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RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663-3884
Attn: City Clerk

(Space Above This Line Is for Recorder's Use Only)

This Amendment is recorded at the request and for the benefit of the City of Newport Beach and is exempt from the payment of a recording fee pursuant to Government Code §§ 6103 and 27383.

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**AMENDMENT TO ZONING IMPLEMENTATION AND PUBLIC
BENEFIT AGREEMENT**

between

CITY OF NEWPORT BEACH

and

THE IRVINE COMPANY LLC

**CONCERNING ADDITION OF PROPERTIES AND RESIDENTIAL UNITS TO
ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT
(PORTIONS OF NEWPORT CENTER BLOCKS 100, 400 AND 800 AND SAN JOAQUIN
PLAZA)**

AMENDMENT TO ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT

THIS AMENDMENT TO ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT (the "Amendment") is executed this 14th day of August, 2012, by and between: (1) CITY OF NEWPORT BEACH ("City"), and (2) THE IRVINE COMPANY LLC ("Landowner") (Landowner and City together shall be referred to as "Parties").

RECITALS

1. City and Landowner entered into Development Agreement No. DA 2007-002, entitled Zoning Implementation and Public Benefit Agreement Between the City of Newport Beach and The Irvine Company LLC Concerning North Newport Center (Block 600, Fashion Island, and Portions of Block 500, and San Joaquin Plaza), ("2007 Development Agreement"), which the City of Newport Beach adopted by Ordinance No. 2007-21 on December 18, 2007. The 2007 Development Agreement provides for the Landowner's entitlement and transfer rights within the North Newport Center Planned Community (PC-56).
2. This Amendment is intended to be an amendment pursuant to California Government Code Section 65868. This Amendment has been considered and approved in the same manner as the 2007 Development Agreement with public hearings pursuant to California Government Code Section 65867.
3. The 2006 City of Newport Beach General Plan ("General Plan") established a development intensity of 450 residential units within the Newport Center Statistical Area L1 sub-areas designated MU-H3, including Block 500, Block 600, and San Joaquin Plaza. The North Newport Center Planned Community has been assigned 430 such residential units, which could be built in any of the sub-areas of the North Newport Center Planned Community designated MU-H3. As of the Effective Date of this Amendment, fifteen such residential units within the General Plan have not been vested or assigned to a specific property. In light of market demand in the North Newport Center Planned Community, the Parties have decided to assign such residential units to San Joaquin Plaza.
4. As of the Effective Date of this Amendment, 79 unbuilt hotel rooms were assigned by the General Plan to Block 900 (Anomaly Location 43 in Statistical Area L1), located outside of the North Newport Center Planned Community. In light of existing development needs in Block 900 and the North Newport Center Planned Community, the Parties desire to convert such 79 unbuilt hotel rooms into 79 residential units. Subsequent to such conversion and pursuant to the terms of this Amendment, such 79 residential units shall transfer into the North Newport Center Planned Community and be allocated to San Joaquin Plaza sub-area.
5. Subsequent to the original adoption of the North Newport Center Planned Community in 2007, Block 800 and the portions of Blocks 100 and 400 have been added to the North Newport Center Planned Community through subsequent amendments. The legal

descriptions of Newport Center Block 100, Newport Center Block 400, and Newport Center Block 800 are attached hereto as Exhibit A.

6. In light of the time that has passed since the adoption of the 2007 Development Agreement and the actions described above, the Parties have decided that portions of the 2007 Development Agreement should be amended to include 94 new residential units in the North Newport Center Planned Community, which include the 79 hotel units and the 15 residential units, and the addition of the Block 800 and the portions of Block 100 and 400, which have been added into the North Newport Center Planned Community.
7. This Amendment is consistent with the City of Newport Beach General Plan Policy LU 6.14.8, which applies to Newport Center and requires the execution of development agreements for residential projects and mixed-use development projects with a residential component.
8. The City Council has found, based on appropriate findings as required by the City of Newport Beach General Plan Policy LU 6.14.3 and the analysis included in the *North Newport Center San Joaquin Plaza TPO Traffic Analysis* (May 2012), that the inclusion of the 94 additional residential units in the San Joaquin Plaza sub-area of the North Newport Center Planned Community would not result in adverse traffic impacts.
9. The City Council has evaluated the potential environmental impacts of this Amendment and has determined that any potential impacts have been analyzed pursuant to the Final Environmental Impact Report for the City of Newport Beach General Plan 2006 Update (State Clearinghouse No. 2006011119), the North Newport Center Addendum (Addendum No. 1), and the second Addendum (Addendum No. 2) to the City of Newport Beach General Plan 2006 Update Final Program Environmental Impact Report (State Clearinghouse No. 2006011119). There are no circumstances present that would require a new, subsequent or supplemental environmental impact report for this Amendment, under the provision of the California Environmental Quality Act.
10. On July 5, 2012, City's Planning Commission held a public hearing on this Amendment, made findings and determinations with respect to this Amendment, and recommended to the City Council that the City Council approve this Amendment.
11. On July 24, 2012, the City Council also held a public hearing on this Amendment and considered the Planning Commission's recommendations and the testimony and information submitted by City staff, Landowner and members of the public. On August 14, 2012, pursuant to the applicable state law (California Government Code sections 65864-65869.5) and local law (City of Newport Beach Municipal Code chapter 15.45), the City Council adopted its Ordinance No. 2012-20 finding this Amendment to be consistent with the City of Newport Beach General Plan and approving this Amendment.

AGREEMENT

NOW, THEREFORE, City and Landowner agree as follows:

1. Property. The Parties hereby amend the term “Property” to add to its existing definition Newport Center Block 800 and the portions of Blocks 100 and 400, which are the parcels of real property that are described in the legal description attached to this Amendment as Exhibit A and depicted on the site map attached to this Amendment as Exhibit B, (“Added Property”). All of the Added Property is owned by the Landowner.
2. Development Regulations. The following Development Regulations (as defined in Section 1.9 of the 2007 Development Agreement) shall apply:
 - 2.1. Newport Center Block 600 and the portions of Block 500, San Joaquin Plaza, and Fashion Island covered by this Agreement shall remain governed by the Development Regulations in effect as of the Effective Date of the 2007 Development Agreement, as set forth in Section 1.9 of the 2007 Development Agreement, with the exception that the North Newport Center Planned Community Development Plan that the City Council is adopting pursuant to Ordinance No. 2012-19, shall apply.
 - 2.2. Newport Center Block 800 and the portions of Blocks 100 and 400 covered by this Agreement shall be governed by the Development Regulations in effect as of the Effective Date of this Amendment, including without limitation the North Newport Center Planned Community Development Plan that the City Council is adopting pursuant to Ordinance No. 2012-19.
3. Landowner’s Vested Rights. Section 6.2 of the 2007 Development Agreement, which regards Landowner’s vested rights, is amended to apply to the Property as defined in this Amendment.
4. Affordable Housing Obligation. The Parties agree that Landowner’s compliance with the amended 2012 Affordable Housing Implementation Plan attached as Exhibit C satisfies any obligation of Landowner to City under the City of Newport Beach General Plan Housing Program 2.2.1 with respect to additional residential housing units provided for in this Amendment and the residential housing units provided in the 2007 Development Agreement. Should the additional units be developed as for sale units requiring a subdivision map, the amended 2012 Affordable Housing Implementation Plan shall be deemed to comply with the Inclusionary Housing requirements of Section 19.54.040.
5. Description of Certain Project Components. Concurrently with the adoption of this Amendment, City has approved the potential location of 524 residential units in San Joaquin Plaza under the Traffic Phasing Ordinance. Therefore, Section 6.3(2) of the 2007 Development Agreement is amended to read in its entirety as follows:

“524 residential units in Newport Center Block 500, Newport Center Block 600, or San Joaquin Plaza; provided however, that to the extent Landowner desires to develop any of said residential units in Newport Center Block 500 or 600 it shall be required to comply with the Traffic Phasing Ordinance relative to potential impacts associated with such change in location.”

