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San Carlos, California 94070
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DEVELOPMENT AGREEMENT

by and between the

CITY OF SAN CARLOS,
a California municipal

corporation and

THE SOBRATO FAMILY FOUNDATION,
a California nonprofit public benefit corporation

regarding the

841 Old County Road Project

Effective Date: _____

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LIST OF EXHIBITS

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("**Agreement**") dated for reference purposes as of the Effective Date, is entered into by and between the CITY OF SAN CARLOS, a California municipal corporation organized and existing under the laws of the State of California ("**City**") and THE SOBRATO FAMILY FOUNDATION, a California nonprofit public benefit corporation ("**Developer**"). City and Developer are sometimes referred to individually herein as a "**Party**" and collectively as "**Parties**."

RECITALS

The following recitals are a substantive part of this Agreement; capitalized terms used herein and not otherwise defined are defined in Section 1.1 of this Agreement.

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs and risk of development, the Legislature of the State of California enacted Section 65864 *et seq*. of the Government Code ("**Development Agreement Statute**") which authorizes a city and a developer having a legal or equitable interest in real property to enter into a binding, long-term development agreement, establishing certain development rights in the property. This Agreement has been drafted and processed pursuant to the Development Agreement Statute.

B. Developer owns fee title to the approximately 3.4 acres of real property located at 803-851 Old County Road, San Carlos, California (APNs 046-133-160, 046-134-050, 046-134-060, 046-135-010, 046-135-020, 046-135-030, 046-138-040, 046-182-100, 046-182-110 and 046-182-150), more fully described on Exhibit A, attached and incorporated herein by reference (the "**Property**"). The Property is located in the heart of the East Side Innovation District in San Marcos and is currently occupied by a garden supply center, kennels and a tree services office.

C. Developer wishes to redevelop the Property, consistent with the East Side Innovation District Vision Plan, as a mixed-use office and R&D/life sciences development with approximately 339,170 gross square feet ("**gsf**") of office, R&D and life sciences uses; including a southern structure along Commercial Street that is approximately 90'-6'' at the top of the roof parapet and approximately 99' at the top of the mechanical screen, and a northern structure along Bransten that is approximately 74'6'' at the top of the roof parapet and approximately 83' at the top of the mechanical screen. The buildings may be built in phases, include two levels of below grade parking and have a central plaza and courtyard between them (collectively, the "**841 Old County Road Project**" or the "**Project**").

D. To achieve the Parties' mutual goals of redevelopment as expeditiously as possible, the Developer desires to receive assurance that it may proceed with the Project in accordance with the Applicable City Regulations. Therefore, this Agreement between City and Developer sets forth, among other things, the applicable fees, policies and zoning requirements that will apply to Developer's development of the Project and provides Developer with a vested right to develop the Project.

E. Approval and development of the Project relies on the following analysis under the California Environmental Quality Act ("**CEQA**") (set forth in Public Resources Code, Section 21000 *et seq*.) and the State CEQA Guidelines ("**CEQA Guidelines**") (set forth in California Code of Regulations section 15000 *et seq*.): (1) an Initial Study/Mitigated Negative Declaration prepared by Lamphier-Gregory ("**IS/MND**"), to be adopted by the City Council; and (2) a Mitigation Monitoring and Reporting Program ("**MMRP**"), concluding that no additional environmental review is necessary.

F. Prior to approval of this Agreement, the City has taken the following actions in connection with the development of the Project on the Property:

(a) Adoption of the IS/MND by the City Council by Resolution No. ____ on _____;

(b) Approval of the MMRP by Resolution No. ____, adopted by the City Council on _____;

(c) Approval of the Tentative Map by the Planning and Transportation Commission on June 7, 2023;

(d) Approval of the Zoning Map Amendment and Planned Development Plan by Ordinance No. __ adopted by the City Council on ____ to allow site specific standards as follows:

(i) Building height;

(ii) Floor area ratio;

(iii) Above grade setback along Commercial Street;

(iv) Below grade setback from property line for parking structure; and

(v) Parking lot tree planting requirement for the grade level roof of the structured, below grade parking;

(e) Approval of Design Review Certificate by the Planning and Transportation Commission on June 7, 2023;

(f) Approval of the Transportation Demand Management Plan by the Planning Commission on June 7, 2023; and

(g) Approval of Grading and Dirt Haul Certificate by the Planning and Transportation Commission on June 7, 2023.

The approvals and development policies described in this Recital F, together with the MMRP and this Agreement, are collectively referred to herein as the "**Project Approvals**."

G. The Development Agreement Statute provides that the purpose of development agreements is to strengthen the public planning process, encourage comprehensive planning, obtain private participation in meeting community needs, and reduce uncertainty in the approval of development. The City has determined that by entering into this Agreement, City will further the purposes set forth in the Development Agreement Statute and City will benefit from the redevelopment of the Property, public parking, financial contributions and other benefits provided in this Agreement.

H. The terms and conditions of this Agreement have undergone review by City staff, the Planning and Transportation Commission and the City Council at publicly noticed meetings and have been found to be fair, just and reasonable and in conformance with the goals, policies, standards and land use designations specified in the City's General Plan and the East Side Innovation District Vision Plan and, further, the City Council finds that the economic interests of City's citizens and the public health, safety and welfare will be best served by entering into this Agreement.

I. On June 7, 2023, after a duly noticed public hearing, the Planning Commission, the initial hearing body for purposes of development agreement review, adopted its Resolution No. PC2023-12 recommending approval of this Agreement to the City Council. After duly noticed public hearings, on [_____], the City Council introduced Ordinance No. [_____] approving this Agreement ("**Enacting Ordinance**"), and adopted it on [_____]. The Enacting Ordinance will become effective on [_____], thirty (30) days thereafter.

A G R E E M E N T

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1

DEFINITIONS

1.1 Definitions.

"**Additional Project Approvals**" is defined in Section 9.1.

"**Administrative Project Amendment**" is defined in Section 8.3.2.

"**Affiliate of Developer**" means an entity or person that directly or indirectly controls, is controlled by, or is under common control with Developer. For the purposes of this definition, "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity or person, whether through the ownership of voting securities, by contract, or otherwise, and the terms "controlling" and "controlled" have the meanings correlative to the foregoing.

"**Agreement**" means this Development Agreement.

"**Agreement Amendment**" is defined in Section 8.1.3.

"**Applicable City Regulations**" means (a) all City policies, standards and specifications set forth in this Agreement and the Project Approvals, including the specific conditions of approval adopted with respect to the Project Approvals; (b) with respect to matters not addressed by this Agreement or the Project Approvals but governing permitted uses of the Property, building locations, sizes, densities, intensities, design and heights, site design, setbacks, lot coverage and open space, and parking, those City ordinances, rules, regulations, official policies, standards and specifications in force and effect on the Effective Date; and (c) with respect to all other matters, including building, plumbing, mechanical and electrical codes, those New City Laws which may be applied to the Project and Developer pursuant to the terms of this Agreement, including but not limited to Section 3.2.

"**Applicable Laws**" means (a) all State and Federal laws and regulations applicable to the Property and the Project as enacted, adopted and amended from time to time; and (b) the Applicable City Regulations.

"**Biosafety Levels**" means those levels used to identify the protective measures needed in biomedical laboratory setting to protect workers, the environment, and the public and as defined in the Biosafety in Microbiology and Biomedical Laboratories (BMBL) 6th Edition published by the Centers for Disease Control and Prevention and National Institutes of Health.

"**Certificate of Occupancy**" or "**COO**" means an official document issued by the City Building Official that certifies that the building (not including any tenant improvements) proposed as part of the Project has been inspected and determined to comply with the Project Approvals, including the applicable California Building Standards Code and the City's local ordinances which govern construction and occupancy. A "temporary" COO confirms the building is safe for the proposed temporary use or occupancy but is still subject to a punch list of items required to be complete to obtain a final COO. A "final" COO means the building has been inspected and determined safe for the proposed use and occupancy and all final punch list items are complete.

"**CEQA**" is defined in Recital E.

"**CEQA Guidelines**" is defined in Recital E.

"**Changes in the Law**" is defined in Section 3.8.

"**City**" means the City of San Carlos, a California municipal corporation.

"**City Party**" and "**City Parties**" are defined in Section 9.10.

"**Claims**" means liabilities, obligations, orders, claims, damages, fines, penalties and expenses, including reasonable attorneys' fees (which may include, without limitation, reasonable City Attorney's time as a pass-through cost without markup) and costs.

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

"**Community Benefits"** is defined in Section 6.1.

"Community Benefit Space" is defined in Section 5.2.4.

"**Community Benefit Use**" is defined as a Restaurant and Coffee Shop Use (defined below), Retail Sales (excluding Cannabis Dispensaries and Retail Establishments Selling Ammunition or Firearms), Instructional Services, Animal Care, Sales and Services (excluding Veterinary Services), Personal Services (excluding Tattoo or Body Modification Parlor), Government Offices, and Cultural Institutions, all as defined in Chapter 18.40 of the San Carlos Municipal Code.

"**Community Development Director**" means the Director of Community Development of the City of San Carlos, or his/her designee.

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

"**Developer**" means The Sobrato Family Foundation, a California nonprofit public benefit corporation, and its permitted assignees and successors-in-interest under this Agreement.

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

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

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

"**Exactions**" means exactions that may be imposed by the City as a condition of developing the Project, including requirements for acquisition, dedication or reservation of land; 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, mitigation measures in connection with environmental review of the Project, or impositions made under Applicable City Regulations. For purposes of this Agreement, Exactions do not include Impact Fees.

"**Expiration Date**" is defined in Section 2.2.1.

"**Force Majeure Delay**" is defined in Section 2.2.2.

"**Impact Fees**" means the monetary amount charged by City in connection with a development project for the purpose of defraying all or a portion of the cost of mitigating the impacts of the development project or development of the public facilities related to the development project, including, any "fee" as that term is defined by Government Code Section 66000(b). For purposes of this Agreement, a fee that meets both the definitions of an Impact Fee and an Exaction, will be considered to be an Impact Fee. Impact Fees do not include Other Agency Fees.

"**Initial Shell Condition**" is defined in Exhibit C.

"**IS/MND**" is defined in Recital E.

"**Litigation Challenge**" is defined in Section 9.6.

"**MMRP**" is defined in Recital E.

"**Mortgage**" is defined in Section 7.1.

"**Mortgagee**" is defined in Section 7.1.

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

"**Operating Memorandum**" is defined in Section 8.1.2.

"**Other Agency Fees**" is defined in Section 4.2.

"**Other Agency Additional Approvals**" means Additional Project Approvals to be obtained from entities other than City.

"Party/Parties" is defined in the introductory paragraph preceding the Recitals of this Agreement.

"**Planning Commission**" means the Planning Commission of the City of San Carlos.

"**POPA Easement**" is defined in Section 5.1.

"**Prevailing Wage Laws**" is defined in Section 9.9.

"**Processing Fees**" means all fees for processing development project applications, including any required supplemental or other further environmental review, plan checking and inspection and monitoring for land use approvals, design review, grading and building permits, General Plan maintenance fees, encroachment permits, and other permits and entitlements required to implement the Project, which are in effect at the time those permits, approvals or entitlements are applied for and in effect at the time such work occurs, and which are intended to cover the actual costs of processing the foregoing, and which may include the cost of retaining outside contractors for plan checking or other purposes and City's administrative expenses related to such retention as set forth in Section 9.3.

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

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

"**Property**" is defined in Recital B.

"**Restaurant/Coffee Shop Use**" is defined as any Eating and Drinking Establishment (excluding night clubs).

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

ARTICLE 2

EFFECTIVE DATE AND TERM

2.1 Effective Date. This Agreement shall become effective upon the later to occur of (i) the date the Enacting Ordinance is effective and (ii) execution by the Parties ("**Effective Date**").

2.2 Term.

2.2.1 Term of Agreement. The "**Term**" of this Agreement shall commence on the Effective Date and shall expire upon the earliest to occur of the following: (1) the issuance of a final Certificate of Occupancy for the Project; (2) termination of this Agreement in accordance with its terms, including without limitation this Section 2.2; or (3) the tenth (10^{th}) anniversary of the Effective Date. Upon such termination, this Agreement shall be deemed terminated and of no further force and effect, subject, however, to the extension provisions set forth in Section 2.2.2 and Section 2.2.3, and subject to Section 11.8 below and those provisions that expressly survive termination. Termination of the Term as it may be extended is referred to herein as the "**Expiration Date**." City shall have the right to extend the Term if it deems necessary for Developer to satisfy all its obligations under this Agreement.

2.2.2 Enforced Delay; Extension of Times of Performance. Subject to the limitations set forth below, performance by either Party hereunder shall not be deemed to be in Default, and all performance and other dates specified in this Agreement shall be extended (except as otherwise excluded or qualified herein), where delays are due to: war; insurrection; strikes and labor disputes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; pandemics or epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation and arbitration, including court delays; legal challenges to this Agreement, the Project Approvals, or any other approval required for the Project or any initiatives or referenda regarding the same; environmental conditions, pre-existing or discovered; 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 every winter season occurring after Commencement of Construction of the Project; acts or omissions of the other party; or acts or failures to act of any public or governmental agency or entity (except that acts or failures to act of City shall not excuse performance by City); moratorium (each a "**Force Majeure Delay**"). An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if written notice by the party claiming such extension is sent to the other party within sixty (60) days of the commencement of the cause. If written 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 City and Developer. The Term of this Agreement shall not be subject to extension for any Force Majeure Delay.

2.2.3 Extension of Term for Commencement of Construction of the Project. If the Developer is in good faith compliance with this Agreement and has commenced construction of the South Building (as defined below), the City Manager may in his or her reasonable discretion enter in an Insubstantial Amendment to extend the Term until a final Certificate of Occupancy has been issued for all buildings and structures shown in the Project Approvals; provided, however, that the extension shall not exceed two (2) years and notwithstanding such extension, subject to Force Majeure and all applicable notice and opportunity to cure, the Term shall expire and this Agreement shall terminate if after commencement of construction of the Project, work stops for more than six (6) consecutive months. Upon such termination, this Agreement shall be deemed terminated and of no further force and effect except for those provisions that expressly survive termination.

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

2.3.1 City is a 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.

2.3.2 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 approvals have been obtained.

2.3.3 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 any of the warranties and representations in this Section 2.3 not to be true, immediately give written notice of such fact or condition to Developer.

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

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

2.4.2 The execution and delivery of this Agreement and the performance of the obligations of Developer hereunder have been duly authorized by all necessary company action and all necessary member approvals have been obtained.

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

2.4.4 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, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

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 3.4 not to be true, immediately give written notice of such fact or condition to City.

ARTICLE 3

DEVELOPMENT OF PROPERTY

3.1 Vested Rights. The City hereby grants to Developer the present vested right to develop and construct on the Property all the improvements authorized by, and in accordance with, the Project Approvals. To the extent permitted by Applicable Laws, and except as otherwise provided herein, no future modification of the City's General Plan, Municipal Code, ordinances, policies or regulations shall apply to the Property that purports to: (i) limit the permitted uses of the Property, the density and intensity of use, or the maximum height and size of proposed buildings; (ii) 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 the Project Approvals or pursuant to this Agreement; (iii) impose conditions upon development of the Property other than as permitted by the Applicable Laws, Changes in the Law, the Project Approvals and this Agreement; (iv) limit the timing, phasing or rate of development of the Property; provided, however, that nothing in this Agreement shall prevent or preclude City from adopting any land use ordinances, policies, regulations or amendments permitted herein or relieve Developer of its obligation to develop the Property within the times provided in this Agreement; (v) limit the location of building sites, grading or other improvements on the Property in a manner that is inconsistent with or substantially more restrictive than the limitations included in this Agreement or the Project Approvals; (vi) frustrate in a more than insignificant way the intent or purpose of the Project Approvals in relation to the Project; (vii) limit or control the ability to obtain public utilities, services, or facilities; (viii) require the issuance of additional permits or approvals by the City other than those required by Applicable Laws; or (ix) limit the processing or procuring of applications and approvals of Additional Project Approvals.

3.2 Reservations of Authority. The Parties acknowledge and agree that City is restricted in its authority to limit its police power by contract. This Agreement shall be construed to reserve to City all such power and authority which cannot be restricted by contract. Notwithstanding any other provision of this Agreement to the contrary, the following regulations and provisions shall apply to the development of the Project:

3.2.1 Except as otherwise provided in Section 4.1 Processing Fees, Connection Fees and other fees of every kind and nature imposed by the City, and any increase or modification to those fees that are in force and effect at the time land use or development permits, approvals or entitlements are applied for or issued on any or all portions of the Project.

3.2.2 Regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure then applicable in City at the time of permit application.

3.2.3 Regulations governing construction standards and specifications, including City's building code, plumbing code, mechanical code, electrical code, fire code and grading code, and all other uniform construction codes then applicable in City at the time of permit application.

3.2.4 New City Laws applicable to the Property or Project, which do not conflict with this Agreement.

3.2.5 New City Laws which may be in conflict with this Agreement but which are necessary to protect persons or property from dangerous or hazardous conditions which create a threat to the public health or safety or create a physical risk, based on findings by the City Council identifying the dangerous or hazardous conditions requiring such changes in the law, why there are no feasible alternatives to the imposition of such changes, and how such changes would alleviate the dangerous or hazardous condition. City's decision to apply New City Laws to the Project shall be reviewed based on substantial evidence, and this section shall not be construed to impose the requirements set forth in Government Code Section 65589.5.

3.2.6 The Property shall be subject to any New City Laws regulating or prohibiting laboratory uses classified as Biosafety Level 3 or 4, regardless of whether those New City Laws conflict with this Agreement, the Applicable City Regulations, or the Project Approvals.

3.2.7 Exactions required by this Agreement, the Project Approvals or any Additional Project Approvals.

3.3 Regulation by Other Public Agencies. Developer acknowledges and agrees that other public agencies not within the control of City possess authority to regulate aspects of the development of the Property separately from or jointly with City, and this Agreement does not limit the authority of such other public agencies. Developer shall, at the time required by Developer in accordance with Developer's construction schedule, apply for all such other permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Project. Developer shall also pay all required fees, including Other Agency Fees, when due to such public agencies. Developer acknowledges that City does not control the amount of any such fees. City shall reasonably cooperate with Developer in Developer's effort to obtain such permits and approvals; provided, however, City shall have no

obligation to incur any costs, without compensation or reimbursement by Developer, or to amend any policy, regulation or ordinance of City in connection therewith.

3.4 Life of Project Approvals; Termination.

3.4.1 Generally. Except as otherwise expressly provided herein, the term of any and all Project Approvals shall automatically be extended for the longer of the Term of this Agreement or the term otherwise applicable to such Project Approvals, subject to the provisions of this Section 3.4. The termination of this Agreement at the end of the Term set forth in Section 2.2.1 shall have no effect on the Project Approvals, subject to the provisions in Section 3.4.2 below; provided, however, if this Agreement is terminated by either Party before expiration of the Term other than by Developer due to a Default by City, this Agreement and all Project Approvals shall terminate and have no further force or effect.

3.4.2 Continuing Vested Rights. In order to address and clarify Developer's ability to build and operate the Project after the Expiration Date if not yet completed, the Parties agree that the following terms shall govern Developer's vested rights.

(a) Provided Developer has satisfied all its obligations under this Agreement as of the Expiration Date and termination of this Agreement, and Developer has obtained a final Certificate of Occupancy for the Project, the Project Approvals shall continue in effect as required for operation and use of the Project, subject only to California law that may apply to continued reliance on such approvals.

