TDM Penalty is appropriate, the City may consider whether Google has made a good-faith effort to meet the TDM goals and allow a six (6) month "grace period" to implement additional TDM measures to meet the Office Trip Cap. If the project does not achieve the necessary reductions to meet the Office Trip Cap after the six (6) month grace period, the City may require Google to pay a TDM Penalty as shown in the sample table below. Any expenses that are put toward achieving the Office Trip Cap can be offset against the TDM Penalty. Google will be required to provide invoices of said expenses to offset a corresponding amount of the TDM penalty. The TDM Penalty, which shall not exceed the sum of Five Million Dollars ($5,000,000) in a calendar year, shall be paid to the MVTMA or other entity identified by City, consistent with the NBPP as amended, and used to promote alternatives to single-occupancy vehicle use in the City.

Should Google fail to achieve its district trip reduction target and exceed the Office Trip Cap by 4 percent or more over three consecutive monitoring periods, Google and the City will meet and confer to develop additional strategies for compliance with the Office Trip Cap.

Percent Above Office Trip Cap	**Penalty Amount**
0%	-0-
1%	$300,000
2%	$400,000
3%	$500,000