6. Public Benefit Fee. The amount payable by Landowner to City for each of the 94 residential units added to the North Newport Center Planned Community pursuant to this Amendment shall be the sum of \$63,000 per unit, for a total of \$5,922,000. This fee shall be paid for each additional individual housing unit at the time the building permit for such unit is issued by the City. For purposes of implementation, the first 430 units applied for by Landowner will be subject to a public benefit fee in the sum of \$31,500, as set forth in Section 4.2 of the 2007 Development Agreement. The public benefit fee for the 431st unit and all subsequent units shall be the sum of \$63,000. This fee is in addition to the other fees required by the City for these units under the Development Regulations. The dollar amount specified in this section shall not accrue interest if paid when due and shall not be increased or decreased by reason of any cost of living or other inflation/deflation adjustment.

7. Per Unit Public Benefit Fee For Parks. Prior to and as a condition to City's issuance of each building permit for residential development, Landowner shall pay to City a per unit fee that is a Public Benefit Fee for Parks in the sum of \$26,046.51 for each of the 94 residential units added to the North Newport Center Planned Community pursuant to this Amendment, for a total of \$2,448,372, to be paid to City by Landowner on or before July 1, 2013. This fee is in addition to the other fees required by the City for these units under the Development Regulations. City acknowledges that Landowner has advanced an Initial Park Fee in the amount of \$5,600,000, entitling Landowner to a credit against payment of the Per Unit Public Benefit Fee for Parks for the first 215 residential units to be developed on the Property. In addition to the foregoing, at the time that Landowner advances the \$2,448,372 Public Benefit Fee for Parks, Landowner shall be entitled to a credit against payment of the Per Unit Public Benefit Fee for Parks for an additional 94 residential units, for a total credit against payment of the Per Unit Public Benefit Fee for Parks for the first 309 residential units to be developed on the Property. Should the additional units be developed as for-sale units requiring a subdivision map, the amended 2012 Affordable Housing Implementation Plan shall be deemed to comply with the Inclusionary Housing requirements of Section 19.54.040. The dollar amount specified in this section shall not accrue interest if paid when due and shall not be increased or decreased by reason of any cost of living or other inflation/deflation adjustment. This fee does not replace the fees that the City may charge for parks when and if the additional units were included in a subdivision map or otherwise converted to individually saleable housing units, but the City shall grant Landowner a credit against such parks fee in the amount of the net fee per unit that was previously paid to the City for such unit.

8. Reimbursement for Bayside Walkway Connection. Landowner shall pay to City up to \$200,000 as a public benefit reimbursement for costs that the City may incur related to plans, specifications, permits, and/or construction for the Bayside Walkway Connection project. Payment by Landowner shall be made within 90 days after receipt of written notice from City that it has awarded a construction contract for the Bayside Walkway Connection project. The amount of the public benefit reimbursement shall be no more than \$200,000 and shall be for the City's actual costs for plans, specifications, permits, and/or construction, as documented by the City in its written notice.

9. Expiration, Completion or Exhaustion of Certain Obligations.

9.1. The Parties agree that the obligations of both Parties under the following sections of the 2007 Development Agreement have fully expired or have been fully exhausted or fully completed:

9.1.1. Landowner's payment to City of the Initial Park Fee pursuant to Section 4.1 by a payment of \$5,600,000 to the City by Landowner on March 10, 2009;

9.1.2. Landowner's payment to City of the Initial Public Benefit Fee pursuant to Section 4.2 by a payment of \$13,345,000 to the City by Landowner on July 26, 2011 as a condition of the issuance of the First Building Permit, issued for 650 Newport Center Drive;

9.1.3. Section 4.5, "Dedication of Public Rights of Way";

9.1.4. Section 4.6, "Open Space Dedication";

9.1.5. Section 4.8, "City's Option to Purchase New City Hall Site; Parking Structure";

9.1.6. Section 4.9A, "Retrofit Sprinkler Systems";

9.1.7. Section 4.10, "Cooperation of Landowner if City Hall Constructed on Property North of Library"; and

9.1.8. Section 4.11, "Dedication of Lower Castaways".

Therefore, no remaining obligations remain for either Party to complete under Section 4.5, Section 4.6, Section 4.8, Section 4.9A, Section 4.10, and Section 4.11 of the 2007 Development Agreement.

10. No Conflicting Enactments. Except to the extent City reserves its discretion as expressly set forth in the 2007 Development Agreement, during the Term of this Amendment City shall not apply to the Project any ordinance, policy, rule, regulation, or other measure relating to development of the Project, as contemplated by this Amendment, that is enacted or becomes effective after the Effective Date to the extent it conflicts with this Amendment. No City moratorium or other similar limitation relating to the rate, timing, or sequencing of the development or construction of all or any part of the Project and whether enacted by initiative or another method, affecting subdivision maps, building permits, occupancy certificates, or other entitlement to use, shall apply to the Project to the extent such moratorium or other similar limitation restricts Landowner's vested rights in this Amendment or otherwise conflicts with the express provisions of this Amendment.

11. Compliance with Traffic Phasing Ordinance. The following provisions are added with respect to the Traffic Phasing Ordinance:
 - 11.1. Scope of Traffic Study. The traffic study prepared in conjunction with this Amendment, entitled "*North Newport San Joaquin Plaza TPO Traffic Analysis*" and dated May 2012, covers all development authorized by this Amendment.
 - 11.2. Sufficiency of Traffic Study. City acknowledges that the traffic study for the North Newport Center Planned Community Development Plan Amendment project satisfies the provisions of the Traffic Phasing Ordinance. The City shall not require any additional Traffic Phasing Ordinance traffic studies in conjunction with any application for approvals or permits necessary to construct development authorized by this Amendment as long as the application is consistent with the provisions of this Amendment and the relevant Development Regulations.
12. Effective Date. The Effective Date of this Amendment is September 12, 2012, the 31st day following adoption of this ordinance approving this Amendment by the City Council. This Amendment does not change the Effective Date of the 2007 Development Agreement.
13. Term. The term of this Amendment ("Term") shall commence on the Effective Date and shall continue thereafter until the earlier of the following: (i) the date that is twenty (20) years after the Effective Date; or (ii) the date this Amendment is terminated pursuant to Sections 12 or 15.1 of the 2007 Development Agreement.
 - 13.1. Section 11 of the 2007 Development Agreement is amended at paragraph two to read as follows:

“The term of this Agreement ("Term") shall commence on the Effective Date and shall continue thereafter until the earlier of the following: (i) the date that is twenty (20) years after the Effective Date of the Amendment; or (ii) the date this Agreement is terminated pursuant to Sections 12 or 15.1 of this Agreement.”
14. Conflicts. Except as otherwise set forth herein to the contrary, all terms and provisions of the 2007 Development Agreement shall remain unamended and continue in full force and effect. This Amendment and the 2007 Development Agreement, along with any previous or future amendments, shall be construed together and shall constitute one agreement. In the event of any inconsistency between this Amendment and the 2007 Development Agreement, the provisions of this Amendment shall prevail.
15. Notice of Intention to Amend. In enacting this Amendment, the City has provided for public notice and hearing in the manner provided by California Government Code Section 65867.