(b) If development of the Project has not been completed as of the Expiration Date and termination of this Agreement, Developer may continue work after such termination and may complete the Project as approved by the Project Approvals so long as the following conditions are satisfied:

(i) As of the Expiration Date Developer is not in Default, or if subject to a breach that has not yet been cured then Developer may not exercise its rights under this Section 3.4.2(b) unless and until it timely cures the breach in the reasonable judgment of City;

(ii) As of the Expiration Date, physical site work has commenced and qualifies for vesting under California common law established by *Avco Community Builders v. South Coast Regional Commission*, 17 Cal.3rd 785 (1976), provided such work does not stop for six (6) consecutive months or longer; and

(iii) As of the Expiration Date, Developer has satisfied all applicable mitigation measures and conditions of approval adopted by City as part of the Project Approvals that have come due as and when required.

(c) If Developer fails to satisfy all conditions under Section 3.4.2(b) by the Expiration Date, the following shall apply with regard to future development or operation of the Project:

(i) Developer's vested rights secured by this Agreement with regard to the Project shall terminate and all Project Approvals shall be deemed terminated and may not be relied on by Developer or the Project, notwithstanding any ability under Applicable City Regulations that may provide for extensions of the Project Approvals; and

(ii) Developer shall have no vested right to construct or continue construction of the Project without first obtaining new City discretionary approvals then required.

(d) The terms and conditions of this Section 3.4.2 and their enforcement shall survive expiration or termination of this Agreement.

3.5 Initiatives. If any New City Law is enacted or imposed by a citizen-sponsored initiative or referendum, which New City Law would conflict with the Project Approvals or this Agreement or reduce the development rights or assurances provided by this Agreement, such New City Law shall not apply to the Property or Project; provided, however, the Parties acknowledge that City's approval of this Agreement is a legislative action subject to referendum. Without limiting the generality of the foregoing, no moratorium or other limitation (whether relating to the rate, timing, phasing or sequencing of development) affecting any entitlements or permits to use that are approved or to be approved, issued or granted by City shall apply to the Property or Project. Developer agrees and understands that City does not have authority or jurisdiction over any other public agency's ability to grant governmental approvals or permits or to impose a moratorium or other limitations that may affect the Project. City shall reasonably cooperate with Developer and, at Developer's expense, undertake such actions as may be necessary to ensure this Agreement remains in full force and effect. City, except to submit to vote of the electorate initiatives and referendums required by law to be placed on a ballot and fulfill any legal responsibility to defend a ballot measure passed by its voters, shall not support, adopt or enact any New City Law, or take any other action which would violate the express provisions or spirit and intent of this Agreement.

3.6 No Affirmative Obligation to Develop; Timing of Development. The City acknowledges and agrees that the Developer has no affirmative obligation to develop the Project. However, if the Developer, in its sole discretion, opts to develop the Project, such development shall comply with this Agreement. However, and not in any limitation of any of the foregoing, since 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 consider, and expressly provide for, the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the desire of the Parties hereto to avoid that result. Therefore, notwithstanding the adoption of an initiative after the Effective Date by City's electorate to the contrary, the Parties acknowledge that, except as otherwise provided for in this Agreement or the Existing

Approvals, Developer shall have the vested right to develop the Project in such order and at such rate and at such times as Developer deems appropriate in the exercise of its business judgment.

3.7 No Conflicting Enactments. Except as otherwise provided in this Agreement, City shall not impose on the Project (whether by action of the City Council or by initiative, referendum or other means) any New City Law that is in conflict with this Agreement or the Existing Approvals. Without limiting the generality of the foregoing, the City shall not (i) apply to the Property any change in land use designation or permitted use of the Property; (ii) limit or control the ability to obtain public utilities, services, or facilities; (iii) limit or control the uses; building setbacks, square footage, dimensions, floor plates, height; or location of buildings and structures; or spacing between buildings in a manner that is inconsistent with or more restrictive than the limitations included in the Existing Approvals or this Agreement; or (iv) limit or control the rate, timing, or sequencing of the approval, development or construction of all or any part of the Project or Existing Approvals, except as otherwise provided in this Agreement or the Existing Approvals.

3.8 Changes in the Law. As provided in Section 65869.5 of the Development Agreement Statute, this Agreement shall not preclude the applicability to the Project of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in State or Federal laws or by changes in laws, regulations, plans or policies of special districts or other governmental entities, other than the City, created or operating pursuant to the laws of the State of California ("**Changes in the Law**"). In the event Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, the Parties shall meet and confer in good faith in order to determine whether such provisions of this Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with Changes in the Law, and City and Developer shall agree to such action as may be reasonably required. Nothing in this Agreement shall preclude Developer from contesting by any available means (including administrative or judicial proceedings) the applicability to the Project of any such Changes in the Law.

3.9 No Reservation of Sanitary Sewer or Potable Water 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 is intended to exempt the Project or the Property from any water use rationing requirements that may be imposed on a City-wide basis from time to time in the future or be construed as a reservation of any existing sanitary sewer or potable water capacity. Nonetheless, to the maximum extent permitted by law and consistent with its authority, City upon Developer's request shall cooperate with Developer (at no expense to City) in Developer's effort to reserve such capacity for sewer and water services as may be necessary to serve the Project.

ARTICLE 4

FEES AND OTHER CHARGES

4.1 City Fees.

4.1.1 Impact Fees. Developer shall, for the first five (5) years of the Term, pay when due all existing Impact Fees as shown on Exhibit B at the rates in effect as of the Effective Date, except as increased pursuant to the escalation provisions in effect as of the Effective Date, and shall not be required to pay any Impact Fee enacted or established after the Effective Date or any increase in such existing Impact Fees. Thereafter, and during the remainder of the Term (as it may be extended), Developer shall pay all original and any new Impact Fees at the rates in effect at the time due. The Impact Fees itemized on Exhibit B represent the Parties' good faith effort to identify the Impact Fees applicable to the Project. City and Developer agree to amend and restate Exhibit B, as necessary, in the event one or more Impact Fees have been inadvertently omitted or if any cost or credit amounts have been inadvertently miscalculated.

4.1.2 All Other City Fees. Except as otherwise provided in Section 4.1.1 above as to Impact Fees, Developer agrees to pay when due any existing, new, increased or modified fees, including Processing Fees and Connection Fees, at the rates then in effect at the time land use or development permits, approvals or entitlements are applied for or issued on any or all portions of the Project so long as any new fees or increases in existing fees from the amount existing as of the Effective Date applies on a Citywide basis or applies to properties in the East Side Innovation District Vision Plan area and is consistent with the provisions of applicable California law, including the provisions of Government Code Section 66000 *et seq*.

4.1.3 Right to Protest. Developer acknowledges being aware of all City fees in effect as of the Effective Date that might be imposed on the Property and the Project, and Developer accepts and shall not protest or challenge imposition of the types and amounts of such fees in effect as of the Effective Date. Other than as specified in the previous sentence, Developer retains all rights to protest an imposition, fee, dedication, reservation, or other exaction, as set forth in California Government Code Section 66020, and nothing in this Agreement shall diminish or eliminate any of Developer's rights set forth in such Section 66020. City may impose, and Developer shall comply with and not protest, those Exactions required by this Agreement and the Project Approvals.

4.2 Other Agency Fees. Nothing in this Agreement shall preclude City from collecting fees from Developer that are lawfully imposed on the Project by another agency having jurisdiction over the Project, which the City is required to collect on behalf of such other agencies ("**Other Agency Fees**").

4.3 Taxes and Assessments. As of the Effective Date, assessments are in effect and applicable to the Property or the Project as shown on the latest property tax bill for the Property. City is not aware of any pending efforts to initiate or consider new or increased assessments that would apply to the Property or the Project. City may impose and Developer agrees to pay any and all existing, new, modified or increased taxes and assessments, other than Impact Fees, imposed on the Property or the Project in accordance with the laws in effect as of the date due, at the rate in effect at the time of payment. Nothing herein shall be construed so as to limit Developer from exercising whatever rights it may otherwise have in connection with protesting or otherwise objecting to the imposition of taxes or assessments on the Property; provided, Developer acknowledges being aware of all taxes and assessments in effect as of the Effective Date, and Developer accepts and agrees that it shall not protest or challenge their imposition on the Property and the Project. In the event an assessment district is lawfully formed to provide funding for services, improvements, maintenance or facilities which are substantially the same as those services, improvements, maintenance or facilities being funded by the fees or assessments to be paid by Developer under the Project Approvals or this Agreement, then at City's election, taking into consideration City's expectations as to when it would receive Developer's payment of such fees or assessments, either (a) the fees or assessments to be paid by Developer shall be subject to reduction/credit in an amount equal to Developer's new or increased assessment under the assessment district, or (b) the new assessment district shall reduce/credit Developer's new assessment in an amount equal to such fees or assessments to be paid by Developer under the Project Approvals or this Agreement.

ARTICLE 5

DEVELOPER COMMUNITY BENEFITS COMMITMENTS

5.1 Public Benefits. Developer shall perform and provide the public benefit obligations described in this Section 5.1 in consideration for the rights and benefits conferred by City to Developer under this Agreement, which exceed those dedications, conditions, and exactions that may be imposed under Applicable Law.

5.1.1 POPA Easement. Prior to the issuance of final Certificate of Occupancy for the Project, Developer shall execute and record an easement and maintenance agreement providing for public access to both (1) the approximately 5,000 square foot portion of the central outdoor plaza located between the gate and Old County Road ("**Front Plaza**") and (2) the approximately 12,000 square foot amenity courtyard between the buildings ("**Courtyard**"), each as shown in the Project Approvals and maintenance of the Front Plaza and Courtyard by Developer, in substantially the form attached hereto as Exhibit D ("**POPA Easement**"). The POPA Easement shall require Developer to allow public access to the Courtyard during daylight hours (sunrise to sundown) and to the Front Plaza during the longer of daylight hours (sunrise to sundown) or the hours that the tenant of the Community Benefit Space is open to the public, subject to the Developer's reasonable rules and regulations related to safety, maintenance, and repairs, as well as improvements/renovations that meet the spirit and intent of the POPA Easement and subject to the reasonable approval of the Community Development Director.

The POPA Easement shall allow Developer to temporarily exclude the public or temporarily limit public access to portions of the Front Plaza and/or Courtyard if necessary to address safety concerns and perform maintenance and repairs to improvements within or immediately adjacent to the Front Plaza and to allow a reasonable limited number of private events per year for tenants of the Project and for non-profit or community events. The POPA Easement shall require Developer to maintain the Front Plaza and Courtyard at all times and indemnify and hold City harmless from any and all Claims arising from or relating to the design, construction, or maintenance of the Front Plaza and the public's use thereof. The POPA Easement shall terminate in the event that (i) the Project is demolished or (ii) the Project undergoes a substantial change that is not already permitted under the Project Approvals and public access cannot be maintained by modifying the boundaries of the Front Plaza and Courtyard, provided that the POPA Easement shall not terminate in the event of demolition and reconstruction of any building or buildings in the Project following a casualty.

5.1.2 Recycled Water Pipe. At the time of issuance of a certificate of occupancy, the water infrastructure for the Project shall include dual plumbing for potable and recycled water, with separate pipe lines composed of appropriate material to accommodate recycled water.

5.2 Community Benefits.

5.2.1 Developer shall design and construct the improvements for the Project listed below and pay the following amounts listed below ("**Community Benefits**") in exchange for the approval of the Planned Development zoning designation and a Planned Development Plan that allow Developer to construct buildings with a greater height and Floor Area Ratio than permitted under the Property's previous Heavy Industrial zoning designation. These approvals have a value of Fourteen Million Dollars ($14,000,000). The Parties agree that the Community Benefits have a value of Seven Million Six Hundred Ninety Thousand Dollars ($7,690,000).

(a) Design and construction of a space to be occupied by a Restaurant/Coffee Shop (or other Community Benefit Use pursuant to Section 5.2.4 below):

- Approximately 1,500 square feet
- Value: $555,000

(b) Design and construction of a Bike/Pedestrian Path as shown in the Project Approvals:

- Approximately 4,240 square feet
- Value: $148,400

(c) Provide public parking on nights, weekends, and federal holidays on the surface parking lot.

- Approximately 46 parking spaces
- Value: $690,000

(d) Addition of one dual head electric vehicle charging hub to provide two (2) charging stations on the surface parking lot.

(e) Designate seven (7) parking spaces for use by persons visiting the Community Benefit Space (defined below), Front Plaza, and/or Courtyard during the hours that any of the Community Benefit Space (defined below), Front Plaza, and/or Courtyard are open to the public, in addition to the times described in (c).

(f) Payments:

- Green Energy Efficiency & Sustainability Fund- $500,000
- Community Improvement & Recreation Fund - $3,000,000
- Downtown Improvements Fund - $2,796,000

5.2.2 Design and Construction of Community Benefit Space and Bike/Pedestrian Path. The Community Benefit Space (defined in Section 5.2.4) and Bike/Pedestrian Path referenced in Section 5.2.1 shall be designed and submitted for approval as part of the Project building permit application, and shall be constructed in substantial conformance with the Project Approvals. The Parties shall enter into a Subdivision Improvement Agreement with respect to the Bike/Pedestrian Path and any work related to the Bike/Pedestrian Path that occurs on public property will be a public work subject to Prevailing Wage Laws.

5.2.3 Timing of Payments. The payments set forth in Section 5.2.1(c) shall be made in full prior to the issuance of the first building permit for the Project.

5.2.4 Community Benefit Space Timing. The South Phase building shown in the Project Approvals ("**South Building**") shall include space suitable for a Restaurant/Coffee Shop Use or Community Benefit Use ("**Community Benefit Space**"). The final certificate of occupancy for the South Building must be requested (except as provided in this Section 5.2.4) and issued prior to the issuance of a final certificate of occupancy for any other building or structure in the Project. In the event that Developer has commenced construction of the South Building and a final certificate of occupancy for any other building or structure is requested by the Developer, the Developer will deposit $555,000 with the City which shall be returned in full without interest to the Developer upon issuance of the final certificate of occupancy for the South Building that includes the Community Benefit Space in compliance with this Agreement. In the event that the South Building has commenced construction under this Section, but does not receive its final certificate of occupancy within the Term (not including any extension of the Term), the $555,000 shall become non-refundable and the City shall elect to deposit the $555,000 in one or more of the funds described in Section 5.2.1(c) above, and Developer will have no further obligations related to the Restaurant/Coffee Shop space Community

Benefit Space and can use the space Community Benefit Space for any permitted purpose.

5.2.5 Community Benefit Space Tenant Improvements and Marketing Efforts. Developer shall construct or pay all costs associated with completion of the Community Benefit Space to an "**Initial Shell Condition**" as defined in Exhibit C prior to the issuance of a final certificate of occupancy for the South Building. The Parties acknowledge and agree that the intent is that the Community Benefit Space will be used for a Restaurant/Coffee Shop Use. The Developer will make good faith efforts to market and lease the Community Benefit Space to a tenant providing a Restaurant/Coffee Shop Use, but may also market the Community Benefit Space to other Community Benefit Uses ("**Marketing and Leasing Efforts**") and will provide the City Community Development Director regular updates (not less than quarterly) on these Marketing and Leasing Efforts until a lease is entered into with a tenant. Developer or Assignee shall offer the Community Benefit Space at an initial triple net rent rate that does not exceed a fair market rent rate consistent with this Agreement. Developer or Assignee will promptly notify City when a tenant providing a Community Benefit Use has executed a lease of the Community Benefit Space. If a lease is not entered into, and there are no active negotiations likely to lead to a lease, despite good faith Marketing and Leasing Efforts within three (3) years of the final Certificate of Occupancy for the South Building, and after a good faith meet and confer by the Parties, the Developer shall pay a community amenity fee in the amount of $555,000 to the City to use for any purpose the City deems appropriate in its sole and absolute discretion and the Developer will have no further obligations related to the Community Benefit Space and can use the Community Benefit Space for any permitted purpose. In the event the initial tenant's lease term is less than ten (10) years or terminates in less than ten (10) years, the Developer's obligations hereunder to make Marketing and Leasing Efforts to enter into a new lease consistent with this Agreement and provide regular updates to the City Community Development Director shall continue until the date that is ten (10) years from issuance of the final Certificate of Occupancy for the South Building ("**Initial Leasing Period**"). After the Initial Leasing Period, the Developer will have no further obligations related to the Community Benefit Space and can use the Community Benefit Space for any permitted purpose. This Section 5.2.5 shall survive termination of this Agreement through the Initial Leasing Period.

5.2.6 Public Parking and EV Charging Stations. Developer shall designate the surface parking lot, consisting of approximately forty-six (46) spaces, as available for use by the public at no cost during the hours of 6 p.m. to 11 p.m. Monday through Friday and from 7:00 a.m. to 11:00 p.m. on weekends and federal holidays. Prior to the issuance of a Certificate of Occupancy for the South Building, the Parties shall enter into a Public Parking Agreement in substantially the form attached hereto as Exhibit E to document Developer's obligation to provide public parking. Developer shall also provide one dual head electric vehicle charging hub to create two (2) charging stations and designate two (2) parking spaces in the surface parking lot for vehicles using the charging stations. The charging stations shall be available for use by the public during the same hours as the other spaces in the

surface parking lot. The public parking spaces available nights and weekends, the seven (7) parking spaces available for use by visitors of the Front Plaza, Courtyard, or Community Benefit Space, and the two (2) parking spaces with charging stations shall be in substantially the locations shown on the conceptual plan attached hereto as Exhibit G.

ARTICLE 6

ANNUAL REVIEW

6.1 Periodic Review.

6.1.1 As required by the City of San Carlos City Code Section 18.37.080, Developer shall be required to demonstrate compliance with the provisions of the Agreement at least once a year at which time the Community Development Director shall review the Agreement.

6.1.2 The annual review shall be conducted as provided herein:

(a) Documentation of Compliance. By the last business day of January of each year, the Developer shall provide documentation of its compliance with the Agreement during the previous calendar year. Promptly upon receipt of Developer's documentation of compliance, the City's Community Development Director shall review the documentation and determine, on the basis of substantial evidence, whether the Developer has complied with the provisions of this Agreement.

(b) Finding of Compliance. If the Community Development Director, on the basis of substantial evidence, finds compliance by Developer with the provisions of this Agreement, the Community Development Director shall issue a finding of compliance, which shall be in recordable form and may be recorded with the County Recorder after conclusion of the review.

(c) Finding of Noncompliance. If the Community Development Director finds Developer has not complied with the provisions of this Agreement, the Community Development Director may issue a finding of noncompliance which may be recorded by the City with the County Recorder after it becomes final. The Community Development Director shall specify in writing to Developer the respects in which applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for Developer to meet the terms of compliance.

(d) Appeal of Determination. Within seven days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the Community Development Director and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final. (Ord. 1438 § 4 (Exh. A (part)), 2011

(e) If after City's determination becomes final pursuant to subsection(d) Developer does not comply with any terms of compliance within the prescribed time limits, the Parties may terminate or modify the Agreement by mutual consent or the Director may refer this Agreement to the City Council for termination or modification and the City Council shall conduct a public hearing. After the public hearing, the City Council may terminate this Agreement, modify the finding of noncompliance and specify a reasonable time for Developer to meet the terms of compliance, or rescind the finding of noncompliance and issue a finding of compliance. If the City Council modifies the finding of noncompliance and the Developer does not meet the terms of compliance within the prescribed time limits, the Community Development Director shall issue a notice of termination in accordance with section 11.3.