16. Compliance with California Government Code Section 65867.5. California Government Code Section 65867.5 provides that a development agreement is a legislative act that shall be approved by ordinance and subject to referendum. A development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan. These requirements of California Government Code Section 65867.5 have been satisfied by the City's finding that this Amendment is consistent with the City's General Plan and the City's approval of this Amendment by ordinance.
17. Compliance with California Government Code Section 66473.7. The area subject to the Amendment may include a future subdivision, and the City may, in its sole and absolute discretion, approve certain tentative maps for such subdivision. Any such subdivision will comply with all of the provisions of the Subdivision Map Act including, but not limited to, California Government Code Section 65867.5 in that any tentative maps will be approved by the City in compliance with California Government Code Section 66473.7.
18. Section Headings. All section headings are inserted for convenience only and shall not affect construction or interpretation of this Amendment.
19. Incorporation of Exhibits. Exhibits A, B and C are attached to this Amendment and incorporated by this reference as follows:

EXHIBIT DESIGNATION	DESCRIPTION
A	Legal Description of Property
B	Depiction of the Property
C	Updated 2012 Affordable Housing Implementation Plan

20. Authority to Execute. The persons executing this Amendment warrant and represent that they have the authority to execute this Amendment on behalf of the party for which they are executing this Amendment. They further warrant and represent that they have the authority to bind their respective party to the performance of its obligations under this Amendment. The City Manager or his/her designee has the authority to implement the terms of this Amendment and execute any documents in furtherance of the terms of this Amendment and the 2007 Development Agreement so long as they have been reviewed and approved as to form by the City Attorney.
21. Recordation. This Amendment and any amendment, modification, or cancellation to it shall be recorded in the Office of the County Recorder of the County of Orange, by the City of Newport Beach City Clerk in the period required by California Government Code section 65868.5 and City of Newport Beach Municipal Code section 15.45.090.

[SIGNATURE PAGE FOLLOWS]

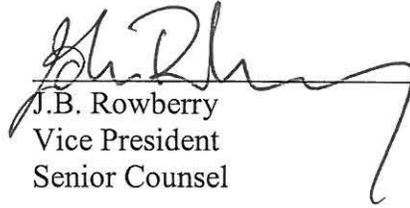
**SIGNATURE PAGE TO
AMENDMENT TO ZONING IMPLEMENTATION
AND PUBLIC BENEFIT AGREEMENT**

“LANDOWNER”

THE IRVINE COMPANY LLC



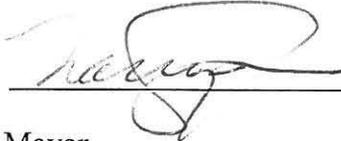
Daniel T. Miller
Senior Vice President
Entitlement & Public Affairs



J.B. Rowberry
Vice President
Senior Counsel

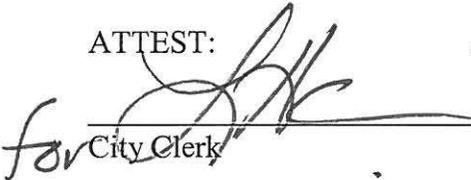
“CITY”

CITY OF NEWPORT BEACH

By: 

Its: Mayor

ATTEST:


for City Clerk

**DEPUTY
CITY
CLERK**

APPROVED AS TO FORM:


Leonie Mulvihill
City Attorney

8/23/12



State of California
County of Orange

On August 17, 2012 before me, Joni Grossman,
NOTARY Public, personally
appeared Daniel T. Miller
and
J.B. Rowberry,

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 Joni Grossman (Seal)



State of California
County of Orange

On August 24, 2012 before me,

Kim Rieff, Notary Public, personally
appeared Nancy Gardner

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 Kim Rieff (Seal)

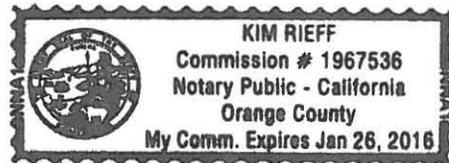


EXHIBIT A:

LEGAL DESCRIPTION OF ADDED PROPERTY

LEGAL DESCRIPTION

Real property in the City of Newport Beach, County of Orange, State of California, described as follows:

Newport Center Block 100:

PARCEL 1: APN 442-231-02, 442-231-03, 442-231-04, 442-231-05, 442-231-06, 442-231-07, 442-231-11 and 442-231-14

Parcels 2 through 7 and "B" as shown on a Parcel Map filed in Book 52, Page 37 of Parcel Maps, together with Parcel "A" as shown on a Parcel Map filed in Book 76, Page 32 of Parcel Maps, both in the Office of the County Recorder of said Orange County.

Newport Center Block 400:

PARCEL 1: APN 442-082-05

Parcel 1 as shown on a Parcel Map filed in Book 61, Page 10 of Parcel Maps, in the Office of the County Recorder of said Orange County.

PARCEL 2: APN 442-082-04

Parcel 2 as shown on a Parcel Map filed in Book 37, Page 23 of Parcel Maps, in the Office of the County Recorder of said Orange County.

PARCEL 3: APN 442-082-09

Parcel "A" as shown on a Parcel Map filed in Book 91, Page 19 of Parcel Maps, in the Office of the County Recorder of said Orange County.

Newport Center Block 500:

PARCEL 1: APN 442-014-23

Parcel 2 of Parcel Map No. 88-163 as shown on a map filed in Book 253, Pages 34 and 35 of Parcel Maps, in the Office of the County Recorder of said Orange County.

Exhibit A:

Newport Center Block 800:

PARCEL 1: APN 442-262-03, 442-262-05, 442-262-06, 442-262-07, 442-262-08, 442-262-09 and 442-262-10.

Parcel 1 as shown on a Parcel Map filed in Book 136, Pages 22 and 23 of Parcel Maps, together with Lots 1, 2, 3, 4, and private streets Colony Plaza and Santa Maria Road of Tract No. 15178 as shown on a map filed in Book 737, Pages 45 through 47 inclusive, of Miscellaneous Maps, both in the Office of the County Recorder of said Orange County.


Kurt R. Troxell, L.S. 7854 7/12/2012
Date



Exhibit B
Depiction of Added Property

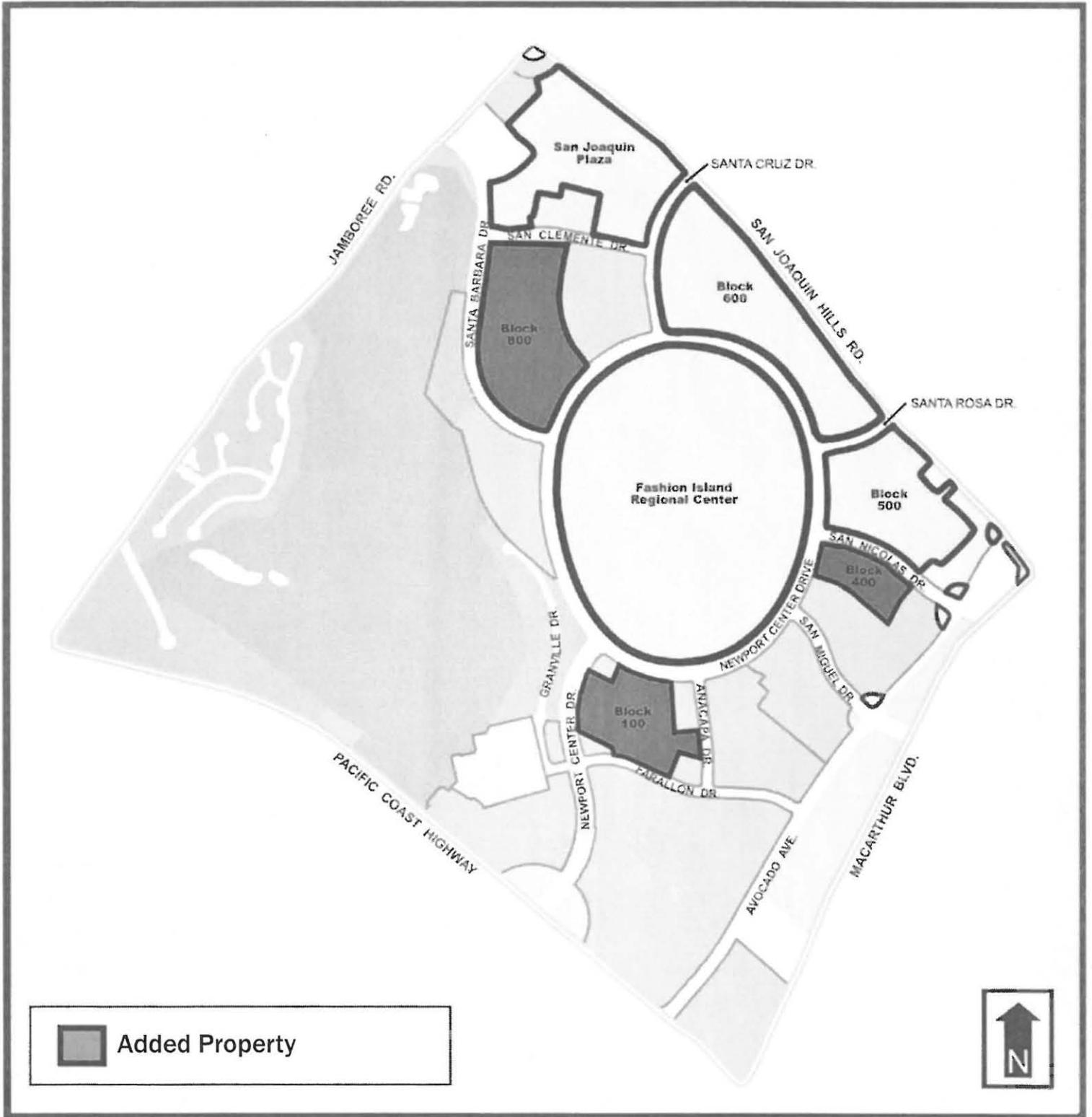


EXHIBIT C

NORTH NEWPORT CENTER PLANNED COMMUNITY

AFFORDABLE HOUSING IMPLEMENTATION PLAN

**NORTH NEWPORT CENTER
PLANNED COMMUNITY**

**AFFORDABLE HOUSING
IMPLEMENTATION PLAN**

**Prepared For:
The City of Newport Beach**

June 2012

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I. Introduction

The North Newport Center Planned Community (Planned Community) approval by the City of Newport Beach includes a Planned Community Development Plan that implements the goals and policies of the City's General Plan. The Planned Community, as shown on Exhibit 1, consists of seven sub-areas within North Newport Center, a regional center comprised of major retail, professional office, entertainment, recreation, hotel, and residential development.

Block 500, Block 600, and San Joaquin Plaza are designated in the General Plan as MU-H3, a designation that allows for a mixed-use area combining commercial, office, entertainment, and residential uses. The Planned Community Development Plan for North Newport Center allows construction of 524 residential units in these blocks, and affordable housing units must be provided in accordance with the City Housing Element. This Affordable Housing Implementation Plan (AHIP) outlines how the required affordable housing will be provided.

Background

The City's Housing Element includes a goal that 15% of all new housing units in the City be affordable to very low, low, and moderate income households. The Housing Element identifies moderate income households as those with annual incomes between 80% and 120% of the county median household income. Low income households are those with annual incomes between 51% and 80% of the county median household income. Very low income households are those with annual incomes of 50% or less of the County median household income. Projects with more than 50 units are required to prepare an AHIP that specifies how the development will meet the City's affordable housing goal.

The Southern California Association of Governments (SCAG) prepares the state-mandated Regional Housing Needs Assessment (RHNA). The RHNA quantifies the need for housing within each jurisdiction during specified planning periods. The City's General Plan Housing Element must include its "fair share" regional housing needs allocation for all income groups which must be updated periodically. The most recently published SCAG RHNA identifies the City allocation as follows:

- Total allocation between 1/1/06 and 6/30/14 – 1,769
- Very low income allocation – 22% (389 units)
- Low income allocation – 18% (319 units)
- Moderate income allocation – 20% (359 units)

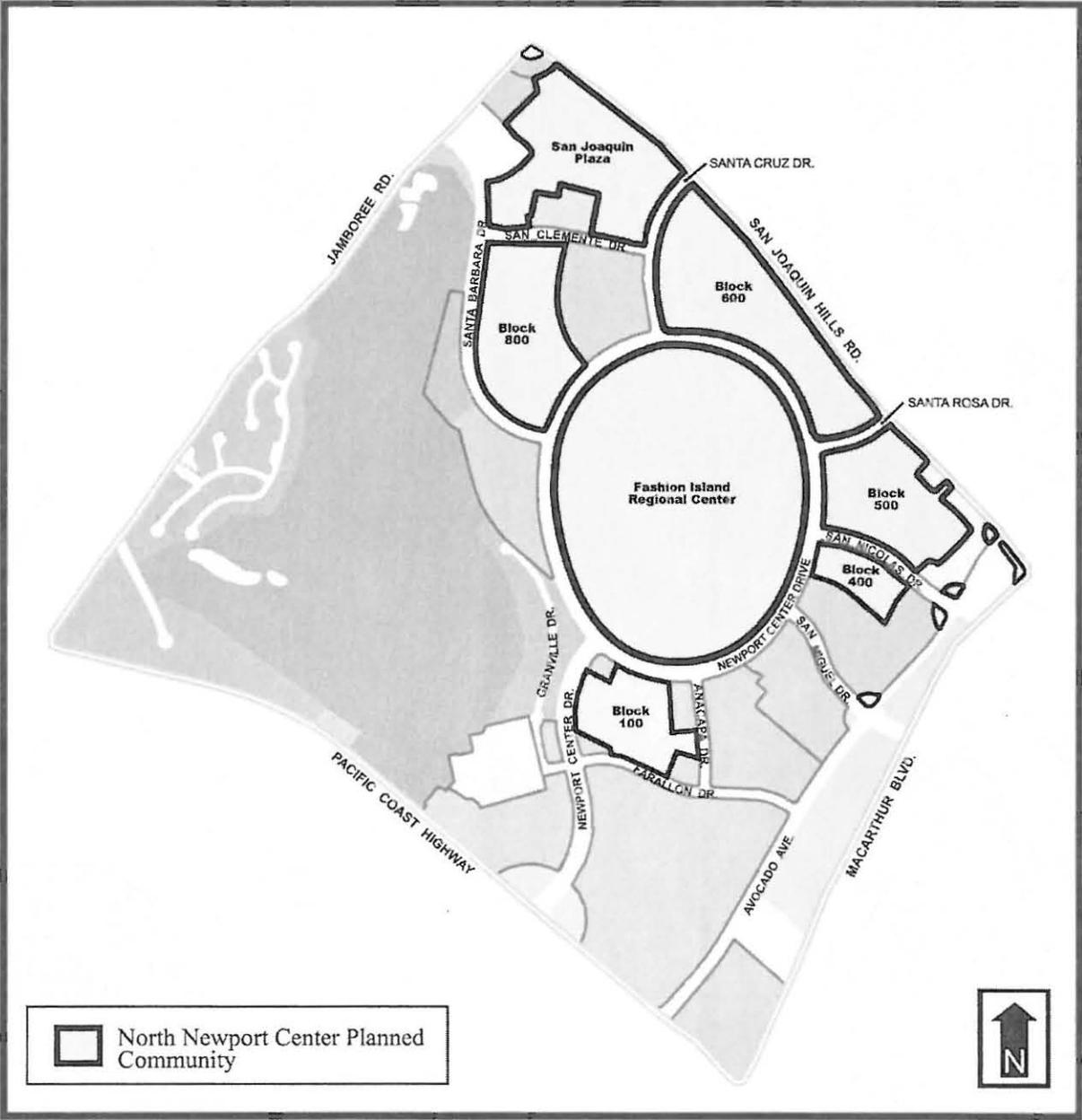


Exhibit 1 - North Newport Center Planned Community

II. Affordable Housing Plan

Proposed Plan

The City's General Plan Housing Element allows for sale or for rent options in order to meet the obligation for affordable housing units. In addition, affordable housing may be provided off-site, with City approval. Consistent with these Housing Element provisions, this Affordable Housing Implementation Plan includes the following plan. The location of the site is included on Exhibit 2.

A. Covenants on Existing Units

The Irvine Company owns The Bays, an apartment complex consisting of three buildings known as Baywood, Bayview, and Bayport, which is shown on Exhibit 2. The total number of units in The Bays is 556. Forty-six units in Baywood are restricted as low-income units through 2011.