6.2 Certificate of Good Faith Compliance. If, after an annual review, City finds Developer has complied in good faith with the material terms of this Agreement, City shall within ten (10) days after receiving a request from Developer issue to Developer a certificate of compliance certifying that Developer has so complied through the period of the applicable annual review.

6.3 No Waiver. Failure of City to conduct an annual review shall not constitute a waiver by City of its rights to otherwise enforce the provisions of this Agreement nor shall Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

6.4 Reimbursement of Annual Review Costs. Developer shall pay the City for the reasonable costs incurred, including charges for City Attorney and other City staff time, in conducting its annual review of the Agreement within thirty (30) days of receipt of an invoice therefore. Reimbursement shall be based on City's charges for City Attorney and staff time billed for legal review and development project application review pursuant to City's fee schedule in effect at the time.

ARTICLE 7

MORTGAGEE PROTECTION

7.1 Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording the Agreement, including the lien of any deed of trust or mortgage ("**Mortgage**"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against and shall run to the benefit of any person or entity, including any deed of trust beneficiary or mortgagee ("**Mortgagee**"), who acquires title or possession to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise, subject to the provisions in Section 2.1 limiting the benefits of this Agreement to Developer and its successors but not a separate owner of the Property.

7.2 Mortgagee Not Obligated.

7.2.1 Notwithstanding the provisions of Section 7.1 above, except as specified in Section 7.2.2, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of the Project, or any portion thereof, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any use except in full compliance with the Project Approvals and this Agreement nor to construct any improvements thereon or institute any uses other than those uses and improvements provided for or authorized by this Agreement and the Project Approvals.

7.2.2 Any Mortgagee or successor in interest to a Mortgagee that is not proceeding to construct or complete construction of the Project pursuant to the Project Approvals and this Agreement must comply with all federal and state law and permit conditions applicable to the Project construction and shall not allow or permit a nuisance.

7.3 Notice of Default to Mortgagee; Right to Cure. With respect to any Mortgage granted by Developer as provided herein, so long as any such Mortgage shall remain unsatisfied of record, the following provisions shall apply:

7.3.1 City, upon serving Developer any notice of Default, shall also serve a copy of such notice upon any Mortgagee at the address provided to City, and no notice by City to Developer hereunder shall affect any rights of a Mortgagee unless and until a copy thereof has been so served on such Mortgagee; provided, however, that failure so to deliver any such notice shall in no way affect the validity of the notice sent to Developer as between Developer and City. In the event of a Default by Developer, any Mortgagee shall have the right to remedy, or cause to be remedied, such Default within sixty (60) days following the later to occur of (i) the date of Mortgagee's receipt of the notice referred to in Section 7.3.1 above, or (ii) the expiration of the period provided herein for Developer to remedy or cure such Default, and City shall

accept such performance by or at the insistence of the Mortgagee as if the same had been timely made by Developer; provided, however, that (a) if such Default is not capable of being cured within the timeframes set forth in this Section 8.3.2 and Mortgagee commences to cure the Default within such timeframes, then Mortgagee shall have such additional time as is required to cure the Default so long as Mortgagee diligently prosecutes the cure to completion and (b) if possession of the Property (or portion thereof) is required to effectuate such cure or remedy, the Mortgagee shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within sixty (60) days after receipt of the copy of the notice, diligently pursues such proceedings to completion, and, after obtaining possession, diligently completes such cure or remedy.

7.3.2 Any notice or other communication which City shall desire or is required to give to or serve upon the Mortgagee shall be in writing and shall be served in the manner set forth in Section 12.5, addressed to the Mortgagee at the address provided by Mortgagee to City. Any notice or other communication which Mortgagee shall give to or serve upon City shall be deemed to have been duly given or served if sent in the manner and at City's address as set forth in Section 12.5, or at such other address as shall be designated by City by notice in writing given to the Mortgagee in like manner.

7.4 No Supersedure. Nothing in this Article 7 shall be deemed to supersede or release a Mortgagee or modify a Mortgagee's obligations under any subdivision or public improvement agreement, temporary access agreement or other obligation incurred with respect to the Project outside this Agreement, nor shall any provision of this Article 7 constitute an obligation of City to such Mortgagee, except as to the notice requirements of Section 7.3.

7.5 Technical Amendments to this Article 7. City agrees to reasonably consider and approve interpretations and/or technical amendments to the provisions of this Agreement that are required by lenders for the acquisition and construction of the improvements on the Property or any refinancing thereof and to otherwise cooperate in good faith with Developer at Developer's expense to facilitate Developer's negotiations with lenders.

ARTICLE 8

AMENDMENT OF AGREEMENT AND PROJECT APPROVALS

8.1 Amendment of this Agreement.

8.1.1 Amendment of Agreement by Mutual Consent. Except as otherwise expressly provided herein (including but not limited to Section 6.1 relating to City's annual review and Section 11.3 relating to termination in the event of a Default), this Agreement may be terminated, modified or amended in writing from time to time only by mutual consent of the Parties hereto or their successors-in-interest or assigns, and in accordance with the provisions of Government Code sections 65867, 65867.5 and 65868.

8.1.2 Refinement by Operating Memoranda.

(a) 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 and clarifications of this Agreement 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 is necessary or appropriate, City and Developer shall effectuate such refinement 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. The City Manager, in consultation with the City Attorney, shall make the determination on behalf of City whether a requested refinement may be effectuated pursuant to this Section 8.1.2 or whether the requested refinement is of such a character to constitute an amendment hereof pursuant to Section 8.1.3 below. The City Manager shall be authorized to execute any Operating Memoranda hereunder on behalf of City.

(b) Any amendment to this Agreement that, in the context of the overall Project contemplated by this Agreement that does not substantially affect (i) the Term; (ii) permitted uses of the Property; (iii) provisions for the reservation or dedication of land; (iv) conditions, terms, restrictions or requirements for Additional Project Approvals; (v) increases in the density or intensity of the use of the Property or the maximum height or size of proposed buildings; (vi) monetary contributions by Developer; or (vii) the provision of Community Benefits described in Article 5 shall be deemed an Insubstantial Amendment. The City Manager, except to the extent otherwise required by Applicable Law, may approve the Insubstantial Amendment without notice and public hearing.

8.1.3 Agreement Amendments. Any revision to this Agreement which is determined not to qualify for an Operating Memorandum as set forth in Section 8.1.2 shall be deemed an "**Agreement Amendment**" and shall require giving of notice and a public hearing before the Planning Commission and City Council in accordance with Applicable Law. The City Manager shall have the authority in her or her reasonable discretion to determine if a proposed revision is an Agreement Amendment subject to this Section 8.1.3 or qualifies for an Operating Memorandum subject to Section 8.1.2.

8.1.4 Requirement for Writing. No modification, amendment or other change to this Agreement or any provision hereof shall be effective for any purpose unless

specifically set forth in writing which refers expressly to this Agreement and is signed by duly authorized representatives of each Party or their successors.

8.2 Amendments to Development Agreement Statute. This Agreement has been entered into in reliance upon the provisions of the Development Agreement Statute as those provisions existed as of the date of execution of this Agreement. No amendment or addition to those provisions which would materially affect the interpretation or enforceability of this Agreement shall be applicable to this Agreement, unless such amendment or addition is specifically required by the California State Legislature, or is mandated by a court of competent jurisdiction. If such amendment or change is permissive (as opposed to mandatory), this Agreement shall not be affected by same unless the Parties mutually agree in writing to amend this Agreement to permit such applicability.

8.3 Amendments to Project Approvals.

8.3.1 Generally. Project Approvals (except for this Agreement the amendment process for which is set forth in this Article 8) may be amended or modified from time to time, but only at the written request of Developer or with the written consent of Developer at its sole discretion. All amendments to the Project Approvals shall automatically become part of the Project Approvals. The permitted uses of the Property, the maximum density, the intensity of use, the maximum height and size of the proposed buildings, provisions for reservation or dedication of land for public purposes, the conditions, terms, restrictions and requirements for subsequent discretionary actions, the provisions for public improvements and financing of public improvements, and the other terms and conditions of development as set forth in all such amendments shall be automatically vested pursuant to this Agreement, without requiring an amendment to this Agreement. Amendments to the Project Approvals shall be governed by the Project Approvals and the Applicable Laws. City shall not request or process any amendment to the Project Approvals that would affect the Property or the Project without Developer's prior written consent.

8.3.2 Administrative Amendments of Project Approvals. Upon the request of Developer for an amendment or modification of any Project Approvals (except for this Agreement the amendment process for which is set forth in this Article 8), the City Manager or his or her designee shall determine, at his or her discretion and subject to referral to a hearing body if considered appropriate: (a) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (b) whether the requested amendment or modification substantially conforms with the material terms of this Agreement and the Applicable Laws and may be processed administratively. If the City Manager or his or her designee finds that the requested amendment or modification is both minor and substantially conforms with the material terms of this Agreement and the Applicable Laws, the amendment or modification shall be determined to be an "**Administrative Project Amendment**," and the City Manager or his or her designee may approve the Administrative Project Amendment, without public notice or a public hearing. Without limiting the generality of the foregoing, lot line adjustments, minor

reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, variations in the location of structures that do not substantially alter the design concepts of the Project, substitution of comparable landscaping for any landscaping shown on any development plan or landscape plan, variations in the location or installation of utilities and other infrastructure connections and facilities that do not substantially alter design concepts of the Project, and minor adjustments to a subdivision map or the Property legal description shall be deemed to be minor amendments or modifications. Any request of Developer for an amendment or modification to a Project Approval that is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Laws and this Agreement.

8.4 Reliance on Initial Study and MND. The Initial Study and MND, which have been certified by City as being in compliance with CEQA, address the potential environmental impacts of the entire Project as it is described in the Project Approvals as described in the MMRP. It is agreed that, in acting on any discretionary Additional Project Approvals for the Project, City will rely on the Initial Study and MND to satisfy the requirements of CEQA to the fullest extent permissible by CEQA, and City will not require a new initial study, negative declaration or subsequent or supplemental EIR unless City determines that such additional analysis and processing are required by CEQA and will not impose on the Project any mitigation measures or other conditions of approval other than those specifically imposed by the Project Approvals and the MMRP or specifically required by the Applicable Laws.

8.5 Subsequent CEQA Review. In the event that any additional CEQA documentation is legally required for any discretionary Additional Project Approval for the Project, then the scope of such documentation shall be focused, to the extent possible consistent with CEQA, on the specific subject matter of the Additional Project Approval, and City, at Developer's expense, shall conduct such CEQA review as expeditiously as possible.

ARTICLE 9

COOPERATION AND IMPLEMENTATION

9.1 Additional Project Approvals. Certain subsequent land use approvals, entitlements, and permits other than the Existing Approvals, will be necessary or desirable for implementation of the Project ("**Additional Project Approvals**"). The Additional Project Approvals may include, without limitation, the following: amendments of the Project Approvals, grading permits, building permits, sewer and water connection permits, certificates of occupancy, lot line adjustments, site plans, development plans, land use plans, building plans and specifications, parcel maps and subdivision maps, and any amendments to, or repealing of, any of the foregoing. Except as otherwise expressly provided herein, the City shall not impose requirements or conditions upon Project development and construction that are inconsistent with the Existing Approvals and the terms and conditions of this Agreement. Further, except as expressly provided herein, City shall not exercise discretion in determining whether or how to grant Additional Project

Approvals in a manner that would prevent development of the Project for the uses and to the maximum intensity of development set forth in the Existing Approvals.

9.2 Scope of Review of Additional Project Approvals. By approving the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its authority in considering any application for a discretionary Additional Project Approval to change the policy decisions reflected by the Project Approvals or otherwise to prevent or delay development of the Project as set forth in the Project Approvals. Instead, the Additional Project Approvals shall be deemed to be tools to implement those final policy decisions.

9.3 Processing Applications for Additional Project Approvals.

9.3.1 Developer acknowledges that City cannot begin processing applications for Additional Project Approvals until Developer submits complete applications on a timely basis. Developer shall use diligent good faith efforts to (i) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (ii) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other materials required under Applicable Laws. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Additional Project Approvals.

9.3.2 Upon submission by Developer of all appropriate applications and Processing Fees for any pending Additional Project Approval, City shall, to the full extent allowed by Applicable Laws, promptly and diligently, subject to City ordinances, policies and procedures regarding hiring and contracting, commence and complete all steps necessary to act on Developer's currently pending Additional Project Approval applications including: (i) if legally required, providing notice and holding public hearings; and (ii) acting on any such pending Additional Project Approval application. Upon Developer's request and prior approval, when City deems it necessary or desirable, City will endeavor to retain consultants to assist in reviewing and processing Developer's applications, at Developer's expense including any added expense for City staff to retain and supervise such consultants. City similarly will consider Developer's request to arrange overtime staff assistance; provided, Developer acknowledges that City will have other development applications and planning work in process or waiting to be processed from time to time, and Developer's Additional Project Approval applications are not entitled to priority treatment to the disadvantage of such other applications and work; and provided further, Developer acknowledges there are practical constraints on City's ability to arrange staff overtime.

9.4 Other Agency Additional Project Approvals; Authority of City. City shall cooperate with Developer, to the extent appropriate and as permitted by law, in Developer's efforts to obtain, as may be required, Other Agency Additional Project Approvals. Notwithstanding the issuance to Developer of Other Agency Additional Project Approvals, Developer agrees that City shall have the right to review, modify, approve and/or reject any and all

submissions subject to the Other Agency Additional Project Approvals which, but for the authority of the other governmental or quasi-governmental entities issuing the Other Agency Additional Project Approvals, would otherwise require City approval. Developer agrees that City may review, modify, approve and/or reject any such materials or applications to ensure consistency with this Agreement and the Project Approvals and Developer shall incorporate any and all changes required by City prior to submitting such materials and applications to the other governmental or quasi-governmental entities for review and/or approval.

9.5 Implementation of Necessary Mitigation Measures and Conditions. Developer shall, at its sole cost and expense, comply with the MMRP requirements and conditions of approval included with the Project Approvals as applicable to the Property and Project.

9.6 Cooperation in the Event of Legal Challenge. City and Developer shall cooperate in the defense of any court action or proceeding instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement or the City's approval of this Agreement or any of the Project Approvals (each, a "**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's monetary obligations under this Section 9.6 and its subsections shall survive expiration or earlier termination of this Agreement.

9.6.1 Meet and Confer. If a Litigation Challenge is filed, upon receipt of the petition, the Parties will have twenty (20) days to meet and confer regarding the merits of such Litigation Challenge and to determine whether to defend against the Litigation Challenge, which period may be extended by the Parties' mutual agreement so long as it does not impact any litigation deadlines. The City and Developer mutually commit to meet all required litigation timelines and deadlines. The Parties shall expeditiously enter a joint defense agreement, which will include among other things, provisions regarding confidentiality. The City Manager is authorized to negotiate and enter such joint defense agreement in a form acceptable to the City Attorney. Such joint defense agreement shall also provide that any proposed settlement of a Litigation Challenge shall be subject to City's and Developer's approval, each in its reasonable discretion. If the terms of the proposed settlement would constitute an amendment or modification of this Agreement, the settlement shall not become effective unless such amendment or modification is approved by Developer, and by City in accordance with Applicable Laws, and City reserves its full legislative discretion with respect thereto.

9.6.2 Defense Election. If, after meeting and conferring, the Parties mutually agree (each in its sole discretion) to defend against the Litigation Challenge, then the following shall apply:

(a) Joint Representation. For the purposes of cost-efficiency and coordination, the Parties shall first consider defending the Litigation Challenge jointly, with counsel and under terms of joint representation mutually acceptable to

the City and Developer (each in its sole discretion), at the Developer's sole cost and expense.

(b) If the Parties cannot reach timely and mutual agreement on a joint counsel, and Developer continues to elect (in its sole discretion) to defend against the Litigation Challenge, then:

(i) Developer shall take the lead role defending such Litigation Challenge and may, in its sole discretion, elect to be represented by the legal counsel of its choice;

(ii) City may, in its sole discretion, elect to be separately represented by the outside legal counsel of its choice in any such action or proceeding with the reasonable costs of such representation to be paid by Developer;

(iii) Developer shall reimburse City, within ten (10) business days following City's written demand therefor, which may be made from time to time during the course of such litigation, all necessary and reasonable costs incurred by City in connection with the Litigation Challenge, including City's administrative, outside legal fees and costs, and court costs;

(iv) The Parties intend that the City's role under subsection (b)(ii) shall be primarily oversight although the City reserves its right to protect the City's interests, and the City shall make good faith efforts to maximize coordination and minimize its outside legal costs (for example, minimizing filing separate briefs, and duplication of effort to the extent feasible).

(v) For any Litigation Challenge which the Developer has elected to defend under this Section 9.6.2(b) Developer shall indemnify, defend, and hold harmless the City and the City Parties from any liability, damages, claim, action, cause of action, judgment (including City costs to effectuate such judgment, including any attorneys' fees or cost awards, including attorneys' fees awarded under Code of Civil Procedure Section 1021.5, assessed or awarded against City by way of judgment, settlement, or stipulation), loss (direct or indirect), obligation, order, fine, penalty or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, staff time, expenses or costs) related to such Litigation Challenge. "Attorneys' fees" as used in this Section 9.6.2(b)(v) shall include reasonable City Attorney's time as a pass-through cost without markup.

9.6.3 Developer Election Not To Defend. If Developer elects, in its sole and absolute discretion, not to defend against the Litigation Challenge, it shall deliver written

notice to the City regarding such decision. If Developer elects not to defend, the City has the right, but not the obligation, to proceed to defend against the Litigation Challenge and shall take the lead role defending such Litigation Challenge and may, in its sole discretion, elect to be represented by the legal counsel of its choice, at its sole cost and expense. If Developer elects not to defend, the City has the right, but not the obligation, to terminate this Agreement and any Project Approvals then in effect, and to consider the Developer's application for any Additional Project Approvals withdrawn. In the event the City does not terminate this Agreement, then if the terms of a proposed settlement would constitute an amendment or modification of this Agreement, the settlement shall not become effective unless such amendment or modification is approved by Developer, and by City in accordance with Applicable Laws, and City reserves its full legislative discretion with respect thereto. In the event the Developer does not approve such amendment or modification, the City retains the right, but not the obligation, to terminate this Agreement and any Project Approvals then in effect, and to consider the Developer's application for any Additional Project Approvals withdrawn. If Developer elects pursuant to this Section 9.6.3 not to defend against the Litigation Challenge and so notifies City, and City thereafter elects not to defend against the Litigation Challenge, Developer shall be liable for and shall promptly reimburse City for (i) any costs, fees or payments owed as a result of the Litigation Challenge that may be City's obligation, whether by judgment, settlement or otherwise, and (ii) all necessary and reasonable costs incurred by City in connection with the Litigation Challenge, including City's administrative, outside legal fees and costs, and court costs.

9.7 Revision to Project. In the event of a court order issued as a result of a successful Litigation Challenge, City shall, to the extent permitted by law or court order, in good faith seek to comply with the court order in such a manner as will maintain the integrity of the Project Approvals and avoid or minimize to the greatest extent possible (i) any impact to the development of the Project as provided for in, and contemplated by, the Project Approvals, or (ii) any conflict with the Project Approvals or frustration of the intent or purpose of the Project Approvals.

9.8 State, Federal or Case Law. Where any state, federal or case law allows City to exercise any discretion or take any act with respect to that law, City shall, in an expeditious and timely manner, at the earliest possible time, (a) exercise its discretion in such a way as to be consistent with, and carry out the terms of, this Agreement and (b) take such other actions as may be necessary to carry out in good faith the terms of this Agreement.

9.9 Compliance with Laws. Developer, at its sole cost and expense, shall comply with the requirements of, and obtain all permits and approvals required by local, State and Federal agencies having jurisdiction over the Property or Project. Furthermore, Developer shall carry out the Project work in conformity with all Applicable Laws including, if and to the extent applicable, all State Labor Code requirements and implementing regulations of the Department of Industrial Relations pertaining to "public works," including the payment of prevailing wages (collectively, "**Prevailing Wage Laws**"). Developer shall require the contractor(s) for all work that is subject to Prevailing Wage Laws to submit, upon request

by City, certified copies of payroll records to City at the Property or at another location within City, and to maintain and make records available to City and its designees for inspection and copying to ensure compliance with Prevailing Wage Laws. Developer shall also include in each of its contractor agreements, a provision in form reasonably acceptable to City, obligating the contractor to require its contractors and/or subcontractors to comply with Prevailing Wage Laws and to submit, upon request by City, certified copies of payroll records to City and to maintain and make such payroll records available to City and its designees for inspection and copying during regular business hours at the contractor's or subcontractor's regular place of business. Developer shall defend (with counsel reasonably acceptable to the City), indemnify, assume all responsibility for, and hold harmless City Parties from and against any and all present and future Claims arising out of or in any way connected with Developer's or its contractors' or subcontractors' obligations to comply with all Prevailing Wage Laws, including all Claims that may be made by contractors, subcontractors or other third-party claimants pursuant to Labor Code sections 1726 and 1781. Nothing herein is intended to require compliance with Prevailing Wage Laws beyond what is required by law. Developer hereby waives and releases City Parties from any and all manner of Claims or other compensation whatsoever, in law or equity, of whatever kind or nature, whether known or unknown, direct or indirect, foreseeable or unforeseeable, absolute or contingent, now existing or which may in the future arise, including lost business opportunities or economic advantage, and special and consequential damages, arising out of, directly or indirectly, or in any way connected with Developer's obligation to comply with all Prevailing Wage Laws. Developer is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

INITIALS: DEVELOPER _____

As it relates to this Section 9.9, Developer hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

9.10 Indemnity and Hold Harmless. Developer shall indemnify, defend (with counsel reasonably acceptable to City) and hold harmless the City, including its elected and appointed officers, officials, employees, contractors, representatives and authorized agents (each a "**City Party**" and collectively "**City Parties**") from and against any and all Claims, including Claims for any bodily injury, death, or property damage, resulting directly or indirectly from the development or construction of the Project, and, if applicable from compliance with the terms of this Agreement, and/or from any other acts or omissions of Developer under this Agreement, whether such acts or omissions are by Developer or any of Developer's contractors, subcontractors, agents or employees (each a "**Developer Party**" and collectively "**Developer Parties**"); provided that Developer's obligation to indemnify and hold harmless (but not Developer's duty to defend) 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. Developer shall further indemnify, defend (with counsel reasonably acceptable to City) and hold harmless the City Parties from and against any and all Claims arising from or related to any Developer Party's failure to comply with any Applicable Laws, including without limitation Prevailing Wage Laws. Developer's obligations under this Section 9.10 shall survive expiration or earlier termination of this Agreement.

9.11 Sales Tax Point of Sale Designation. The Developer shall use good faith, diligent efforts to the extent allowed by law to require all persons and entities providing materials to be used in connection with the construction and development of, or incorporated into, the Project, including by way of illustration but not limitation bulk lumber, concrete, structural steel, roof trusses and other pre- fabricated building components, 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 $5 Million Dollars or more; or (c) otherwise designate the Property as the place of use of material used in the construction of the Project and the place of sale of all fixtures installed in and/or furnished in order to have the local portion of the sales and use tax distributed directly to City instead of through the county-wide pool. Developer shall instruct its general contractor(s) for the Project to, and shall cause such general contractor(s) to instruct its/their subcontractors to, cooperate with City to ensure the local sales/use tax derived from construction of the Project is allocated to City to the fullest extent possible and to the extent allowed by law. This Section 9.11 shall not apply to tenants who perform their own tenant improvement work.

9.11.1 To assist City in its efforts to ensure that such local sales/use tax is so allocated to City, Developer shall on an annual basis, or as frequently as quarterly upon City's request, 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 materials and the dollar value of such subcontracts, and, if applicable, evidence of their designation, such as approvals or applications for the direct payment permit, of City as the place of use of such work and materials. City may use such information to contact each subcontractor who may qualify for local allocation of use taxes to City. Notwithstanding the foregoing, the failure of any general contractor(s) or subcontractor(s) to allocate sales and use tax revenues as provided herein or to comply with this Section 9.11 shall not constitute a breach by Developer under this Agreement.

ARTICLE 10

ASSIGNMENT

10.1 Transfers. Prior to the issuance of a final Certificate of Occupancy for the Project, neither City nor Developer may assign its rights or delegate its duties under this Agreement, except for Developer Permitted Transfers as defined below, without the express written consent of the other Party, which consent will not be unreasonably withheld or delayed. Developer shall provide the City with written notice of any proposed transfer or assignment of

Developer's rights or obligations hereunder at least thirty (30) days prior to such Assignment and request City's consent to such transfer, as provided herein. Each such notice of proposed transfer shall be accompanied by reasonable (non-confidential) evidence of the corporate, limited liability company or other legal entity's existence and good standing, experience with similar projects, and financial resources. City may refuse to give consent to a proposed transfer only if, in light of the proposed transferee's reputation, experience with similar projects, and/or financial resources, such transferee would not, in City's reasonable opinion, be able to perform the obligations proposed to be assumed by such transferee, and such determinations will be made by the City Manager. Prior to any transfer, the Developer and assignee shall enter into an assignment and assumption agreement in substantially the form of Exhibit F ("**Assignment and Assumption Agreement**"), and subject to prior approval, which shall not be unreasonably withheld or delayed, of the City Manager and the City Attorney. So long as City has not provided Developer notice of breach before or during City's review of Developer's proposed assignment, upon Developer's and assignee's execution of the Assignment and Assumption Agreement, Developer shall be released from any further liability or obligation hereunder related to the portion of the Property and the assignee shall be deemed to be the "Developer," with all rights and obligations related thereto. The City will review any submittals under this Section within fifteen (15) business days. In the event the City does not respond timely and such submittal clearly identifies this section and the deadline for review, the submittal will be deemed approved. Developer acknowledges that satisfying the terms of this Agreement will achieve certain goals, objectives and public benefits for City which provide material consideration and incentive for City agreeing to enter into this Agreement and agreeing to grant the Existing Approvals, and justify certain restrictions on the right of Developer to assign or transfer its interest under this Agreement in order to assure achievement of such goals, objectives, and public benefits, and therefore Developer agrees to and accepts the restrictions set forth in this Section 10.1 as reasonable and as a material inducement for City to enter into this Agreement. Developer shall pay the reasonable costs borne by City in connection with its review of the proposed assignment, including costs of attorney review and City staff time.

Notwithstanding any other provision of this Agreement to the contrary, each of following transfers are permitted and shall not require City consent under this Section 10.1 (each a "**Developer Permitted Transfer**"):

(a) Any transfer for financing purposes to secure the funds necessary for construction and/or permanent financing of the Project;

(b) An assignment of this Agreement to an Affiliate of Developer;

(c) Dedications and grants of easements and rights of way required in accordance with the Project Approvals; or

(d) Any leasing activity.

ARTICLE 11

DEFAULT; REMEDIES; TERMINATION

11.1 Breach and Default. Subject to extensions of time under Section 2.2.2 or by mutual consent in writing, failure by a Party to perform any action or covenant or satisfy any obligation required by this Agreement within thirty (30) days following receipt of written notice from another Party specifying the failure shall constitute a "**Default**" under this Agreement; provided, however, that if the failure to perform is non-monetary and cannot reasonably be cured within such thirty (30) day period, a Party shall be allowed additional time as is reasonably necessary to cure the failure so long as such Party commences to cure the failure within the thirty (30) day period and thereafter diligently and continuously prosecutes the cure to completion at the earliest practicable date. Notwithstanding the above notice and cure provisions, if such failure to perform by Developer or a circumstance regarding the Project in City's reasonable opinion creates a public health or welfare emergency, City may but is not obligated to implement a cure and Developer thereafter shall promptly reimburse City its costs and expenses, including attorney's fees. The City shall provide Developer with reasonable notice appropriate for the circumstances of its determination of and nature of the emergency. If notice cannot be given prior to commencement of the cure, the City shall provide the Developer with its explanation of the emergency and a reasonable explanation for why prior notice could not be given.

11.2 Withholding of Permits. In the event of a Default by Developer, or following notice of breach to Developer pursuant to Section 11.1 above and during the cure period provided therein, upon a finding by the City Manager or his or her designee that Developer is in breach, City shall have the right to refuse to issue any permit or other Additional Project Approvals to which Developer would otherwise have been entitled pursuant to this Agreement until such Default or breach is cured. This provision is in addition to and shall not limit any actions that City may take to enforce the conditions of the Project Approvals.

11.3 Termination. In the event of a Default by a Party, the non-defaulting Party or Parties shall have the right to terminate this Agreement effective immediately upon the defaulting Party's receipt of the notice of intent to terminate. Termination of this Agreement shall be subject to the provisions of Section 11.8 hereof. The City Clerk shall record a notice of termination of this Agreement with the County Recorder following termination of this Agreement.

11.4 Specific Performance for Violation of a Condition. If City issues a Project Approval pursuant to this Agreement in reliance upon a specified condition being satisfied by Developer in the future, and if Developer then fails to satisfy such condition, City shall be entitled to specific performance for the purpose of causing Developer to satisfy such condition.

11.5 Resolution of Disputes.

11.5.1 Resolution Prior to Legal Action. With regard to any dispute involving the Project or this Agreement, the resolution of which is not provided for by this Agreement or

Applicable Laws, prior to instituting legal action pursuant to Section 11.5.2, a Party shall, at the request of the other Party, meet with designated representatives of the requesting Party promptly following its request, which meeting may be continued by mutual consent. The parties to any such meetings shall attempt in good faith to resolve any such disputes, and by mutual consent may arrange a third party to mediate the dispute. In the event the Parties are not able to resolve the dispute and reach an agreement within fourteen (14) days of the request, either Party may initiate legal action or take such other actions available under this Agreement or the law. Nothing in this Section 11.5.1 shall in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the parties to such meetings, and the fact of participation in such meetings and any information provided or oral or written statements made by a Party shall not be admissible or otherwise used against the Party in any subsequent legal action. Nothing in this Section 11.8 shall require a Party to postpone instituting any injunctive proceeding or to pursue resolution under this Section 11.5.1 if it believes in good faith that such postponement will cause irreparable harm to such Party.

11.5.2 Institution of Legal Actions. In addition to any other rights or remedies, a Party may institute legal action to cure, correct or remedy any Default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation thereof, or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court for San Mateo 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.

11.5.3 Acceptance of Service of Process. In the event that any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Clerk of City or in such other manner as may be provided by law. In the event that any legal action is commenced by City against Developer, service of process on Developer shall be made by personal service upon Lisa Sobrato Sonsini, Developer's registered agent for service of process in California, at 599 Castro St. Suite 400, Mountain View, CA 94041, or in such other manner as may be provided by law.

11.6 Rights and Remedies Are Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by a Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by another Party, except as otherwise expressly provided herein.

11.7 Limitation on Damages. Notwithstanding anything to the contrary herein, neither Party shall have the right to recover any consequential, special, or punitive damages in the event of a Default by the other Party. In no event shall City or the Indemnified Parties be liable

in damages for any default under this Agreement, it being expressly understood and agreed that the sole legal remedy available Developer for a Default by City shall be an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement, or to terminate this Agreement. City shall have all remedies available in law or equity, including but not limited to an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement, or to terminate this Agreement. In addition, City shall have the right to seek actual damages from Developer, including but not limited to enforcing payment of money or the performance of obligations requiring payment of money by Developer under the terms of this Agreement, including but not limited to Sections 5.2, 6.4, 9.6.2, 9.6.3, 10.1, 11.1 and 12.12. As part of recovering such damages, City shall be entitled to interest thereon at the lesser of ten percent (10%) per annum or the maximum rate permitted by law, compounded annually, from the date of expenditure. In connection with the foregoing provisions, each Party acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of such Party's choice in connection with, the rights and remedies of such Party hereunder and the waivers herein contained, and after such advice and consultation has presently and actually intended, with full knowledge of such Party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified solely on the remedies provided for herein with respect to any breach of this Agreement by another Party.

11.8 Surviving Provisions. In the event this Agreement is terminated, no Party shall have any further rights or obligations hereunder, except for those obligations of Developer which by their terms survive expiration or termination, or which are set forth in Section 9.6 (Cooperation in the Event of Legal Challenge).

ARTICLE 12

MISCELLANEOUS PROVISIONS

12.1 Incorporation of Recitals, Exhibits and Introductory Paragraph. The Recitals contained in this Agreement, the introductory paragraph preceding the Recitals and the Exhibits attached hereto are hereby incorporated into this Agreement as if fully set forth herein.

12.2 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties

12.3 Construction. Each reference herein to this Agreement or any of the Project Approvals or Additional Project Approvals shall be deemed to refer to the Agreement, Project Approval or Additional Project Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. 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. This Agreement has been reviewed and

revised by legal counsel for City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. Unless the context clearly requires otherwise, (i) the plural and singular numbers shall each be deemed to include the other; (ii) the masculine, feminine, and neuter genders shall each be deemed to include the others; (iii) "**shall**," "**will**," or "**agrees**" are mandatory, and "**may**" is permissive; (iv) "**or**" is not exclusive; and (v) "**include**," "**includes**" and "**including**" are not limiting and shall be construed as if followed by the words "without limitation."

12.4 Covenants Running with the Land. Except as otherwise more specifically provided in this Agreement, this Agreement and all of its provisions, rights, powers, standards, terms, covenants and obligations, shall be binding upon the Parties and their respective successors (by merger, consolidation, or otherwise) and assigns, and all other persons or entities acquiring the Property, or any interest therein, and shall inure to the benefit of the Parties and their respective successors and assigns, as provided in Government Code Section 65868.5.

12.5 Notices. Any notice or communication required hereunder between City and Developer must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Notices and communications may be sent by email to expedite transmittal of information and responses, but shall not be deemed given unless and until followed by transmittal by one of the other processes described in this Section 12.5. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

To City:	City of San Carlos 600 Elm Street San Carlos, CA 94070 Attention: Director of Community Development
With a copy to:	City of San Carlos 600 Elm Street San Carlos, CA 94070 Attention: City Attorney

To Developer: The Sobrato Family Foundation
c/o The Sobrato Organization
599 Castro St. Suite 400
Mountain View, CA 94041
Attention: Lisa Sobrato Sonsini

With a copy to: The Sobrato Organization
599 Castro St. Suite 400
Mountain View, CA 94041
Attention: Robert Tersini
Attention: Jeff Sobrato

Holland & Knight
560 Mission Street, Suite 1900
San Francisco, CA 94105
Attention: Tamsen Plume

12.6 Counterparts and Exhibits; Entire Agreement. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original. This Agreement, together with the Existing Approvals and attached Exhibits, constitutes the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements of the Parties with respect to all or any part of the subject matter hereof.

12.7 Recordation of Agreement. Pursuant to California Government Code Section 65868.5, the City Clerk will record this Agreement no later than ten (10) days after the Effective Date.

12.8 No Joint Venture or Partnership. It is specifically understood and agreed to by and between the Parties hereto that: (i) the Project is a private development; (ii) City has no interest or responsibilities for, or duty to, third parties concerning any public improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of this Agreement or in connection with the various Project Approvals or Additional Project Approvals; (iii) Developer shall have full power over and exclusive control of the Project herein described, subject only to the limitations and obligations of Developer under this Agreement, Project Approvals, Additional Project Approvals, and Applicable Laws; and (iv) City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer.

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

deemed to imply consent or waiver of the necessity of obtaining such consent for the same or similar acts in the future.

12.10 California Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. The exclusive venue for any disputes or legal actions shall be the Superior Court of California in and for the County of San Mateo or the US District Court, Northern California District.

12.11 City Approvals and Actions. Whenever reference is made herein to an action or approval to be undertaken by City, the City Manager or his or her designee is authorized to act on behalf of City, unless specifically provided otherwise or the context requires otherwise.

12.12 Estoppel Certificates. A Party may, at any time during the Term of this Agreement, and from time to time, deliver written notice to another Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended or modified either orally or in writing, or if amended; identifying the amendments, (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults, and (iv) any other information reasonably requested that relates to implementation of the Agreement. The requesting Party shall be responsible for all reasonable costs incurred by the Party from which 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 will not do so within fourteen (14) days following the receipt thereof. The failure of either Party to provide the requested certificate within such fourteen (14) day period shall constitute a confirmation that this Agreement is in full force and effect and no modification or default exists. The Director of Community Development, the Planning Director or the City Manager, or their authorized designee, shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

12.13 No Third Party Beneficiaries. City and Developer hereby renounce the existence of any third party beneficiary to this Agreement and agree that nothing contained herein shall be construed as giving any other person or entity third party beneficiary status.

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

12.15 Time. Time is of the essence of this Agreement and of each and every term and condition hereof.

12.16 Days. The word "**days**" as used in this Agreement refers to calendar days unless specifically provided otherwise. In the event that any period to perform an obligation or notice period under this Agreement starts or ends on a Saturday, Sunday, or state or national holiday, the applicable time period shall be extended to the next regular City business day.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and City as of the day and year first above written.

CITY:

City of San Carlos,
a municipal corporation organized and existing under the laws of the State of California

By:_____
Name:_____
Title:_____
[signature must be notarized]

APPROVED AS TO FORM:

By:_____
Name:_____
Title:_____

ATTEST:

By:_____
Name:_____
Title:_____

[Developer signatures begin on next page.]