The Irvine Company will restrict tenant incomes and rental costs for housing units located in The Bays complex for a period of 30 years with a recorded document. The number of restricted units will be sufficient to provide the number of affordable units described later in this AHIP, depending on the income level to be served. The Irvine Company will identify which apartments are proposed to meet the affordable housing obligation, and will not use units that are under any other affordable housing covenant at the time they are proposed to meet the obligation for North Newport Center. The City will inspect the apartments designated to meet the affordable housing requirement to ensure compliance with relevant codes, proper maintenance, and adequate common areas. The Irvine Company will agree to make improvements, if necessary, to ensure viable housing for the 30 year period.

The units must be rented to households qualifying as very low, low, or moderate income households. The annualized rents chargeable for occupancy of the Affordable Units shall not exceed thirty percent (30%) of the Very Low, Low or Moderate Income limits.

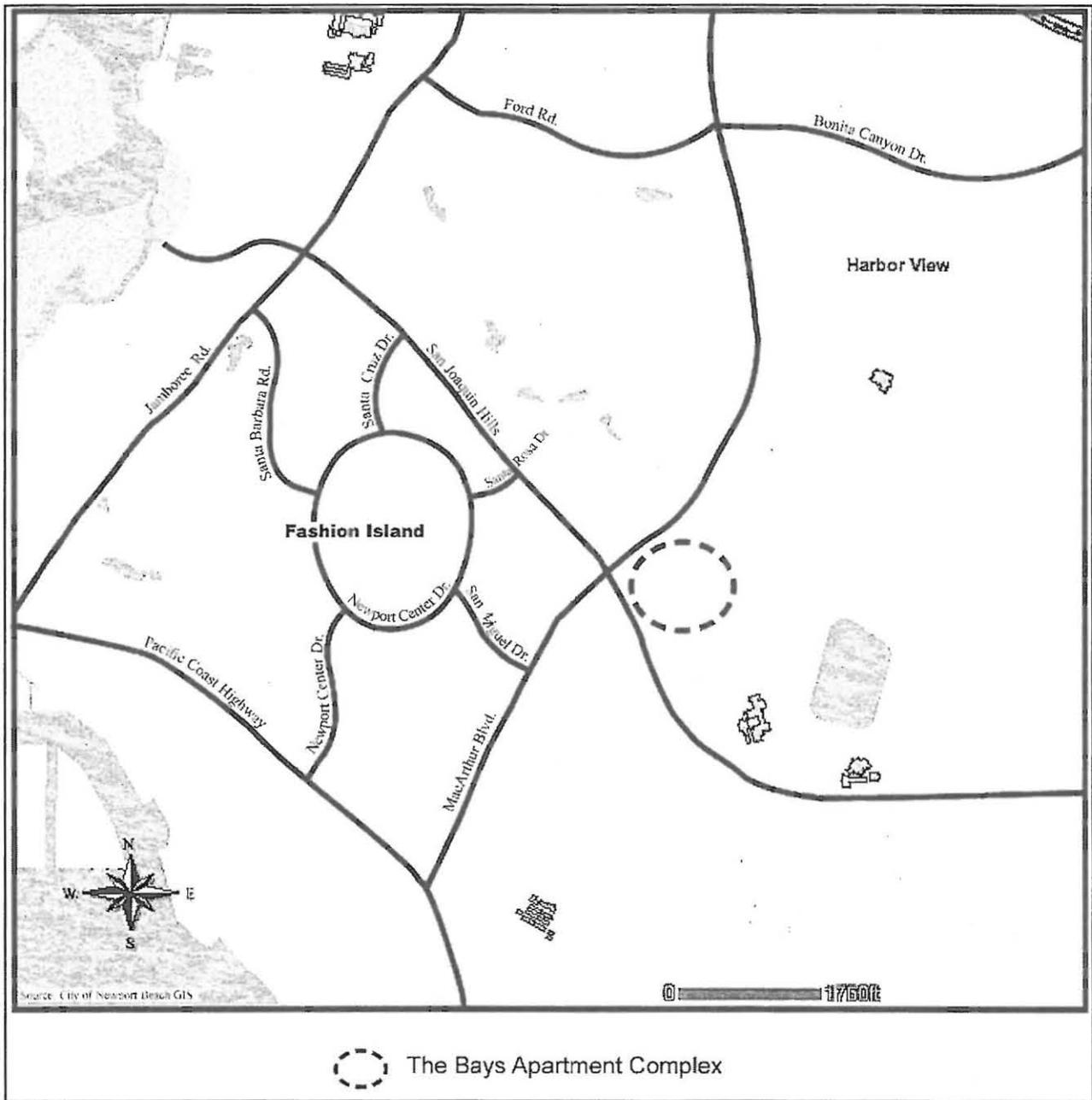


Exhibit 2 - The Bays Apartment Complex Locations

The restriction on these units – for example, tenant selection procedures, monitoring – will be included in an affordable housing agreement, which shall be submitted for review and approval by the City Attorney and recorded against the property(ies).

B. Concentration of Units

Affordable units shall not be concentrated in any one building in The Bays.

Number of Affordable Units/Income Levels

The requirement for affordable housing shall be based on income categories. The Irvine Company will provide very low, low, or moderate income housing, or a combination of income categories, using the percentages shown in the table below.

Income Category	Percentage Required	Total Amount
Very Low	10%	52 units
Low	15%	79 units
Moderate	20%	105 units

Implementation

The affordable housing units required under this AHIP will be provided incrementally. The affordable units shall be phased as follows:

- Certificate of use and occupancy for 100th market rate unit / one-third of required units
- Certificate of use and occupancy for 200th market rate unit / one-third of required units
- Certificate of use and occupancy for 300th market rate unit / one-third of required units

Affordable housing agreements shall be executed and recorded at each phase identified above for designated affordable units in The Bays apartment complex prior to the point where a certificate of use and occupancy is issued for the related market rate units.

Conclusion

Implementation of this AHIP will result in the availability of affordable housing units as identified above within the City of Newport Beach in accordance with the City’s Housing Element.

III. Consistency with Housing Element

The City of Newport Beach adopted a General Plan in 2006. A Housing Element was included in the General Plan in accordance with State law. The Housing Element was updated in 2011. The Housing Element identifies goals and programs for the provision of affordable housing in the City. The AHIP is intended to meet the specific goals of the Housing Element as follows:

Policy H2.1 Encourage preservation of existing and provision of new housing affordable to extremely low, very low, low and moderate income households.

Program

2.1.2 Take all feasible actions, through use of development agreements, expedited development review and expedited processing of grading, building and other development permits, to ensure expedient construction and occupancy for projects approved with low and moderate income housing requirements.

The AHIP supports the City's requirement for the provision of affordable housing for all new development with more than 50 residential units. The Irvine Company has prepared a Development Agreement in accordance with this Policy/Program.

Policy H2.2 Encourage the housing development industry to respond to housing needs of the community and to the demand for housing as perceived by the industry, with the intent of achieving the Regional Housing Needs Assessment construction goals within six years.

Program

2.2.1 Require a proportion of affordable housing in new residential developments or levy an in-lieu fee. The City's goal over the five-year planning period is for an average of 15 percent of all new housing units to be affordable to very low, low and moderate-income households. The City shall either (a) require the payment of an in-lieu fee, or (b) require the preparation of an Affordable Housing Implementation Plan (AHIP) that specifies how the development will meet the City's affordable housing goal, depending on the following criteria for project size:

1. Projects of 50 or fewer units shall have the option of preparing an AHIP or paying the in-lieu fee.

2. Projects where more than 50 units are proposed shall be required to prepare an AHIP.

Implementation of this program will occur in conjunction with City approval of any residential Tentative Tract Maps. To insure compliance with the 15 percent affordability requirements, the City will include conditions in the approval of Tentative Tract Maps to require on-going monitoring of those projects.