DEVELOPER:

THE SOBRATO FAMILY FOUNDATION,
a California nonprofit public benefit corporation

By:_____
Name: Lisa Sobrato Sonsini
Title: Secretary
[signature must be notarized]

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_____) County of_)
On_____, before me,_____, a notary public, personally appeared_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature_____ (Seal)

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

State of_____) County of_)
On_____, before me,_____, a 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

LEGAL DESCRIPTION

Real property in the City of San Carlos, County of San Mateo, State of California, described as follows:

PARCEL ONE:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE COUNTY ROAD LEADING FROM SAN CARLOS TO REDWOOD CITY, DISTANT THEREON SOUTH 42° 22' 30" EAST 706.74 FEET FROM THE MOST WESTERLY CORNER OF THAT TRACT OF LAND KNOWN AS SPEEDWAY ACRES CONVEYED TO ASA E. HULL FROM C. S. MORTON, ET AL., BY DEED DATED JUNE 16, 1924 AND RECORDED IN BOOK 128 AT PAGE 107 (23249A), OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG THE NORTHEASTERLY LINE OF SAID COUNTY ROAD, SOUTH 42° 22' 30" EAST 206.41 FEET THENCE LEAVING THE LAST MENTIONED LINE, NORTH 48° 53' EAST 234.56 FEET TO THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN BOOK 243 AT PAGE 17 (62690A), OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG THE LAST MENTIONED LINE, NORTH 42° 22' 30" WEST 206.41 FEET TO A POINT WHICH BEARS NORTH 48° 53' EAST FROM THE POINT OF BEGINNING; THENCE SOUTH 48° 53' WEST 234.56 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE COUNTY ROAD LEADING FROM SAN CARLOS TO REDWOOD CITY, DISTANT THEREON SOUTH 42° 22' 30" EAST 913.16 FEET FROM THE MOST WESTERLY CORNER OF THAT TRACT OF LAND KNOWN AS SPEEDWAY ACRES CONVEYED TO ASA E. HULL FROM C. B. MORTON, ET AL., BY DEED DATED JUNE 16, 1924 AND RECORDED IN BOOK 128 AT PAGE 107 (23249A), OFFICIAL RECORDS OF SAN MATEO COUNTY; THENCE FROM SAID POINT OF BEGINNING LEAVING THE NORTHEASTERLY LINE OF SAID COUNTY ROAD, NORTH 48° 43' EAST 234.56 FEET TO THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN BOOK 243 AT PAGE 17 (62690A), OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG THE LAST MENTIONED LINE, SOUTH 42° 22' 30" EAST 56.68 FEET TO THE NORTHWESTERLY LINE OF COMMERCIAL WAY AS ESTABLISHED BY DEED TO THE CITY OF SAN CARLOS, A MUNICIPAL CORPORATION, RECORDED OCTOBER 12, 1973 IN BOOK 6485 AT PAGE 501 (82827AG) OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG SAID NORTHWESTERLY LINE OF COMMERCIAL WAY AND THE SOUTHWESTERLY PROLONGATION THEREOF, SOUTH 48° 53' WEST 234.56 FEET TO THE NORTHEASTERLY LINE OF SAID COUNTY ROAD THENCE ALONG THE LAST MENTIONED LINE, NORTH 42° 12' 30" WEST 56.68 FEET TO THE POINT OF BEGINNING.

PARCEL THREE:

BEING ALL OF PARCEL 2 AS DESCRIBED IN THE DEED FROM CALIFORNIA CONCRETE PRODUCTS AND ASA E. HULL TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN VOLUME 243 OF OFFICIAL RECORDS AT PAGE 17 (243 O.R. 17); AND A PORTION OF PARCEL 2 AS DESCRIBED IN THE DEED FROM K.A. WINTER ET. AL. TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN VOLUME 243 OF OFFICIAL RECORDS AT PAGE 12 (243 O.R. 12); BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 2 OF SAID 243 O.R. 17;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL NORTH 42°22'30" WEST 293.10 FEET TO THE MOST SOUTHERLY CORNER OF SAID PARCEL 2 OF SAID 243 O.R. 12;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL NORTH 42°22'30" WEST 56.70 FEET TO

THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 397.97 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°29'08" A DISTANCE OF 10.32 FEET TO THE SOUTHEASTERLY LINE OF THE LANDS AS DESCRIBED IN THE QUITCLAIM DEED FROM UNION PACIFIC RAILROAD COMPANY TO KELLOGG ET. AL. RECORDED MAY 31, 2002 IN DOCUMENT NUMBER 2002-106037, OFFICIAL RECORDS OF SAN MATEO COUNTY;

THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 48°53'00" EAST 17.01 FEET TO A POINT ON THE NORTHEASTERLY LINE OF SAID PARCEL 2 OF SAID 243 O.R. 12; SAID POINT LYING A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 414.97 FEET; A RADIAL LINE TO SAID POINT BEARING NORTH 46°15'05" EAST;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°22'25" A DISTANCE OF 9.95 FEET;

THENCE TANGENT FROM SAID CURVE ALONG SAID NORTHEASTERLY LINE SOUTH 42°22'30" EAST 57.07 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL 2 OF SAID 243 O.R. 17;

THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL SOUTH 42°22'30" EAST 293.10 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL;

THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL SOUTH 48°53'00" WEST 17.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UNDERLYING THE PROPERTY, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY MEANS OR METHODS SUITABLE TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY, OR TO INTERFERE WITH THE USE THEREOF BY GRANTEE, HER HEIRS AND ASSIGNS, AS RESERVED IN QUITCLAIM DEED RECORDED OCTOBER 26, 2007 AS INSTRUMENT NO. 2007-154663 OF OFFICIAL RECORDS.

PARCEL FOUR:

BEGINNING AT THE MOST SOUTHERLY CORNER OF THAT CERTAIN 20 ACRE TRACT DESCRIBED IN THE AGREEMENT BETWEEN ASA B. HULL AND I.H. WINTER ET AL, RECORDED NOVEMBER 24, 1925 IN BOOK 201 OF OFFICIAL RECORDS OF SAN MATEO COUNTY AT PAGE 290; THENCE FROM SAID POINT OF BEGINNING ALONG THE SOUTHEASTERLY LINE OF SAID 20 ACRE TRACT, NORTH 48°53' EAST 230.00 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE AND RUNNING ACROSS SAID 20 ACRE TRACT, NORTH 42° 22' 30" WEST 90.02 FEET AND SOUTH 48° 53' WEST 230.00 FEET TO A POINT ON THE NORTHEASTERLY LINE OF THE COUNTY ROAD LEADING FROM REDWOOD CITY TO CARLOS; THENCE ALONG SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD, SOUTH 42° 22' 30" EAST 90.03 FEET TO THE POINT OF BEGINNING.

PARCEL FIVE:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THAT CERTAIN COUNTY ROAD LEADING FROM REDWOOD CITY TO SAN CARLOS, SAID POINT OF BEGINNING BEING DISTANT ALONG SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD NORTH 42° 22’ 30” WEST 180.04 FEET FROM THE MOST SOUTHERLY CORNER OF THAT CERTAIN 20 ACRE TRACT DESCRIBED IN AGREEMENT BETWEEN ASA E. HULL AND K.A. WINTER, ET AL, SAID AGREEMENT BEING FILED FOR RECORD NOVEMBER 24, 1925 IN VOLUME 201 OF OFFICIAL RECORDS AT PAGE 290, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY LINE OF SAID

COUNTY ROAD NORTH 42° 22′ 30″ WEST 90.02 FEET TO A POINT WHERE SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD IS INTERSECTED BY THE SOUTHEASTERLY LINE OF A 50 FOOT PRIVATE ROAD RUNNING THROUGH ABOVE DESCRIBED 20 ACRE TRACT; THENCE ALONG SAID SOUTHEASTERLY LINE OF SAID 50 FOOT ROAD NORTH 48° 53′ EAST 230 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE OF SAID 50 FOOT PRIVATE ROAD AND RUNNING SOUTH 42° 22′ 30″ EAST 90.02 FEET AND SOUTH 48° 53′ WEST 230.0 FEET TO THE POINT OF BEGINNING.

PARCEL SIX:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE OLD COUNTY ROAD FROM REDWOOD CITY TO SAN CARLOS (SAID ROAD LYING NORTHEASTERLY OF THE TRACKS OF THE SOUTHERN PACIFIC RAILROAD), SAID POINT OF BEGINNING BEING DISTANT ALONG SAID NORTHEASTERLY LINE OF SAID ROAD, NORTH 42° 22′ 30″ WEST 90.02 FEET FROM THE MOST SOUTHERLY CORNER OF THAT CERTAIN 20 ACRE TRACT DESCRIBED IN AGREEMENT BETWEEN ASA E. HULL AND K.A. WINTER, ET AL, RECORDED NOVEMBER 24, 1925 IN VOLUME 201 OF OFFICIAL RECORDS AT PAGE 290, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD, NORTH 42°22′ 30″ WEST 90.02 FEET; THENCE NORTH 48° 53′ EAST 230.0 FEET; THENCE SOUTH 42°22′ 30″ EAST 90.02 FEET; THENCE SOUTH 48°53′ WEST 230.0 FEET TO THE POINT OF BEGINNING.

PARCEL SEVEN:

A PARCEL OF LAND SITUATE IN THE CITY OF SAN CARLOS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING PARCEL THREE AS DESCRIBED IN A DEED RECORDED NOVEMBER 26, 1991 IN DOCUMENT NUMBER 91155625 OFFICIAL RECORDS OF SAN MATEO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF THAT CERTAIN 20 ACRES TRACT DESCRIBED IN THE AGREEMENT BETWEEN ASA E. HULL AND K.A. WINTER, ET AL, RECORDED NOVEMBER 24, 1925 IN BOOK 201 OFFICIAL RECORDS OF SAN MATEO COUNTY, PAGE 290, SAID POINT OF BEGINNING BEING DISTANT ALONG SAID SOUTHEASTERLY LINE NORTH 48° 53′ EAST 230.0 FEET FROM THE MOST SOUTHERLY CORNER OF SAID 20 ACRE TRACT; THENCE FROM SAID POINT OF BEGINNING ALONG SAID SOUTHEASTERLY LINE NORTH 48° 53′ EAST, 100.00 FEET, THENCE LEAVING SAID SOUTHEASTERLY LINE AND RUNNING ACROSS SAID 20 ACRE TRACT NORTH 41° 07′ WEST, 270.00 FEET OF THE SOUTHEASTERLY LINE OF A 50 FOOT PRIVATE ROAD RUNNING THROUGH THE ABOVE DESCRIBED 20 ACRE TRACT; THENCE ALONG SAID SOUTHEASTERLY LINE OF SAID 50 FOOT PRIVATE ROAD SOUTH 48° 53′ WEST, 105.93 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE OF SAID 50 FOOT ROAD SOUTH 42° 22′ 30″ EAST, 270.06 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF THE ABOVE DESCRIBED PROPERTY WHICH LIES SOUTHEASTERLY OF A LINE PARALLEL TO AND 90.02 FEET MEASURED PERPENDICULARLY NORTHWESTERLY OF THE ABOVE SAID SOUTHEASTERLY LINE OF SAID 20 ACRE TRACT AND NORTHEASTERLY OF THE COURSE CALLED SOUTH 42° 22′ 30″ EAST, 57.074 FEET AND THE NORTHWESTERLY EXTENSION THEREOF, AS SAID COURSE IS DESCRIBED IN PARCEL #2 OF THE ABOVE SAID DEED RECORDED JUNE 18, 1926 IN BOOK 243 OFFICIAL RECORDS OF SAN MATEO COUNTY PAGE 12.

ALSO EXCEPTING THEREFROM, THAT PORTION THEREOF LYING WITHIN THE PARCEL DESCRIBED IN THE QUITCLAIM DEED FROM UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION TO WANDA MAE ADAMS RECORDED OCTOBER 26, 2007 AS INSTRUMENT NO. 2007-154663 OF OFFICIAL RECORDS.

For reference purposes only:

APN: 046-182-100 (affects Parcel One);
046-182-110 (affects Parcel Two);
046-182-150 (affects Parcel Three);
046-135-030 (affects Parcel Four);
046-135-010 (affects Parcel Five);
046-135-020 (affects Parcel Six);
046-135-040 (affects portion of Parcel Seven);
046-134-050 (affects portion of Parcel Seven);
046-134-060 (affects portion of Parcel Seven);
and 046-133-160 (affects portion of Parcel Seven)

JPN:
046-018-182-04A
046-018-182-05A
046-013-135-03A
046-013-135-01A
046-013-135-02A
046-013-134-03A
046-013-133-016A

Exhibit B

Impact Fees

Commercial Linkage fee (Chapter 8.51 of the San Carlos Municipal Code)	$6,634,785.00
Sewer fees (connection and capacity) (Chapter 13.04 of the San Carlos Municipal Code)	$2,893,081.89
Traffic impact fee (Chapter 8.50 of the San Carlos Municipal Code)	$1,829,614.58
Child Care impact fee (Chapter 8.52 of the San Carlos Municipal Code)	$1,621,543.00
Total City impact fees	**$12,979,024.47**

Exhibit C
Initial Shell Condition

Exhibit | Landlord Work | Initial Shell Condition	
Approx. SF: 1,500	The Exhibit describes the Premises Delivery obligations of the landlord.
SCOPE CATEGORY	**Details**
Flooring	
Floor Type	"AS-IS" Post tensioned concrete slab
Doors & Windows	
Storefront Windows & Doors	- One pair of storefront doors - Any modifications to base building storefront require Landlord's approval and are Tenant's responsibility. - Rekeying of locks is the responsibility of Tenant.
Finishes	
Demising Wall	- Demising walls consisting of 6" metal or wood studs, batt insulation and 5/8" Type X - Drywall from floor to deck.
Perimeter Walls & Roof	- Insulation to be installed on the interior side of all perimeter walls from floor to deck
Fire Suppression	
Fire/Life Safety	- Fire suppression, life safety systems and fire protection equipment as required by local fire department code for the shelf space. - Tenant is required to modify systems lo accommodate its design and as required per local jurisdictional requirements.
Plumbing	
Water Distribution	- One (1) 1" domestic cold-water supply line with shut off valve stubbed into the space. Tenant is responsible for all connections, equipment and devices as required by Tenant design or local jurisdiction requirements.
Sanitary Sewer	- One (1) 4' sanitary sewer line to service the space. Tenant is responsible for all connections, equipment and devices as required by Tenant design or local jurisdiction codes.

HVAC	
HVAC	- HVAC duct chase distribution into space based on standard retail use. All distribution within space by tenant. Any extraordinary requirements necessitated because of Tenant's use of the Premises will be at the expense of Tenant. Roof top space provided for tenant's equipment
Electrical Signs	- One (1) J-box for signage located at the main entrance lo space. Tenant is responsible for all connections, equipment and devices as required by Tenant design or local jurisdiction codes, including exit signs.
Medium-Voltage Electrical Distribution	- Electrical service provided at main electrical room to be 400 Amps (120/208V, 3-phase, 4-wire) Distribution to space by tenant - Lighting and exit signs for the space including new restroom that meet the local jurisdiction codes.
Communications	*Tenant will be required upon the "Delivery of the Premises" to switch all utility account(s) responsibility and all billing information into their name.*
Telephone System	- 2" telephone/data conduit to space with pull string. - Tenant is responsible for all connections, equipment and devices as required by Tenant design or local jurisdiction codes and for provisioning telephone and data service.
Water Utility	- Landlord to provide the water submeter (including capacity charges) with a 5/8" restricted submeter size. Any upsizing of the submeter is the responsibility of the Tenant (in no event shall exceed a 1" submeter) and shall be reimbursed to the Landlord. - Tenant is responsible for activation of the water submeter account with the local utility. - Tenant is responsible for all plumbing distribution and equipment.
Electric Meter	- LL provided meter socket. - Tenant is responsible for activation their account in their name with the local utility company.
Notation:	- Tenant is responsible for all electrical distribution and equipment. All work other than that set forth above will be at Tenant's expense and subject to Landlord's written prior approval. Landlord will neither supply nor install: specially ceilings,

	restrooms. trade fixtures; additional lighting fixtures and built-in lighting; special finishes; acoustic treatment; plastering; signs: locker. show window floors and backs; curtain walls and interior partitions (except as set forth above); special ceilings; restrooms or special toilet rooms; electrical, plumbing and ventilation connections to trade fixtures. or required for special uses and trade processes; bulletproof glass. bank vaults, remote tellers, or any such custom installations.

Exhibit D
[Form of] POPA Easement

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO: City of San Carlos 600 Elm Street San Carlos, California 94070 Attention: City Clerk Record for the Benefit of The City of San Carlos *Pursuant to Government Code Section 27383*	

Space Above Reserved for Recorder's Use Only

[FORM OF] PRIVATELY OWNED PUBLICLY ACCESSIBLE OPEN SPACE EASEMENT AND MAINTENANCE AGREEMENT

This Privately Owned Publicly Accessible Open Space Easement and Maintenance Agreement ("POPA Agreement") is made and entered into on this ____ day of _____ _____, ("POPA Agreement Effective Date") by and between THE SOBRATO FAMILY FOUNDATION, a California nonprofit public benefit corporation ("Owner"), and the CITY OF SAN CARLOS, a charter city and California municipal corporation ("City") (together, the "Parties").

R E C I T A L S

A. Owner is the current fee owner of that certain real property consisting of approximately 3.4 acres located within the City of San Carlos, County of San Mateo, State of California, designated as APNs 046-133-160, 046-134-050, 046-134-060, 046-135-010, 046-135-020, 046-135-030, 046-138-040, 046-182-100, 046-182-110 and 046-182-150 and legally described in Exhibit "A", attached hereto and incorporated herein by reference (the "Property").

B. The Property is being developed as a mixed-use and R&D/life sciences development project consisting of approximately 339,170 gross square feet of office, R&D and life sciences uses in two buildings, two levels of below-grade parking and a front plaza and central courtyard (the "Project").

C. On [_____], the City Council of the City of San Carlos adopted Ordinance No. [_____], approving a Development Agreement by and between City and Owner

("Development Agreement") and issued several other approvals identified in the Development Agreement ("Project Approvals"), subject to certain conditions of approval ("Conditions").

D. The Project Approvals contemplate, among other things, that the Owner will designate, design and improve an approximately 5,000 square foot privately owned publicly accessible ("POPA") central outdoor plaza (the "Front Plaza") adjacent to a restaurant/coffee shop or other permitted use (the "Restaurant/Coffee Shop") within the Property in the area legally described and shown in Exhibit "B.1", attached hereto and incorporated herein by reference ("Front Plaza Easement Area").

E. The Project Approvals also contemplate that the Owner will designate, design and improve an approximately 12,000 square foot POPA outdoor courtyard centrally located between the buildings (the "Courtyard") containing outdoor amenities for the future tenant and the public within the Property in the area legally described and show in Exhibit "B.2", attached hereto and incorporated herein by reference (" Courtyard Easement Area"). The Front Plaza Easement Area and Courtyard Easement Area are referred to herein as, collectively, the "Easement Areas."

F. City and Owner now desire that Owner grant to City easements for use and enjoyment of the privately owned Easement Areas as publicly accessible space and provide for the maintenance of the Easement Areas as set forth below.

POPA EASEMENT AGREEMENT

NOW, THEREFORE, the Parties hereby incorporate the above recitals by this reference and agree as follows:

1. Grant of Front Plaza Easement and Courtyard Easement. For valuable consideration, including the benefits and rights conferred upon Owner under the Project Approvals and subject to the terms of this POPA Agreement, Owner hereby grants and dedicates to the City a non-exclusive easement for use and enjoyment by the general public on, over and across that certain real property located in the Front Plaza Easement Area, as described and shown on Exhibit "B.1" ("Front Plaza Easement") and the Courtyard Easement Area, as described and shown on Exhibit "B.2" ("Courtyard Easement"). These grants of Front Plaza Easement and Courtyard Easement convey no rights affecting the use of Owner's lands that are not included in the Easement Areas and Owner reserves the right to lands outside the Easement Areas in any lawful manner.

2. Use and Closure. The public's right to use the Easement Areas is limited to the longer of daylight hours (sunrise to sunset) or, for the Front Plaza Easement, the hours that the Restaurant/Coffee Shop is open to the public. The Easement Areas may be used by the general public for informal recreational uses, which may include lawn areas, pathways, planted areas, benches, tables, chairs, common areas, green space and the like. The Easement Areas shall be open to the public, at minimum, from sunrise to sunset, 7 days a week, except for closures permitted in Section 5.