Program

2.2.6 All required affordable units shall have restrictions to maintain their affordability for a minimum of 30 years.

As described in Section II, the affordable housing provided per the AHIP will meet the Housing Element requirement for the total affordable units required. The units will be deed restricted to remain affordable for a period of 30 years. In addition, the developer will provide periodic reports in

the form required by the City. The provision of the affordable housing units will assist the City in meeting the RHNA construction goals.

In conclusion, the AHIP is consistent with the relevant goals and programs in the City's 2011 General Plan Housing Element.

IV. Amendments to the AHIP

This AHIP may be amended with the approval of the City Council. No modification of the General Plan requirement for affordable units is allowed, unless the requirement is reduced through an amendment to the General Plan prior to implementation of development.

V. Authority

The AHIP has been adopted by the City of Newport Beach per Resolution No. 2012-65 on the 24th day of July, 2012.

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2012-20 was duly and regularly introduced on the 24th day of July, 2012, and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 14th day of August, 2012, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Hill, Rosansky, Curry, Selich, Henn, Daigle, Mayor Gardner

Noes: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15th day of August, 2012.



Leilani I. Brown

City Clerk
City of Newport Beach, California

(Seal)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LEILANI I. BROWN, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2012-20 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *The Daily Pilot*, a daily newspaper of general circulation on the following dates:

Introduced Ordinance: August 1, 2012
Adopted Ordinance: August 18, 2012

In witness whereof, I have hereunto subscribed my name this 24th day of AUGUST 2012.



Leilani I. Brown

City Clerk
City of Newport Beach, California

(Seal)

PROOF OF PUBLICATION

STATE OF CALIFORNIA)

) SS.

COUNTY OF ORANGE)

I am a citizen of the United States and a resident of the County of Los Angeles; I am over the age of eighteen years, and not a party to or interested in the notice published. I am a principal clerk of the NEWPORT BEACH/COSTA MESA DAILY PILOT, which was adjudged a newspaper of general circulation on September 29, 1961, case A6214, and June 11, 1963, case A24831, for the City of Costa Mesa, County of Orange, and the State of California. Attached to this Affidavit is a true and complete copy as was printed and published on the following date(s):

Wednesday, August 1, 2012

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed on September 19, 2012
at Los Angeles, California



Signature

CITY OF NEWPORT BEACH PUBLIC NOTICE ORDINANCE SUMMARY

NOTICE IS HEREBY GIVEN that on July 24, 2012, the City Council of the City of Newport Beach, California, introduced an Ordinance entitled:

ORDINANCE NO. 2012-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ADOPTING AN AMENDMENT TO DEVELOPMENT AGREEMENT NO. DA2007-002.

The Irvine Company has agreed to provide public benefits as consideration for the Development Agreement as stated in the Ordinance. The proposed Ordinance would also provide during the term of the Amendment, and subject to any approvals required under the development regulations applicable to the Property as specified in the Amendment, The Irvine Company would have a vested right to develop the following entitlements on the Property:

DEVELOPMENT LIMITS (A)

Land Use	Fashion Island	Block 100	Block 400	Block 500	Block 600	Block 800	San Joaquin Plaza	Total
Regional Commercial	1,619,525 sq. ft.	0	0	0	0	0	0	1,619,525 sq. ft.
Movie Theater	1,700 seats (27,500 sq. ft.)	0	0	0	0	0	0	1,700 seats (27,500 sq. ft.)
Hotel	(B)	0	0	0	0	0	0	295
Residential	0	0	0	0	0	0	0	769
Office/ Commercial	0	0- sq. ft. (C)	91,727 sq. ft.	599,659 sq. ft. (D)	1,340,609 sq. ft. (D)	286,166	95,550 sq. ft. (D)	2,413,711 sq. ft.

- A. Square footage indicated in Table 2 may not reflect current development limits because of the transfer of development rights provision described in Sections II.C and IV.C herein. Transfers may result in increased or decreased development limits, so long as the transfers are consistent with the General Plan and do not result in greater intensity than allowed in the Newport Center statistical area. A transfer of development rights must be approved by the City Council and is recorded on the City's Tracking Development Rights table for North Newport Center Planned Community.
- B. Hotel rooms are permitted in Fashion Island through the transfer of development rights.
- C. The maximum development for Block 100 may not exceed 121,114 square feet. Transfers of development rights shall be permitted, provided the maximum development limit of 121,114 square feet is not exceeded. Transfers have resulted in no remaining intensity in Block 100.
- D. Per City Council action on 11/8/11 via resolution 2011-102, the maximum permitted office/commercial development for Block 500 is 599,659 sq. ft., Block 600 is 1,340,609 sq. ft. and for San Joaquin Plaza is 95,550 sq. ft.

This Ordinance was introduced by the City Council of the City of Newport Beach, California, at a special meeting thereof on the 24th day of July, 2012, by the following vote:

AYES: Hill, Rosansky, Curry, Selich, Henn, Daigle, Mayor Gardner
NOES: None

Second reading of Ordinance No. 2012-19 will occur at the August 14, 2012 City Council meeting. If adopted on August 14, 2012, the Ordinance shall become final and effective thirty (30) days after adoption; however, the Ordinance will not go into effect until the City Council approves or adopts all of the following: (1) the amendment to the North Newport Center Planned Community Affordable Housing Implementation Plan; (2) the amendment to Development Agreement No. DA2007-002, entitled *Amendment to Zoning Implementation and Public Benefit Agreement Between City of Newport Beach and the Irvine Company LLC Concerning Addition of Properties and Residential Units to Zoning Implementation and Public Benefit Agreement (Portions of Newport Center Blocks 100, 400 and 800 and San Joaquin Plaza)*; and (3) Transfer of Development Intensity No. TD2012-002. : (1) the amendment to the North Newport Center Planned Community Affordable Housing Implementation Plan; (2) Planned Community Development Plan Amendment No. PD2012-001; and (3) Transfer of Intensity No. TD2012-002.

Dated this 25th day of July, 2012.

lsl

Leilani I. Brown, City Clerk
City of Newport Beach

CITY OF NEWPORT BEACH
THE CITY CLERK
OFFICE OF

2012 SEP 24 AM 9:38

RECEIVED

PROOF OF PUBLICATION

STATE OF CALIFORNIA)
) SS.
 COUNTY OF ORANGE)

I am a citizen of the United States and a resident of the County of Los Angeles; I am over the age of eighteen years, and not a party to or interested in the notice published. I am a principal clerk of the NEWPORT BEACH/COSTA MESA DAILY PILOT, which was adjudged a newspaper of general circulation on September 29, 1961, case A6214, and June 11, 1963, case A24831, for the City of Costa Mesa, County of Orange, and the State of California. Attached to this Affidavit is a true and complete copy as was printed and published on the following date(s):

Saturday, August 18, 2012

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed on August 22, 2012
 at Los Angeles, California

Michael Camus

Signature



**CITY OF NEWPORT BEACH
 PUBLIC NOTICE
 ORDINANCE SUMMARY**

NOTICE IS HEREBY GIVEN that on August 14, 2012, the City Council of the City of Newport Beach, California, adopted an Ordinance entitled:

ORDINANCE NO. 2012-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ADOPTING AN AMENDMENT TO DEVELOPMENT AGREEMENT NO. DA2007-002.

The Irvine Company has agreed to provide public benefits as consideration for the Development Agreement as stated in the Ordinance. The Ordinance will also provide during the term of the Amendment, and subject to any approvals required under the development regulations applicable to the Property as specified in the Amendment, The Irvine Company would have a vested right to develop the following entitlements on the Property:

DEVELOPMENT LIMITS (A)

Land Use	Fashion Island	Block 100	Block 400	Block 500	Block 600	Block 800	San Joaquin Plaza	Total
Regional Commercial	1,619,525 sq. ft.	0	0	0	0	0	0	1,619,525 sq. ft.
Movie Theater	1,700 seats (27,500 sq. ft.)	0	0	0	0	0	0	1,700 seats (27,500 sq. ft.)
Hotel	(B)	0	0	0	295	0	0	295
Residential	0	0	0	0	0	245	524	769
Office/Commercial	0	-0- sq. ft. (C)	91,727 sq. ft.	599,659 sq. ft. (D)	1,340,609 sq. ft. (D)	286,166	95,550 sq. ft. (D)	95,550 sq. ft. (D)

A. Square footage indicated in Table 2 may not reflect current development limits because of the transfer of development rights provision described in Sections II.C and IV.C herein. Transfers may result in increased or decreased development limits, so long as the transfers are consistent with the General Plan and do not result in greater intensity than allowed in the Newport Center statistical area. A transfer of development rights must be approved by the City Council and is recorded on the City's Tracking Development Rights table for North Newport Center Planned Community.

B. Hotel rooms are permitted in Fashion Island through the transfer of development rights.

C. The maximum development for Block 100 may not exceed 121,114 square feet. Transfers of development rights shall be permitted, provided the maximum development limit of 121,114 square feet is not exceeded. Transfers have resulted in no remaining intensity in Block 100.

D. Per City Council action on 11/8/11 via resolution 2011-102, the maximum permitted office/commercial development for Block 500 is 599,659 sq. ft., Block 600 is 1,340,609 sq. ft. and for San Joaquin Plaza is 95,550 sq. ft.

This Ordinance was adopted by the City Council of the City of Newport Beach, California, at a regular meeting thereof on the 14th day of August, 2012, by the following vote:

AYES: Hill, Rosansky, Curry, Selich, Henn, Daigle, Mayor Gardner
 NOES: None

Ordinance No. 2012-20 shall become final and effective thirty (30) days after adoption; however, the Ordinance will not go into effect until the City Council approves or adopts all of the following: (1) the amendment to the North Newport Center Planned Community Affordable Housing Implementation Plan; (2) the amendment to Development Agreement No. DA2007-002, entitled *Amendment to Zoning Implementation and Public Benefit Agreement Between City of Newport Beach and the Irvine Company LLC Concerning Addition of Properties and Residential Units to Zoning Implementation and Public Benefit Agreement (Portions of Newport Center Blocks 100, 400 and 800 and San Joaquin Plaza)*; and (3) Transfer of Development Intensity No. TD2012-002. : (1) the amendment to the North Newport Center Planned Community Affordable Housing Implementation Plan; (2) Planned Community Development Plan Amendment No. PD2012-001; and (3) Transfer of Intensity No. TD2012-002.

Dated this 15th day of August, 2012.

/s/ Leilani I. Brown, City Clerk
 City of Newport Beach

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 2012 AUG 24 AM 10:12
 OFFICE OF THE CITY CLERK
 CITY OF NEWPORT BEACH

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D-2133

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

NO FEE

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RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663-3884
Attn: City Clerk

(Space Above This Line Is for Recorder's Use Only)

This Agreement is recorded at the request and for the benefit of the City of Newport Beach and is exempt from the payment of a recording fee pursuant to Government Code §§ 6103 and 27383.

1328
NF

**ZONING IMPLEMENTATION
AND PUBLIC BENEFIT AGREEMENT**

between

CITY OF NEWPORT BEACH

and

THE IRVINE COMPANY LLC

**CONCERNING PROPERTIES LOCATED IN NORTH NEWPORT CENTER
(BLOCK 600 AND PORTIONS OF FASHION ISLAND,
BLOCK 500, AND SAN JOAQUIN PLAZA)**

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ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT

(Pursuant to California Government Code sections 65864-65869.5)

RA
EBJ

This ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT (the "Agreement") is entered into on ^{January 18, 2008} ~~December 18, 2007~~, by and between: (1) CITY OF NEWPORT BEACH ("City"), and (2) THE IRVINE COMPANY LLC ("Landowner"). City and Landowner are sometimes collectively referred to in this Agreement as the "Parties" and individually as a "Party."

RECITALS

A. Landowner is the owner of the parcels of real property (collectively, the "Property") that are described in the legal description attached hereto as Exhibit A and depicted on the site map attached hereto as Exhibit B. The Property is under City's jurisdiction and is located in North Newport Center. The Property consists of the following sub-areas: portions of Newport Center Block 500, Newport Center Block 600, portions of San Joaquin Plaza, and portions of Fashion Island. No part of the Property is located in the coastal zone.

B. On September 14, 1992, the City Council of the City of Newport Beach ("City Council") adopted Ordinance No. 92-35, through which City and Landowner entered into the Circulation Improvement and Open Space Agreement pertaining to twelve (12) parcels of real property located in City, including the four parcels owned by Landowner in North Newport Center that comprise the Property subject to this Agreement. City subsequently adopted the Amendment to the Circulation Improvement and Open Space Agreement dated May 12, 1996. The original Circulation Improvement and Open Space Agreement and the May 12, 1996, Amendment are collectively referred to herein as the "CIOSA."

C. Under the CIOSA, Landowner:

(1) committed to road improvements adjacent to proposed projects, made an interest-free loan to City, and pre-paid required fair share road improvement fees that City used as matching funds when obtaining outside transportation funding; and

(2) committed to dedicating more public open space than required for the twelve (12) parcels under the City of Newport Beach General Plan and the City of Newport Beach Park Dedication Ordinance, as detailed in Exhibit C.

D. The CIOSA provided Landowner with certain building entitlements with respect to the properties addressed therein. Landowner has not utilized all of the building entitlements provided by the CIOSA, including the building entitlements for Newport Center Block 600, as detailed in Exhibit C.

E. Although Landowner did not utilize all of the building entitlements provided by the CIOSA, it fulfilled all the public benefits listed in Recital C as if it had done so.

F. On November 10, 1997, the City Council adopted Ordinance 97-77, through which City and Landowner entered into the Bonita Canyon Annexation and Development Agreement pertaining to the Bonita Canyon property (the "Bonita Canyon Development Agreement").

Approximately concurrent to adoption of Ordinance 97-77, the Bonita Canyon property was detached from the City of Irvine and annexed by City.

G. Under the Bonita Canyon Development Agreement, Landowner:

(1) constructed roads and other circulation improvements designed for the capacity of a larger project that had previously been approved by the City of Irvine;

(2) sold some of the land that it agreed not to develop to City for open space purposes and cooperated in the formation of a community facilities district to provide funding to City for improvement of the park site between Ford Road and Bonita Canyon Road; and

(3) made park dedications.

H. The Bonita Canyon Development Agreement provided Landowner with certain building entitlements with respect to the properties addressed therein, which entitlements were to be implemented through a Planned Community Development Plan. Landowner has not utilized all of the building entitlements provided by the applicable development plan, as detailed in Exhibit C.

I. Although Landowner did not utilize all of the building entitlements provided by the Bonita Canyon Development Agreement, it fulfilled all the public benefits listed in Recital G as if it had done so.

J. This Agreement effectuates General Plan policies and goals by extinguishing Landowner's remaining building entitlements under the CIOA and the Bonita Canyon Development Agreement. This Agreement provides for the rescission and cancellation of Landowner's remaining rights and obligations under the CIOA and the Bonita Canyon Development Agreement on the Effective Date (collectively, the "Cancellation").

K. The Cancellation eliminates conflicts that exist among the CIOA, the Bonita Canyon Development Agreement, and the General Plan. The Cancellation, together with this Agreement, also ensures that zoning implementation and utilization of the building entitlements applicable to the Property are consistent with the General Plan's standards for land use, housing, circulation, open space, noise, safety, and conservation, and with the General Plan's goals of improving and providing transportation infrastructure, parks, public services, open space, water resources, and environmental resources. Notably, existing utility capacity, circulation infrastructure, and other public services, together with the circulation improvements to be constructed or installed by Landowner, as referred to in this Agreement, support development consistent with the Development Regulations.