3. Maintenance. Owner covenants and agrees that it shall maintain, repair and replace, or cause to be maintained, repaired and replaced, the Easement Areas, and all improvements, including lighting, hardscaping and landscaping, located thereon, in first-class condition and repair

and in compliance with the Maintenance Standards (defined below). Owner's compliance with the Maintenance Standards shall be judged by a comparative standard with the custom and practice generally applicable to comparable first-class passive recreational areas located within San Mateo County. To accomplish such maintenance, Owner shall either staff or contract with and hire licensed and qualified personnel to perform such maintenance work, including the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Section 3. All maintenance work shall conform to all applicable Federal and State Occupational Safety and Health Act standards and regulations for the performance of maintenance. The following standards ("Maintenance Standards") shall be complied with by Owner and its maintenance staff, contractors and subcontractors:

a. Maintain the surface of all pedestrian areas level, smooth and evenly covered with the type of surfacing material originally installed thereon or such substitute therefor as shall be in all respects equal thereto or better in quality, appearance and durability;

b. Remove all papers, debris, filth and refuse, and sweep, wash down and/or clean all hard surfaces, including brick, metal, concrete, glass, wood and other permanent poles, walls or structural members as required;

c. Maintain such appropriate entrance, exit and directional signs, markers and lights as shall be reasonably required;

d. Clean lighting fixtures and re-lamp and/or re-ballast as needed;

e. Maintain, repair and replace and keep in first-class condition all benches, outdoor dining furniture, planters, trash containers, and other exterior elements, if any;

f. Maintain, repair and replace all drinking fountains and associated plumbing;

g. Provide adequate security lighting in all areas, and maintain, repair and replace all security and decorative light fixtures and associated wiring systems;

h. Pay the electrical expense of operating the lighting and irrigation controller, upon the direct receipt of invoices for electrical service from Pacific Gas and Electric;

i. Maintain, repair and replace all surface and storm lateral drainage systems;

j. Promptly remove any graffiti on or about the Easement Areas;

k. Perform landscape maintenance including watering/irrigation, fertilization, pruning, trimming, shaping, and replacement, as needed, of all trees, shrubs, grass, and other plants or plant materials, weeding of all plants, planters and other planted areas, staking for support of plants as necessary, and clearance, cleaning and proper disposal of all cuttings, weeds, leaves and other debris; and

l. Perform other maintenance as required by law.

4. Default and Remedies. Breach of, failure, or delay by Owner to perform any term or condition of this POPA Agreement shall constitute a default. In the event of any default of any term, condition, or obligation of this POPA Agreement, City shall give the Owner notice in writing specifying the nature of the alleged default and the manner in which such default may be satisfactorily cured ("Notice of Breach"). The defaulting party shall cure the default within 30 days following receipt of the Notice of Breach, provided, however, if the nature of the alleged default is non-monetary and such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure, provided that if the cure is not diligently prosecuted to completion, then no additional cure period shall be provided. If the alleged failure is cured within the time provided above, then no default shall exist and the City shall take no further action to exercise any remedies available hereunder. If the alleged failure is not cured, then a default shall exist under this POPA Agreement and the City may bring any action at law or in equity to enforce the terms of this POPA Agreement. In addition, if the default is the failure to meet the Maintenance Standards set forth in Section 3 above, the City, in addition to its other rights and remedies, may enter and perform or cause its agents and contractors to enter the Easement Areas and perform the required maintenance and City costs shall be reimbursed by Owner within thirty (30) days of billing by City or City may record a lien or place the amount owed as a special assessment against the Property in the amount of the work performed.

5. Temporary Closure for Maintenance and Events. Owner reserves the right to temporarily exclude the public from or limit public access to all or portions of the Easement Areas if necessary to address safety concerns and perform maintenance and repairs to improvements within or immediately adjacent to the Front Plaza. In addition, the Owner reserves the right to exclude the public from all or portions of the Easement Areas a reasonable limited number of times per year for events or exclusive use of the Easement Areas by tenants of the Project (each individually a "Tenant Event" and collectively, "Tenant Events"), not to exceed four (4) Tenant Events per year for the Front Plaza Easement Area, and not to exceed two (2) times per month for the Courtyard Easement Area. Each such Tenant Event may not last more than 24 hours (although two Tenant Events could allow a total of 48 hours), including any set up or tear down/clean-up activities. In addition to the Tenant Events, non-profits or other not-for-profit community organizations with principal offices within the City limits ("Community Groups") may hold private events on the Front Plaza Easement Area and/or Courtyard Easement Area six (6) times per year (each no more than 24 hours per event including set up/clean up) under a typical form of event agreement (i.e. event details, cleaning fee, insurance and liability protection for the Owner, organization and City). Prior to the opening of the Front Plaza and Courtyard to tenants and the public, Developer shall designate an individual to whom Community Groups may make reservation requests or develop an electronic system for submission of reservation requests. The Developer shall require tenants to contact the same person or use the same electronic system for Tenant Events reservation requests. Reservation requests shall not be unreasonably withheld, conditioned, or delayed. During events held by non-profit or community organizations, event attendees and event volunteers and staff shall be permitted to park in the surface parking lot at no charge. In the event of planned maintenance or a Tenant Event during which the Front Plaza Easement Area and/or Courtyard Easement Area will be closed, Owner shall post signs within the Front Plaza Easement Area and/or Courtyard Easement Area at least forty-eight (48) hours prior to the closure for a Tenant Event or for planned maintenance. In the case of an emergency or repairs requiring attention within forty-eight (48) hours, Owner shall post signs to inform the public of the closure and secure the area.

6. Term. This POPA Agreement will commence immediately upon the Effective Date and will continue in perpetuity until and unless terminated by an agreement executed, acknowledged and recorded by the City or terminated according to the provisions of Section 7 of this POPA Agreement.

7. Termination. This POPA Agreement shall terminate in the event that (i) the Project is demolished or (ii) the Project undergoes a substantial change that is not already permitted under the Project Approvals and public access to the Easement Areas cannot be maintained by modifying the boundaries of the Easement Areas. Notwithstanding the foregoing, this POPA Agreement shall not terminate in the event of demolition and reconstruction of any building or buildings in the Project following a casualty. This POPA Agreement shall terminate with respect to only the Front Plaza Easement or only the Courtyard Easement Area if the Project undergoes a substantial change that is not already permitted under the Project Approvals and public access to the Front Plaza Easement Area or the Courtyard Easement Area cannot be maintained by modifying the boundaries of the Front Plaza Easement or the Courtyard Easement.

8. Insurance. Owner shall obtain and maintain insurance against claims for injuries to persons or damage to property which may arise out of any manner including (a) any injury to or death of any person or damage to or destruction of any property occurring in, on or about the Easement Areas, or any part thereof, whether such injury, death, damage or destruction is caused by the person or property of the Owner, representatives, employees or subcontractors. The insurance carrier is required to maintain an A.M. Best rating of not less than "A-:VII".

a. Coverages and Limits. Owner, at its sole expense, shall maintain the types of coverages and minimum limits indicated below, unless otherwise approved by City in writing. These minimum amounts of coverage will not constitute any limitations or cap on Owner's indemnification obligations under this POPA Agreement.

(i) Commercial General Liability Insurance. Owner shall maintain occurrence based coverage with limits not less than $2,000,000 per occurrence. If the submitted policies contain aggregate limits, such limits will apply separately to the Services, project, or location that is the subject of this POPA Agreement or the aggregate will be twice the required per occurrence limit. The Commercial General Liability insurance policy shall be endorsed to name the City, its officers, agents, employees and volunteers as additional insureds, and to state that the insurance will be primary and not contribute with any insurance or self-insurance maintained by the City.

(ii) Business Automobile Liability Insurance. Owner shall maintain coverage with limits not less than $1,000,000 per each accident for owned, hired and non-owned automobiles.

(iii) Workers' Compensation and Employer's Liability Insurance. Owner shall maintain coverage as required by the California Labor Code and Employer's Liability limits with limits not less than $1,000,000 per each accident for bodily injury or disease. The Worker's Compensation policy shall contain an endorsement stating that the insurer waives any right to subrogation against the City, its officers, agents, employees, and volunteers.

b. Notice of Cancellation. The Owner's obligations under this Section shall survive the termination of this POPA Agreement and will not be canceled without Owner providing thirty (30) days prior written notice to City sent pursuant to the Notice provisions of this POPA Agreement.

c. Providing Certificates of Insurance and Endorsements. Prior to City's execution of this POPA Agreement, Owner shall provide to City certificates of insurance and above-referenced endorsements sufficient to satisfaction of City's Risk Manager. In no event shall Owner commence any work or provide any Services under this POPA Agreement until certificates of insurance and endorsements have been accepted by City's Risk Manager.

d. Failure to Maintain Coverage. If Owner fails to comply with these insurance requirements, then City will have the option to declare Owner in default.

e. Submission of Insurance Policies. City reserves the right to require, at any time, complete copies of any or all required insurance policies and endorsements.

9. Indemnification. Owner agrees to indemnify, defend, and hold harmless the City, and each of its councilmembers, commissioners, officers, employees, representatives, agents, and contractors ("Indemnified Parties"), from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages and liabilities of any kind ("Claims"), arising in any manner out of (a) any injury to or death of any person or damage to or destruction of any property occurring in the Front Plaza Easement Area or the Courtyard Easement Area, whether such injury, death, damage or destruction is caused by the person or property of the Owner, its officers, directors, members, employees, agents, consultants, contractors or subcontractors (collectively, "Agents"), members of the public, Agent's invitees, guests or visitors (collectively, "Invitees"), or third persons, relating to any use or activity under this POPA Agreement, (b) the use of the Easement Areas or any activities conducted thereon by the Owner, its Agents or Invitees, or third persons, relating to any use or activity under this POPA Agreement, (c) any release or discharge, or threatened release or discharge, of any Hazardous Material caused or allowed by the Owner, its Agents or Invitees, on, in, under or about the Front Plaza Easement Area or the Courtyard Easement Area, any improvements or into the environment, or (d) any failure by the Owner to faithfully observe or perform any terms, covenants or conditions of this POPA Agreement; except to the extent of Claims resulting from the negligence or willful misconduct of any Indemnified Parties. The foregoing indemnity shall include, without limitation, reasonable attorneys', experts' and consultants' fees and costs, investigation and remediation costs and all other reasonable costs and expenses incurred by the Indemnified Parties. The Owner's obligations under this Section shall survive the termination of this POPA Agreement. Indemnified Parties shall have no liability to the Owner or any of the Owner's Agents or Invitees as the result of damage or loss to property or injury or death to any such person arising on the Front Plaza Easement Area or the Courtyard Easement Area or out of the Owner's use of the Front Plaza

Easement Area or the Courtyard Easement Area, except to the extent caused by the negligence or willful misconduct of any Indemnified Parties.

10. Miscellaneous Provisions.

a. Entire Agreement/Integration, Amendments, Recitals. This POPA Agreement contains the entire understanding and agreement of the Parties. This POPA Agreement may be altered, amended or modified only by an instrument in writing, executed by the City and Owner, or fee title owner of the Property. All recitals set forth above are incorporated by reference into this POPA Agreement. The Parties acknowledge that this Agreement has been executed initially pursuant to the terms of the Development Agreement, but the Development Agreement will terminate and have no further force or effect as to the terms of this POPA Agreement upon its execution. In the event of any inconsistency between the Development Agreement and this POPA Agreement, upon execution, this POPA Agreement controls.

b. Counterparts. This POPA Agreement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

c. Recitals; Attachments. The Recitals above and Attachments attached hereto are incorporated herein by reference.

d. Binding on Successors and Assigns. Owner's Property is to be burdened by, and City is to be benefited by, the provisions of this POPA Agreement pertaining to the grant of Easement, and such Property shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the foregoing easements, limitations, restrictions, obligations and conditions. All provisions of this POPA Agreement shall run with the land and be binding upon all parties having or acquiring any right, title, or interest in the Easement Areas, and shall be binding upon and inure to the benefit of the City and its and their successors and assigns.

e. Partial Invalidity. If any term or provision of this POPA Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this POPA Agreement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this POPA Agreement shall be valid and shall be enforced to the extent permitted by law.

f. Not a Public Dedication. Except as expressly provided herein, nothing herein contained shall be deemed to be a gift or dedication of the Easement Areas or any other portion of Owner's Property to the general public or for any public purpose whatsoever, it being the intention of the parties that this POPA Agreement shall be limited to and for the purposes herein expressed.

11. Exhibits; Attachments. The following attachments are attached to this POPA Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Description of Property

Exhibit B.1 Legal Description of Front Plaza Easement Area

Exhibit B.2 Legal Description of the Courtyard Easement Area

12. Attorneys' Fees. Should any legal action be brought by any party with respect to this POPA Agreement, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorney's fees and such other costs as may be found by the court.

13. Joint and Several Liability. If more than one person or entity is included in the definition of Owner, the liability of all such persons hereunder shall be joint and several.

IN WITNESS WHEREOF, the City and Owner have executed this POPA Agreement as of the POPA Agreement Effective Date.

CITY

CITY OF SAN CARLOS, a municipal corporation

By: _____

[Signature must be notarized]

ATTEST:

By: _____

APPROVED AS TO FORM:

By: _____

OWNER

THE SOBRATO FAMILY FOUNDATION,
a California nonprofit public benefit corporation

By: _____
Name: _____
Its: _____

[Signature must be notarized]

Exhibit E

When Recorded, Mail to:

City of San Carlos
600 Elm Street
San Carlos, California 94070
Attn: City Clerk

This Instrument Benefits City Only.
No Fee Required. Gov. C. 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: ____

PUBLIC PARKING AGREEMENT

This Public Parking Agreement ("Agreement") is made and executed as of _____ ("Effective Date") by and between _____ ("Owner") and the CITY OF SAN CARLOS, a California municipal corporation ("City"). Owner and City are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Owner is the current fee owner of that certain real property consisting of approximately 3.4 acres located within the City of San Carlos, County of San Mateo, State of California, designated as APNs 046-133-160, 046-134-050, 046-134-060, 046-135-010, 046-135-020, 046-135-030, 046-138-040, 046-182-100, 046-182-110 and 046-182-150 and legally described in Exhibit "A", attached hereto and incorporated herein by reference (the "Property").

WHEREAS, the Property is being developed as a mixed-use and R&D/life sciences development project consisting of approximately 339,170 gross square feet of office, R&D and life sciences uses in two buildings, two levels of below-grade parking and a front plaza and central courtyard (the "Project").

WHEREAS, on [_____], the City Council of the City of San Carlos adopted Ordinance No. [_____], approving a Development Agreement by and between City and Owner ("Development Agreement") and issued several other approvals identified in the Development Agreement ("Project Approvals"), subject to certain conditions of approval ("Conditions").

WHEREAS, the Development Agreement requires the Owner to provide privately owned, publicly accessible open space within the Project and there will be a retail tenant that will be open to the public pursuant to a Privately Owned Publicly Accessible Open Space Easement and Maintenance Agreement ("POPA Agreement"). The public will need the right to park in the Project to enjoy the privately owned, publicly accessible open space and to visit the retail tenant in the Project.

WHEREAS, the Development Agreement requires Owner and City to execute a parking agreement under which Owner will share the Project's commercial parking with the public by offering nightly and weekend public parking in the surface parking lot.

WHEREAS, the Parties desire to execute and record this Agreement to make the Project's commercial parking available to the public upon the terms and conditions stated below to satisfy the requirements of the Development Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties hereby agree as follows:

1. Parking Terms and Conditions.

1.1. *Public Use of Surface Parking.* The surface parking lot, together with those areas necessary for ingress and egress to the surface parking lot as more particularly described in **Exhibit B** (collectively, the "Public Parking Area"), shall be available for use by the general public during the Hours of Public Use (as said term is defined below). The Public Parking Area shall include one dual head electric vehicle charging hub to provide two (2) charging stations and Owner shall designate two (2) parking spaces for vehicles using the charging stations. Owner may modify the Public Parking Area from time to time, in its sole discretion, upon providing reasonable advance notice to City of such modifications, provided however, that nothing herein limits the Owner's obligation to comply with the requirements to obtain building permits, and/or City approval in its regulatory capacity of the modifications, if applicable. Owner shall designate seven (7) spaces within the Public Parking Area ("Plaza Public Parking Spaces") to be available for use by members of the public visiting the Front Plaza, Courtyard, or the retail tenant during (i) the hours that any of the publicly accessible open spaces or the retail tenant are open to the public and (ii) the Hours of Public Use. The Plaza Public Parking Spaces shall be marked with conspicuous signage.

1.2. *Hours of Public Use.* The Public Parking Area shall be open to the general public Monday through Friday from 6:00 p.m. to 11:00 p.m.; and Saturday, Sunday, and Federal holidays from sunrise to 11:00 p.m. and during such other hours that Owner and City have agreed to grant a non-profit or community organization the right to hold an event in the courtyard in the Project pursuant to the POPA Agreement (collectively the "Hours of Public Use"). At all other times, Owner shall have exclusive control over the Public Parking Area for the exclusive use of the Owner, Owner's tenants, and the guests, licensees, employees, agents, servants and representatives of Owner and Owner's tenants. Owner shall post multiple conspicuous signs, as approved by the City, in the Public Parking Area to inform the public of the Hours of Public Use.

1.3. *Parking Rates.* Owner shall make the Public Parking Area available at no cost to the public. Owner shall be free to establish parking rates for the other parking areas in the Project in its sole and absolute discretion, and Owner shall have the right to install

any access control and fee collection mechanisms it deems necessary or prudent to restrict ingress and egress to and from such other parking areas.

1.4. *Independent Parking Management; Security.* In its sole discretion, Owner may contract with, or grant a concession to, third-party entities to staff, operate, and/or provide security in the Public Parking Area and the other parking areas of the Project.

2. Maintenance of Public Parking Area. During the term of this Agreement, Owner shall maintain the Public Parking Area in good condition. All Public Parking Area improvements shall be repaired or replaced with materials, apparatus and facilities of at least equal quality of the materials, apparatus and facilities at initial construction of the Public Parking Area. Owner may temporarily limit or close the Public Parking Area to perform maintenance, repair and replacement activities.

3. Term; Termination. The term of this Agreement shall commence on the Effective Date and shall automatically terminate on the date at which the Property is no longer operating as the Project as defined above. Owner's obligation to make the Public Parking Area available to the public under this Agreement shall commence upon City's issuance of a final certificate of occupancy for the South Building.

4. Insurance. During the term of this Agreement, Owner shall maintain Commercial General Liability Insurance coverage with a combined single limit of at least $_,000,000 per occurrence/aggregate. Owner shall furnish City with certificates of insurance evidencing that City is included as an additional insured on the Commercial General Liability policy [*to be completed prior to execution in consultation with the Parties' risk management*].

5. Mortgagee Protection. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument; provided, however, that any successor of Owner to the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, of this Agreement whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise. In the event of a default on the part of Owner hereunder, City shall give notice to any beneficiary of a deed of trust or mortgage whose address has been furnished to City, and City shall offer such beneficiary or mortgagee a reasonable opportunity to cure the default, including obtaining possession of the Property by power of sale or a judicial foreclosure, if the beneficiary has such authority and such a remedy is necessary to effect a cure.

6. Estoppel Certificates. Any party to this Agreement shall, promptly upon the request of any other party, execute, acknowledge and deliver to or for the benefit of any other party, at any time, from time to time, and at the expense of the party, requesting a certificate as herein below described, promptly upon request, its certificate certifying (l) that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect, as modified, and stating the modifications), (2) whether there are then existing any charges, offsets or defenses against .the enforcement of any agreement, covenant or condition hereof on the part of the party requesting the certificate to be performed or observed (and, if so, specifying the same), (3) whether there are then existing any defaults on the part of the parry

requesting the certificate known to the parry delivering the certificate in the performance or observance of any agreement, covenant or condition hereof to be performed or observed and whether any notice has been given of any default which has not been cured (and, if so, specifying the same), and (4) any other matters reasonably requested.

7. Indemnification. Owner shall be solely liable for the operation, upkeep and maintenance of the Public Parking Area and all other parking areas in the Project. Owner, to the fullest extent permitted by law, shall indemnify, defend, and hold harmless the City, its officers, agents, and employees from any and all liabilities, claims, demands, damages, or costs resulting from or growing out of such Owner's acts or omissions related to the operation, upkeep and maintenance of the Public Parking Area and other parking areas in the Project, except to the extent that any such liabilities are the result of the gross negligence or willful misconduct of City, its officers, agents, or employees. The Owner's duty to indemnify and hold harmless City includes the duty to defend as set forth in Civil Code section 2778. Owner's indemnification obligations under this Section shall survive expiration or termination of this Agreement.

8. Notices. If at any time after the execution of this Agreement it becomes necessary for one of the Parties hereto to serve any notice, demand or communication upon the other Party, such notice, demand or communication shall be in writing and shall be served personally or by depositing the same in the certified United States mail, return receipt requested, postage prepaid, and shall be addressed to:

If to City:

_____
_____
_____

If to Owner:

_____
_____
_____

With a copy to:

_____
_____
_____

9. Entire Agreement. This Agreement constitute the entire agreement of the parties hereto with respect to the subject matter hereof and thereof, and supersede all prior agreements and understandings of the parties, oral and written, with respect to the subject matter hereof.

10. Amendments. This Agreement may not be amended, modified, and/or removed unless otherwise approved and agreed upon by a written agreement between City and Owner (or subsequent owner of the Project), and recorded with the County Recorder's Office.

11. Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of each of the Parties hereto, and their respective heirs, legal representatives, successors and assigns.

12. Force Majeure. All obligations in this Agreement shall not be deemed to be in default and all performance shall be extended where such delays are due to: war; insurrection; strikes and labor disputes; lockouts; riots; earthquakes; floods; fires; casualties; condemnation; acts of God; acts of terrorism or the public enemy; epidemics; quarantine restrictions; litigation and arbitration, including court delays or compliance with court orders; environmental conditions; acts or omissions of the other Party; or acts or failures to act of any public or governmental agency or entity (except that acts or failures to act of City shall not excuse performance by City); or moratorium. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within ninety (90) days of such Party's actual knowledge of the commencement of the cause.

13. Entire Agreement; Integration. This Agreement contains the entire understanding and agreement of the Parties. The Parties acknowledge that this Agreement has been executed initially pursuant to the terms of the Development Agreement, but the Development Agreement will terminate and have no further force or effect as to the terms of this Agreement upon its execution. In the event of any inconsistency between the Development Agreement and this Agreement, once executed, this Agreement controls.

14. Not a Public Dedication. Except as expressly provided herein, nothing herein contained shall be deemed to be a gift or dedication of the Public Parking Area or any other portion of Owner's Property to the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement shall be limited to and for the purposes herein expressed.

15. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.

16. Severability. If any of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision(s) shall be deemed severable from the remaining provision(s) contained in this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable item had never been contained herein.

17. Recordation. This Agreement shall be recorded in the Official Records of the County of San Mateo following execution by the Parties.

IN WITNESS WHEREOF, the Parties execute this Agreement as of the date set forth above.

[*Signature Pages to Follow*]

OWNER:

By: _____
Name: _____
Its: _____

CITY:

CITY OF SAN CARLOS, a California municipal corporation

_____

City Manager

APPROVED AS TO CONTENT:

_____

Community Development Director

APPROVED AS TO FORM:

By: _____
Name:
Its: City Attorney

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.

ACKNOWLEDGMENT

State of California)
)
County of _____)

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

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose 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

LEGAL DESCRIPTION

Real property in the City of San Carlos, County of San Mateo, State of California, described as follows:

PARCEL ONE:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE COUNTY ROAD LEADING FROM SAN CARLOS TO REDWOOD CITY, DISTANT THEREON SOUTH 42° 22' 30" EAST 706.74 FEET FROM THE MOST WESTERLY CORNER OF THAT TRACT OF LAND KNOWN AS SPEEDWAY ACRES CONVEYED TO ASA E. HULL FROM C. S. MORTON, ET AL., BY DEED DATED JUNE 16, 1924 AND RECORDED IN BOOK 128 AT PAGE 107 (23249A), OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG THE NORTHEASTERLY LINE OF SAID COUNTY ROAD, SOUTH 42° 22' 30" EAST 206.41 FEET THENCE LEAVING THE LAST MENTIONED LINE, NORTH 48° 53' EAST 234.56 FEET TO THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN BOOK 243 AT PAGE 17 (62690A), OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG THE LAST MENTIONED LINE, NORTH 42° 22' 30" WEST 206.41 FEET TO A POINT WHICH BEARS NORTH 48° 53' EAST FROM THE POINT OF BEGINNING; THENCE SOUTH 48° 53' WEST 234.56 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE COUNTY ROAD LEADING FROM SAN CARLOS TO REDWOOD CITY, DISTANT THEREON SOUTH 42° 22' 30" EAST 913.16 FEET FROM THE MOST WESTERLY CORNER OF THAT TRACT OF LAND KNOWN AS SPEEDWAY ACRES CONVEYED TO ASA E. HULL FROM C. B. MORTON, ET AL., BY DEED DATED JUNE 16, 1924 AND RECORDED IN BOOK 128 AT PAGE 107 (23249A), OFFICIAL RECORDS OF SAN MATEO COUNTY; THENCE FROM SAID POINT OF BEGINNING LEAVING THE NORTHEASTERLY LINE OF SAID COUNTY ROAD, NORTH 48° 43' EAST 234.56 FEET TO THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN BOOK 243 AT PAGE 17 (62690A), OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG THE LAST MENTIONED LINE, SOUTH 42° 22' 30" EAST 56.68 FEET TO THE NORTHWESTERLY LINE OF COMMERCIAL WAY AS ESTABLISHED BY DEED TO THE CITY OF SAN CARLOS, A MUNICIPAL CORPORATION, RECORDED OCTOBER 12, 1973 IN BOOK 6485 AT PAGE 501 (82827AG) OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG SAID NORTHWESTERLY LINE OF COMMERCIAL WAY AND THE SOUTHWESTERLY PROLONGATION THEREOF, SOUTH 48° 53' WEST 234.56 FEET TO THE NORTHEASTERLY LINE OF SAID COUNTY ROAD THENCE ALONG THE LAST MENTIONED LINE, NORTH 42° 12' 30" WEST 56.68 FEET TO THE POINT OF BEGINNING.

PARCEL THREE:

BEING ALL OF PARCEL 2 AS DESCRIBED IN THE DEED FROM CALIFORNIA CONCRETE PRODUCTS AND ASA E. HULL TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN VOLUME 243 OF OFFICIAL RECORDS AT PAGE 17 (243 O.R. 17); AND A PORTION OF PARCEL 2 AS DESCRIBED IN THE DEED FROM K.A. WINTER ET. AL. TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN VOLUME 243 OF OFFICIAL RECORDS AT PAGE 12 (243 O.R. 12); BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 2 OF SAID 243 O.R. 17;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL NORTH 42°22'30" WEST 293.10 FEET TO THE MOST SOUTHERLY CORNER OF SAID PARCEL 2 OF SAID 243 O.R. 12;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL NORTH 42°22'30" WEST 56.70 FEET TO

THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 397.97 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°29'08" A DISTANCE OF 10.32 FEET TO THE SOUTHEASTERLY LINE OF THE LANDS AS DESCRIBED IN THE QUITCLAIM DEED FROM UNION PACIFIC RAILROAD COMPANY TO KELLOGG ET. AL. RECORDED MAY 31, 2002 IN DOCUMENT NUMBER 2002-106037, OFFICIAL RECORDS OF SAN MATEO COUNTY;

THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 48°53'00" EAST 17.01 FEET TO A POINT ON THE NORTHEASTERLY LINE OF SAID PARCEL 2 OF SAID 243 O.R. 12; SAID POINT LYING A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 414.97 FEET; A RADIAL LINE TO SAID POINT BEARING NORTH 46°15'05" EAST;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°22'25" A DISTANCE OF 9.95 FEET;

THENCE TANGENT FROM SAID CURVE ALONG SAID NORTHEASTERLY LINE SOUTH 42°22'30" EAST 57.07 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL 2 OF SAID 243 O.R. 17;

THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL SOUTH 42°22'30" EAST 293.10 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL;

THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL SOUTH 48°53'00" WEST 17.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UNDERLYING THE PROPERTY, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY MEANS OR METHODS SUITABLE TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY, OR TO INTERFERE WITH THE USE THEREOF BY GRANTEE, HER HEIRS AND ASSIGNS, AS RESERVED IN QUITCLAIM DEED RECORDED OCTOBER 26, 2007 AS INSTRUMENT NO. 2007-154663 OF OFFICIAL RECORDS.

PARCEL FOUR:

BEGINNING AT THE MOST SOUTHERLY CORNER OF THAT CERTAIN 20 ACRE TRACT DESCRIBED IN THE AGREEMENT BETWEEN ASA B. HULL AND I.H. WINTER ET AL, RECORDED NOVEMBER 24, 1925 IN BOOK 201 OF OFFICIAL RECORDS OF SAN MATEO COUNTY AT PAGE 290; THENCE FROM SAID POINT OF BEGINNING ALONG THE SOUTHEASTERLY LINE OF SAID 20 ACRE TRACT, NORTH 48°53' EAST 230.00 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE AND RUNNING ACROSS SAID 20 ACRE TRACT, NORTH 42° 22' 30" WEST 90.02 FEET AND SOUTH 48° 53' WEST 230.00 FEET TO A POINT ON THE NORTHEASTERLY LINE OF THE COUNTY ROAD LEADING FROM REDWOOD CITY TO CARLOS; THENCE ALONG SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD, SOUTH 42° 22' 30" EAST 90.03 FEET TO THE POINT OF BEGINNING.

PARCEL FIVE:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THAT CERTAIN COUNTY ROAD LEADING FROM REDWOOD CITY TO SAN CARLOS, SAID POINT OF BEGINNING BEING DISTANT ALONG SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD NORTH 42° 22’ 30” WEST 180.04 FEET FROM THE MOST SOUTHERLY CORNER OF THAT CERTAIN 20 ACRE TRACT DESCRIBED IN AGREEMENT BETWEEN ASA E. HULL AND K.A. WINTER, ET AL, SAID AGREEMENT BEING FILED FOR RECORD NOVEMBER 24, 1925 IN VOLUME 201 OF OFFICIAL RECORDS AT PAGE 290, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY LINE OF SAID

COUNTY ROAD NORTH 42° 22′ 30″ WEST 90.02 FEET TO A POINT WHERE SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD IS INTERSECTED BY THE SOUTHEASTERLY LINE OF A 50 FOOT PRIVATE ROAD RUNNING THROUGH ABOVE DESCRIBED 20 ACRE TRACT; THENCE ALONG SAID SOUTHEASTERLY LINE OF SAID 50 FOOT ROAD NORTH 48° 53′ EAST 230 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE OF SAID 50 FOOT PRIVATE ROAD AND RUNNING SOUTH 42° 22′ 30″ EAST 90.02 FEET AND SOUTH 48° 53′ WEST 230.0 FEET TO THE POINT OF BEGINNING.

PARCEL SIX:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE OLD COUNTY ROAD FROM REDWOOD CITY TO SAN CARLOS (SAID ROAD LYING NORTHEASTERLY OF THE TRACKS OF THE SOUTHERN PACIFIC RAILROAD), SAID POINT OF BEGINNING BEING DISTANT ALONG SAID NORTHEASTERLY LINE OF SAID ROAD, NORTH 42° 22′ 30″ WEST 90.02 FEET FROM THE MOST SOUTHERLY CORNER OF THAT CERTAIN 20 ACRE TRACT DESCRIBED IN AGREEMENT BETWEEN ASA E. HULL AND K.A. WINTER, ET AL, RECORDED NOVEMBER 24, 1925 IN VOLUME 201 OF OFFICIAL RECORDS AT PAGE 290, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD, NORTH 42°22′ 30″ WEST 90.02 FEET; THENCE NORTH 48° 53′ EAST 230.0 FEET; THENCE SOUTH 42°22′ 30″ EAST 90.02 FEET; THENCE SOUTH 48°53′ WEST 230.0 FEET TO THE POINT OF BEGINNING.

PARCEL SEVEN:

A PARCEL OF LAND SITUATE IN THE CITY OF SAN CARLOS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING PARCEL THREE AS DESCRIBED IN A DEED RECORDED NOVEMBER 26, 1991 IN DOCUMENT NUMBER 91155625 OFFICIAL RECORDS OF SAN MATEO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF THAT CERTAIN 20 ACRES TRACT DESCRIBED IN THE AGREEMENT BETWEEN ASA E. HULL AND K.A. WINTER, ET AL, RECORDED NOVEMBER 24, 1925 IN BOOK 201 OFFICIAL RECORDS OF SAN MATEO COUNTY, PAGE 290, SAID POINT OF BEGINNING BEING DISTANT ALONG SAID SOUTHEASTERLY LINE NORTH 48° 53′ EAST 230.0 FEET FROM THE MOST SOUTHERLY CORNER OF SAID 20 ACRE TRACT; THENCE FROM SAID POINT OF BEGINNING ALONG SAID SOUTHEASTERLY LINE NORTH 48° 53′ EAST, 100.00 FEET, THENCE LEAVING SAID SOUTHEASTERLY LINE AND RUNNING ACROSS SAID 20 ACRE TRACT NORTH 41° 07′ WEST, 270.00 FEET OF THE SOUTHEASTERLY LINE OF A 50 FOOT PRIVATE ROAD RUNNING THROUGH THE ABOVE DESCRIBED 20 ACRE TRACT; THENCE ALONG SAID SOUTHEASTERLY LINE OF SAID 50 FOOT PRIVATE ROAD SOUTH 48° 53′ WEST, 105.93 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE OF SAID 50 FOOT ROAD SOUTH 42° 22′ 30″ EAST, 270.06 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF THE ABOVE DESCRIBED PROPERTY WHICH LIES SOUTHEASTERLY OF A LINE PARALLEL TO AND 90.02 FEET MEASURED PERPENDICULARLY NORTHWESTERLY OF THE ABOVE SAID SOUTHEASTERLY LINE OF SAID 20 ACRE TRACT AND NORTHEASTERLY OF THE COURSE CALLED SOUTH 42° 22′ 30″ EAST, 57.074 FEET AND THE NORTHWESTERLY EXTENSION THEREOF, AS SAID COURSE IS DESCRIBED IN PARCEL #2 OF THE ABOVE SAID DEED RECORDED JUNE 18, 1926 IN BOOK 243 OFFICIAL RECORDS OF SAN MATEO COUNTY PAGE 12.

ALSO EXCEPTING THEREFROM, THAT PORTION THEREOF LYING WITHIN THE PARCEL DESCRIBED IN THE QUITCLAIM DEED FROM UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION TO WANDA MAE ADAMS RECORDED OCTOBER 26, 2007 AS INSTRUMENT NO. 2007-154663 OF OFFICIAL RECORDS.

For reference purposes only:

APN: 046-182-100 (affects Parcel One);
046-182-110 (affects Parcel Two);
046-182-150 (affects Parcel Three);
046-135-030 (affects Parcel Four);
046-135-010 (affects Parcel Five);
046-135-020 (affects Parcel Six);
046-135-040 (affects portion of Parcel Seven);
046-134-050 (affects portion of Parcel Seven);
046-134-060 (affects portion of Parcel Seven);
and 046-133-160 (affects portion of Parcel Seven)

JPN:
046-018-182-04A
046-018-182-05A
046-013-135-03A
046-013-135-01A
046-013-135-02A
046-013-134-03A
046-013-133-016A

EXHIBIT B

Public Parking Area

[legal description or site plan]

Exhibit F

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

_____
_____
Attn:_____

(Space Above for Recorder's Use)

[FORM OF] ASSIGNMENT OF RIGHTS AND ASSUMPTION OF OBLIGATIONS UNDER DEVELOPMENT AGREEMENT

(_____)

THIS ASSIGNMENT OF RIGHTS AND ASSUMPTION OF OBLIGATIONS UNDER DEVELOPMENT AGREEMENT (this "Assignment") is made and entered into as of _____, 20__, by and between _____, a _____ ("Assignor"), and _____, a _____ ("Assignee"), and approved and agreed to by the City of _____, a _____ ("City").

RECITALS

A. Assignor and City entered into that certain Development Agreement dated as of _____ for the _____ project, and recorded on _____ in the Official Records of the San Mateo County Recorder's Office ("Official Records") as Document No. _____, (the "Development Agreement"), with respect to approximately ____ acres of land within the City, as more particularly described in Exhibit A attached hereto (the "Property").

B. Assignor and Assignee have entered into that certain Agreement for Purchase and Sale _____ dated _____ (as may be amended from time to time, the "Purchase Agreement"), pursuant to which Assignor intends to transfer to Assignee the Property. Concurrently with transfer of the Property to Assignee, and solely in connection with such transfer in accordance with the Purchase Agreement, Assignor desires to assign to Assignee, and Assignee desires to accept from Assignor the rights, interests and obligations as Owner under the Development Agreement.

C. Section 10.1 of the Development Agreement provides that the Developer shall be released from its obligations under the Development Agreement upon the assignment of the Developer's rights, interests and obligations under the Development Agreement if the City agrees to such release in writing, and Assignor wishes to memorialize that, upon the effective date of this Assignment, as set forth in Section 4 hereof, Assignor is hereby fully released from the duties and obligations of "Developer" with respect to the Development Agreement, including, without limitation, the Project Approvals, which release is hereby given by the City's execution of this Assignment as provided below.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing recitals and for the purposes and in consideration of the mutual covenants hereinafter contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Assignor and Assignee agree as follows:

1. Defined Terms. All capitalized terms used but not defined in this Assignment shall have the meanings given to them in the Development Agreement.

2. Assignment and Assumption. Assignor hereby assigns to Assignee and Assignee hereby expressly and unconditionally assumes from Assignor, all rights, title, duties, interests and obligations under the Development Agreement.

3. Compliance with Assignment Requirements; Release. Approval of this Assignment by the City pursuant to Section 10.1 of the Development Agreement is an express condition precedent to the effectiveness of this Assignment. Each of Assignor and Assignee has complied with and satisfied all of the requirements and conditions under the Development Agreement with respect to assignment and assumption of the Assigned Interests, including, without limitation, those set forth in Section 10.1 of the Development Agreement, and all of the requirements and conditions under the Development Agreement for the release of Assignor from those obligations related to the Assigned Property and the Assigned Interests, set forth in Section 10.1 of the Development Agreement (collectively, the "Requirements"). Upon approval by the City pursuant to Section 10.1 of the Development Agreement, Assignor shall be fully released from all of the duties, obligations and liabilities of the "Developer" under the Development Agreement with respect to the Assigned Interests.

Assignee on behalf of itself and its successors and assigns, waives any right to recover from, and forever releases, acquits and discharges, Assignor and its directors, officers, employees and agents of and from any and all claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, (including, without limitation, reasonable attorneys' fees and costs and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise, whether direct or indirect, known or unknown, foreseen or unforeseen, that Assignee may now have or that may arise at any time on account of or in any way be connected with the Development Agreement, except as otherwise expressly set forth in the Purchase Agreement. This waiver is not intended to supersede or otherwise modify any terms of the Purchase Agreement.

In connection with the foregoing release, Assignee acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Assignee agrees that the release contemplated by this Section includes unknown claims. Accordingly, Assignee hereby waives the benefits of Civil Code Section 1542, or under any other statute or common law principle of similar effect, in connection with the releases contained in this Section.

Assignor	Assignee

Without limiting the foregoing and notwithstanding any contrary provision in the Development Agreement, City (i) acknowledges and agrees to the terms and conditions of this Assignment and that the Requirements have been satisfied, (ii) hereby fully releases Assignor, and Assignor is fully released, from all of the duties and obligations of the "Developer" under the Development Agreement and (iii) shall look solely towards Assignee with respect to performance, compliance and satisfaction of all covenants and obligations of Developer related to the Assigned Property.

4. Effective Date. Subject to the condition precedent set forth in Section 3 above, this Assignment shall be effective upon the later to occur of (i) the date all Parties have duly executed this Assignment and (ii) the date of the transfer of the Assigned Property to Assignee in accordance with the Purchase Agreement (the "Effective Date"). The Parties shall use a mutually acceptable escrow agent to record this Assignment Agreement and establish the Effective Date pursuant to mutually acceptable joint escrow instructions.

5. Acknowledgement of the Development Agreement and Project Approvals. Assignee further agrees that: (i) Assignee has had adequate opportunity to obtain and review copies of the Development Agreement and Project Approvals, and all other documents and materials containing or relating to the terms and conditions of the development of the project; (ii) Assignee has read and understands all of the terms and conditions of said documents and materials; (iii) except as expressly set forth in the Purchase Agreement, Assignor has not made any representations or warranties with respect to the Assigned Property, the Project Approvals or any other aspect of development of the Property or the Development Agreement, and (iv) with such knowledge and understanding, which includes the nature and extent of the fees, taxes, assessments and other financial mechanisms and obligations described in such documents and materials, Assignee nevertheless has voluntarily, freely and knowingly assumed and agreed to perform all obligations and requirements and be bound by all of the provisions of such documents and materials.

6. Terms of Development Agreement and Purchase Agreement Not Affected. Except that Assignee shall be subject to, and Assignor shall be released from, the Development Agreement, the provisions of the Development Agreement shall remain in full force and effect and shall not be altered, amended or modified by this Assignment, nor shall any of the provisions of the Purchase Agreement be altered, amended or modified by this Assignment. In the event of any conflict between any provision of the Purchase Agreement and any provision of this Assignment, the provisions of this Agreement shall control.

7. Modifications. This Assignment may be amended, terminated or otherwise modified in any respect only by a writing duly executed on behalf of Assignor and Assignee and approved by the City.

8. Attorneys' Fees. In the event of any controversy, claim, dispute, or litigation between the parties hereto to enforce or interpret any of the provisions of this Assignment or any right of either party hereto, the non-prevailing party to such litigation agrees to pay to the prevailing party all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred therein by the prevailing party, including, without limitation, fees incurred during a trial of any action and any fees incurred as a result of an appeal from a judgment entered in such litigation. To so recover, it shall not be necessary that the prevailing party prevail in each and every one of its claims. Rather, the amount of the award of attorneys' fees shall, in the court's discretion, reflect the degree to which the prevailing party or parties have prevailed in some of their claims.

9. Consent of City. By signature of the Community Development Director of the City below, the City approves and agrees to the assignment, assumption and release set forth in this Assignment. The City is a party to this Assignment solely respect to Section 3 and Section 4 hereof.

10. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of California, as they apply to contracts executed in and to be carried out entirely within California.

11. Further Assurances. Each party to this Assignment, upon the request of any other party to this Assignment, will execute, acknowledge and deliver such further documents or instruments and perform such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of this Assignment. Each of the individuals executing this Assignment certifies that he or she is duly authorized to do so.

12. Counterparts. This Assignment may be executed in one or more counterparts. All counterparts so executed shall constitute one agreement, binding on all parties, even though all parties are not signatory to the same counterpart.

[Signatures appear on the following page]

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

ASSIGNOR:

_____, a _____

By:_____
Name:_____
Its:_____

By:_____
Name:_____
Its:_____

ASSIGNEE:

_____, a
_____

By:_____
Name:_____
Its:_____

By:_____
Name:_____
Its:_____

ATTEST:

By:_____

APPROVED AS TO FORM:

By:_____

ACKNOWLEDGED AND APPROVED TO BY CITY:

CITY OF _____, _____

By:_____
Name:_____
Its: _____

[*Signatures must be notarized*]

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

[*to be inserted upon execution*]

LEGAL DESCRIPTION

Real property in the City of San Carlos, County of San Mateo, State of California, described as follows:

PARCEL ONE:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE COUNTY ROAD LEADING FROM SAN CARLOS TO REDWOOD CITY, DISTANT THEREON SOUTH 42° 22' 30" EAST 706.74 FEET FROM THE MOST WESTERLY CORNER OF THAT TRACT OF LAND KNOWN AS SPEEDWAY ACRES CONVEYED TO ASA E. HULL FROM C. S. MORTON, ET AL., BY DEED DATED JUNE 16, 1924 AND RECORDED IN BOOK 128 AT PAGE 107 (23249A), OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG THE NORTHEASTERLY LINE OF SAID COUNTY ROAD, SOUTH 42° 22' 30" EAST 206.41 FEET THENCE LEAVING THE LAST MENTIONED LINE, NORTH 48° 53' EAST 234.56 FEET TO THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN BOOK 243 AT PAGE 17 (62690A), OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG THE LAST MENTIONED LINE, NORTH 42° 22' 30" WEST 206.41 FEET TO A POINT WHICH BEARS NORTH 48° 53' EAST FROM THE POINT OF BEGINNING; THENCE SOUTH 48° 53' WEST 234.56 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE COUNTY ROAD LEADING FROM SAN CARLOS TO REDWOOD CITY, DISTANT THEREON SOUTH 42° 22' 30" EAST 913.16 FEET FROM THE MOST WESTERLY CORNER OF THAT TRACT OF LAND KNOWN AS SPEEDWAY ACRES CONVEYED TO ASA E. HULL FROM C. B. MORTON, ET AL., BY DEED DATED JUNE 16, 1924 AND RECORDED IN BOOK 128 AT PAGE 107 (23249A), OFFICIAL RECORDS OF SAN MATEO COUNTY; THENCE FROM SAID POINT OF BEGINNING LEAVING THE NORTHEASTERLY LINE OF SAID COUNTY ROAD, NORTH 48° 43' EAST 234.56 FEET TO THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN BOOK 243 AT PAGE 17 (62690A), OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG THE LAST MENTIONED LINE, SOUTH 42° 22' 30" EAST 56.68 FEET TO THE NORTHWESTERLY LINE OF COMMERCIAL WAY AS ESTABLISHED BY DEED TO THE CITY OF SAN CARLOS, A MUNICIPAL CORPORATION, RECORDED OCTOBER 12, 1973 IN BOOK 6485 AT PAGE 501 (82827AG) OFFICIAL RECORDS OF SAN MATEO COUNTY THENCE ALONG SAID NORTHWESTERLY LINE OF COMMERCIAL WAY AND THE SOUTHWESTERLY PROLONGATION THEREOF, SOUTH 48° 53' WEST 234.56 FEET TO THE NORTHEASTERLY LINE OF SAID COUNTY ROAD THENCE ALONG THE LAST MENTIONED LINE, NORTH 42° 12' 30" WEST 56.68 FEET TO THE POINT OF BEGINNING.

PARCEL THREE:

BEING ALL OF PARCEL 2 AS DESCRIBED IN THE DEED FROM CALIFORNIA CONCRETE PRODUCTS AND ASA E. HULL TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN VOLUME 243 OF OFFICIAL RECORDS AT PAGE 17 (243 O.R. 17); AND A PORTION OF PARCEL 2 AS DESCRIBED IN THE DEED FROM K.A. WINTER ET. AL. TO SOUTHERN PACIFIC RAILROAD COMPANY RECORDED JUNE 18, 1926 IN VOLUME 243 OF OFFICIAL RECORDS AT PAGE 12 (243 O.R. 12); BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 2 OF SAID 243 O.R. 17;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL NORTH 42°22'30" WEST 293.10 FEET TO THE MOST SOUTHERLY CORNER OF SAID PARCEL 2 OF SAID 243 O.R. 12;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL NORTH 42°22'30" WEST 56.70 FEET TO

THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 397.97 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°29'08" A DISTANCE OF 10.32 FEET TO THE SOUTHEASTERLY LINE OF THE LANDS AS DESCRIBED IN THE QUITCLAIM DEED FROM UNION PACIFIC RAILROAD COMPANY TO KELLOGG ET. AL. RECORDED MAY 31, 2002 IN DOCUMENT NUMBER 2002-106037, OFFICIAL RECORDS OF SAN MATEO COUNTY;

THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 48°53'00" EAST 17.01 FEET TO A POINT ON THE NORTHEASTERLY LINE OF SAID PARCEL 2 OF SAID 243 O.R. 12; SAID POINT LYING A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 414.97 FEET; A RADIAL LINE TO SAID POINT BEARING NORTH 46°15'05" EAST;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°22'25" A DISTANCE OF 9.95 FEET;

THENCE TANGENT FROM SAID CURVE ALONG SAID NORTHEASTERLY LINE SOUTH 42°22'30" EAST 57.07 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL 2 OF SAID 243 O.R. 17;

THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL SOUTH 42°22'30" EAST 293.10 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL;

THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL SOUTH 48°53'00" WEST 17.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UNDERLYING THE PROPERTY, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY MEANS OR METHODS SUITABLE TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY, OR TO INTERFERE WITH THE USE THEREOF BY GRANTEE, HER HEIRS AND ASSIGNS, AS RESERVED IN QUITCLAIM DEED RECORDED OCTOBER 26, 2007 AS INSTRUMENT NO. 2007-154663 OF OFFICIAL RECORDS.

PARCEL FOUR:

BEGINNING AT THE MOST SOUTHERLY CORNER OF THAT CERTAIN 20 ACRE TRACT DESCRIBED IN THE AGREEMENT BETWEEN ASA B. HULL AND I.H. WINTER ET AL, RECORDED NOVEMBER 24, 1925 IN BOOK 201 OF OFFICIAL RECORDS OF SAN MATEO COUNTY AT PAGE 290; THENCE FROM SAID POINT OF BEGINNING ALONG THE SOUTHEASTERLY LINE OF SAID 20 ACRE TRACT, NORTH 48°53' EAST 230.00 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE AND RUNNING ACROSS SAID 20 ACRE TRACT, NORTH 42° 22' 30" WEST 90.02 FEET AND SOUTH 48° 53' WEST 230.00 FEET TO A POINT ON THE NORTHEASTERLY LINE OF THE COUNTY ROAD LEADING FROM REDWOOD CITY TO CARLOS; THENCE ALONG SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD, SOUTH 42° 22' 30" EAST 90.03 FEET TO THE POINT OF BEGINNING.

PARCEL FIVE:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THAT CERTAIN COUNTY ROAD LEADING FROM REDWOOD CITY TO SAN CARLOS, SAID POINT OF BEGINNING BEING DISTANT ALONG SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD NORTH 42° 22’ 30” WEST 180.04 FEET FROM THE MOST SOUTHERLY CORNER OF THAT CERTAIN 20 ACRE TRACT DESCRIBED IN AGREEMENT BETWEEN ASA E. HULL AND K.A. WINTER, ET AL, SAID AGREEMENT BEING FILED FOR RECORD NOVEMBER 24, 1925 IN VOLUME 201 OF OFFICIAL RECORDS AT PAGE 290, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY LINE OF SAID

COUNTY ROAD NORTH 42° 22′ 30″ WEST 90.02 FEET TO A POINT WHERE SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD IS INTERSECTED BY THE SOUTHEASTERLY LINE OF A 50 FOOT PRIVATE ROAD RUNNING THROUGH ABOVE DESCRIBED 20 ACRE TRACT; THENCE ALONG SAID SOUTHEASTERLY LINE OF SAID 50 FOOT ROAD NORTH 48° 53′ EAST 230 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE OF SAID 50 FOOT PRIVATE ROAD AND RUNNING SOUTH 42° 22′ 30″ EAST 90.02 FEET AND SOUTH 48° 53′ WEST 230.0 FEET TO THE POINT OF BEGINNING.

PARCEL SIX:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE OLD COUNTY ROAD FROM REDWOOD CITY TO SAN CARLOS (SAID ROAD LYING NORTHEASTERLY OF THE TRACKS OF THE SOUTHERN PACIFIC RAILROAD), SAID POINT OF BEGINNING BEING DISTANT ALONG SAID NORTHEASTERLY LINE OF SAID ROAD, NORTH 42° 22′ 30″ WEST 90.02 FEET FROM THE MOST SOUTHERLY CORNER OF THAT CERTAIN 20 ACRE TRACT DESCRIBED IN AGREEMENT BETWEEN ASA E. HULL AND K.A. WINTER, ET AL, RECORDED NOVEMBER 24, 1925 IN VOLUME 201 OF OFFICIAL RECORDS AT PAGE 290, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY LINE OF SAID COUNTY ROAD, NORTH 42°22′ 30″ WEST 90.02 FEET; THENCE NORTH 48° 53′ EAST 230.0 FEET; THENCE SOUTH 42°22′ 30″ EAST 90.02 FEET; THENCE SOUTH 48°53′ WEST 230.0 FEET TO THE POINT OF BEGINNING.

PARCEL SEVEN:

A PARCEL OF LAND SITUATE IN THE CITY OF SAN CARLOS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING PARCEL THREE AS DESCRIBED IN A DEED RECORDED NOVEMBER 26, 1991 IN DOCUMENT NUMBER 91155625 OFFICIAL RECORDS OF SAN MATEO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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EXCEPTING THEREFROM THAT PORTION OF THE ABOVE DESCRIBED PROPERTY WHICH LIES SOUTHEASTERLY OF A LINE PARALLEL TO AND 90.02 FEET MEASURED PERPENDICULARLY NORTHWESTERLY OF THE ABOVE SAID SOUTHEASTERLY LINE OF SAID 20 ACRE TRACT AND NORTHEASTERLY OF THE COURSE CALLED SOUTH 42° 22′ 30″ EAST, 57.074 FEET AND THE NORTHWESTERLY EXTENSION THEREOF, AS SAID COURSE IS DESCRIBED IN PARCEL #2 OF THE ABOVE SAID DEED RECORDED JUNE 18, 1926 IN BOOK 243 OFFICIAL RECORDS OF SAN MATEO COUNTY PAGE 12.

ALSO EXCEPTING THEREFROM, THAT PORTION THEREOF LYING WITHIN THE PARCEL DESCRIBED IN THE QUITCLAIM DEED FROM UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION TO WANDA MAE ADAMS RECORDED OCTOBER 26, 2007 AS INSTRUMENT NO. 2007-154663 OF OFFICIAL RECORDS.

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046-135-010 (affects Parcel Five);
046-135-020 (affects Parcel Six);
046-135-040 (affects portion of Parcel Seven);
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046-134-060 (affects portion of Parcel Seven);
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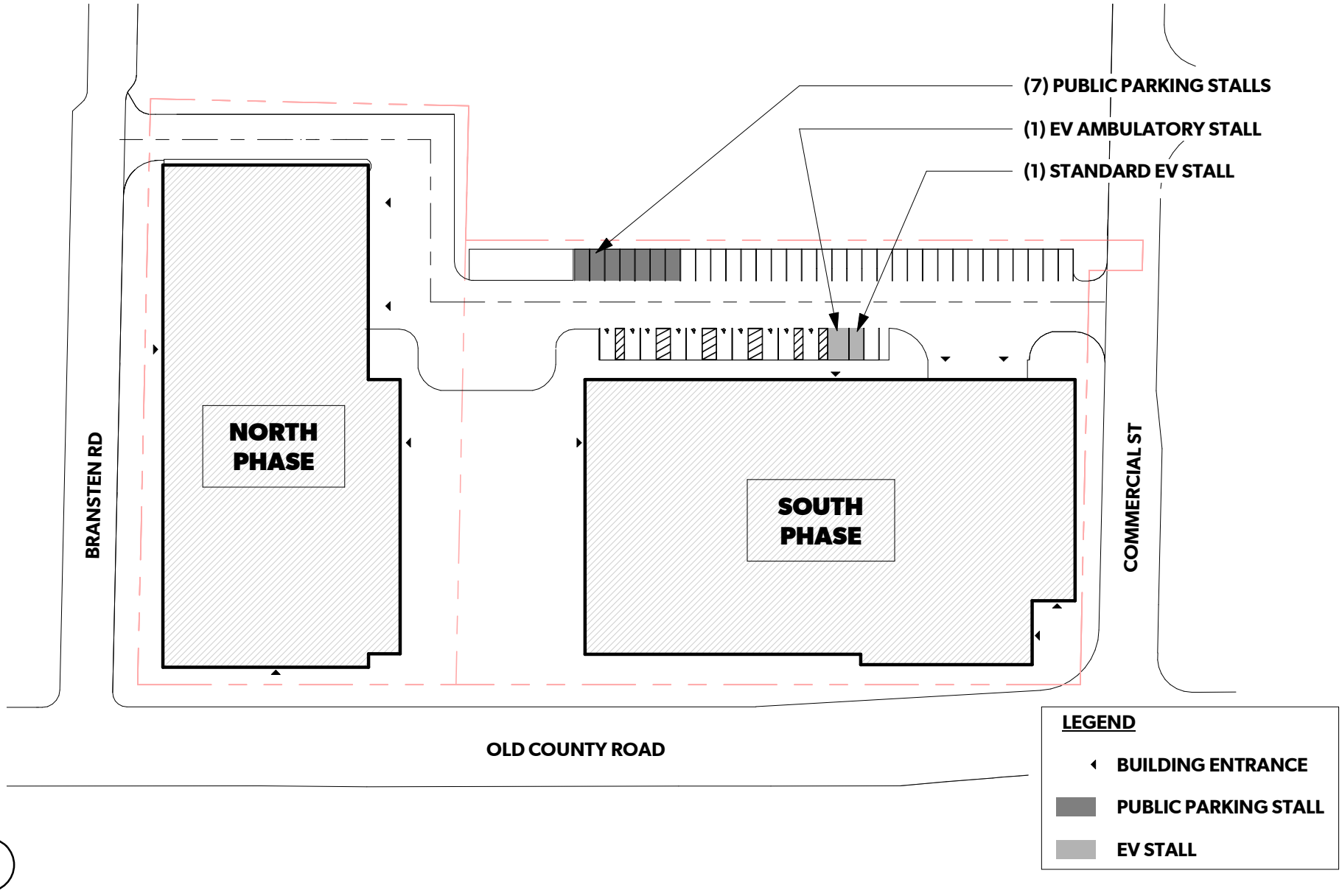
JPN:
046-018-182-04A
046-018-182-05A
046-013-135-03A
046-013-135-01A
046-013-135-02A
046-013-134-03A
046-013-133-016A

EXHIBIT G

PARKING DIAGRAM



SURFACE PARKING DIAGRAM
841 OLD COUNTY RD

10/13/23 Scale: 1" = 80'-0"

STUDIOS