L. As detailed in Section 4 of this Agreement, Landowner has agreed to provide public benefits as consideration for this Agreement, including the following: in-lieu park fees in advance of the time that the fees otherwise would be due to provide for matching funds for the renovation of the Oasis Senior Center and to provide funds for other qualified park uses; development fees to fund construction of a new City Hall or other municipal use; circulation enhancements; dedication of public rights of way on the north side of San Miguel Drive between MacArthur Boulevard and Avocado Avenue and on Avocado Avenue between San Nicolas Drive and San Miguel Drive; the conditional dedication to City of an open space parcel bounded

on the north by the Orange County Transportation Authority site, on the east by MacArthur Boulevard, on the south by San Miguel Drive, and on the west by Avocado Avenue; improvements to the existing sprinkler systems in the Newport Center Drive parkways and medians to enhance water quality; and the dedication of the Lower Castaways site for non-commercial municipal uses. Landowner has also agreed to grant City an option to acquire a site in Newport Center Block 500 for the purpose of constructing a new City Hall.

M. On March 13, 2007, the City Council adopted Ordinance No. 2007-6, entitled "Ordinance Amending Chapter 15.45 of City of Newport Beach Municipal Code Regarding Development Agreements" (the "Development Agreement Ordinance"). This Agreement is consistent with the Development Agreement Ordinance, which requires a development agreement for certain types of projects, including: (1) projects that include development of 50 or more residential units, and (2) projects that include new non-residential development in Newport Center.

N. This Agreement is consistent with the City of Newport Beach General Plan Policy LU 6.14.8, which applies to Newport Center and requires the execution of development agreements for residential projects and mixed-use development projects with a residential component.

O. This Agreement is consistent with provisions of state law (California Government Code sections 65864-65869.5) and local law (City of Newport Beach Municipal Code chapter 15.45) that authorize binding agreements that: (1) encourage investment in, and commitment to, comprehensive planning and public facilities financing; (2) strengthen the public planning process and encourage private implementation of the local general plan; (3) provide certainty in the approval of projects in order to avoid waste of time and resources; and (4) reduce the economic costs of development by providing assurance to property owners that they may proceed with projects consistent with existing policies, rules, and regulations.

P. The Parties intend that, concurrently with their approval of this Agreement, the Parties will approve and execute a separate Affordable Housing Implementation Plan ("AHIP") for the Property, in the form attached hereto as Exhibit D, that reflects the terms of Section 3 of this Agreement regarding Landowner's affordable housing requirements.

Q. In recognition of the significant public benefits that this Agreement provides, the City Council has found that this Agreement:

(1) is consistent with the City of Newport Beach General Plan as of the date of this Agreement;

(2) is in the best interests of the health, safety, and general welfare of City, its residents, and the public;

(3) is entered into pursuant to, and constitutes a present exercise of, City's police power;

(4) is consistent and has been approved consistent with the Final Environmental Impact Report for the City of Newport Beach General Plan 2006 Update (State Clearinghouse No. 2006011119) and the North Newport Center Addendum to the EIR for General Plan 2006 Update (State Clearinghouse No. 2006011119), both of which analyze the environmental effects of the proposed development of the Project on the Property; and

(5) is consistent and has been approved consistent with provisions of California Government Code section 65867 and City of Newport Beach Municipal Code chapter 15.45.

R. On November 15, 2007, and November 29, 2007, City's Planning Commission held a public hearing on this Agreement, made findings and determinations with respect to this Agreement, and recommended to the City Council that the City Council approve this Agreement.

S. On December 11, 2007, the City Council also held a public hearing on this Agreement and considered the Planning Commission's recommendations and the testimony and information submitted by City staff, Landowner, and members of the public. On December 18, 2007, pursuant to the applicable state law (California Government Code sections 65864-65869.5) and local law (City of Newport Beach Municipal Code chapter 15.45), the City Council adopted its Ordinance No. ¹⁰⁰⁷⁻² finding this Agreement to be consistent with the City of Newport Beach General Plan and approving this Agreement.

AGREEMENT

NOW, THEREFORE, City and Landowner agree as follows:

1. Definitions. The following terms when used in this Agreement shall have the meanings set forth below:

1.1 "AHIP" shall mean the Affordable Housing Implementation Plan that is attached hereto as Exhibit D, which has been approved and executed by Landowner and is being considered for approval by the City Council of City concurrently with its consideration of this Agreement.

1.2 "Bonita Canyon Development Agreement" shall have the meaning ascribed in Recital F of this Agreement.

1.3 "Cancellation" shall have the meaning ascribed in Recital J of this Agreement.

1.4 "CEQA" shall mean the California Environmental Quality Act (California Public Resources Code sections 21000-21177).

1.5 "CIOSA" shall have the meaning ascribed in Recital B of this Agreement.

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

1.7 "Development Fees" shall have the meaning ascribed in Section 5.1 of this Agreement.

1.8 "Development Plan" shall mean the North Newport Center Planned Community Development Plan, including design regulations, that is being approved by the City Council concurrently with its approval of this Agreement, excluding any amendments after the Effective Date unless specifically agreed to by Landowner in writing or authorized by Sections 8 or 9.

1.9 “Development Regulations” shall mean the following regulations as they are in effect as of the Effective Date, excluding any amendments after the Effective Date unless specifically agreed to by Landowner in writing or authorized by Sections 8 or 9: the General Plan; the Development Plan, including the design regulations; the AHIP; the Transfer of Development Rights; and, to the extent not expressly superseded by the Development Plan or this Agreement, all other land use and subdivision regulations governing the permitted uses, density and intensity of use, design, improvement and construction standards and specifications, procedures for obtaining required City permits and approvals for development, payment of Development Fees, and similar matters that may apply to development of the Project on the Property during the Term of this Agreement that are set forth in Title 15 of the Municipal Code (buildings and construction), Title 19 of the Municipal Code (subdivisions), and Title 20 of the Municipal Code (planning and zoning), but specifically excluding all other sections of the Municipal Code, including without limitation Title 5 of the Municipal Code (business licenses and regulations).

1.10 “Effective Date” shall have the meaning ascribed in Section 11 of this Agreement.

1.11 “Fair Share Traffic Contribution Ordinance” shall mean City’s Fair Share Traffic Contribution Ordinance, codified in Chapter 15.38 of City’s Municipal Code, together with resolutions implementing said ordinance.

1.12 “Fair Share Traffic Fees” shall have the meaning ascribed in Section 4.3 of this Agreement.

1.13 “First Building Permit” shall mean the first building permit that is issued for either: (i) the Parking Structure; or (ii) residential, office, or hotel development on any portion of the Property located in Newport Center Block 500, Newport Center Block 600, or San Joaquin Plaza, provided the building permit (A) is for new development that did not exist as of the date of this Agreement on the property for which the permit is being issued, (B) is not for the renovation, repair, or improvement of an existing building that does not increase the building’s square footage, and (C) is not for a parking structure that is intended to serve, in whole or in part, any such new development (other than *the* Parking Structure, which is specifically included pursuant to clause (i)).

1.14 “First Residential Building Permit” shall mean the first building permit issued for residential development in any portion of the Property located in Newport Center Block 500, Newport Center Block 600, or San Joaquin Plaza, provided the building permit is for new development and is not for the renovation, repair, or improvement of an existing residential unit that does not increase the unit’s square footage.

1.15 “General Plan” shall mean City’s 2006 General Plan adopted by the City Council on July 25, 2006, by Resolution No. 2006-76, excluding any amendments after the Effective Date unless specifically agreed to by Landowner in writing or authorized by Sections 8 or 9. The Land Use Plan of the Land Use Element of the General Plan was approved by City voters in a general election on November 7, 2006.

- 1.16 "Initial Fee Increase" shall have the meaning ascribed in Section 4.3 of this Agreement.
- 1.17 "Initial Park Fee" shall mean the portion of the Park Fees that is to be paid by Landowner to City upon the issuance of the First Residential Building Permit, as more fully explained in Section 4.1 of this Agreement.
- 1.18 "Initial Public Benefit Fee" shall mean the portion of the Public Benefit Fee that is to be paid by Landowner to City upon the issuance of the First Building Permit, as more fully explained in Section 4.2 of this Agreement.
- 1.19 "Mortgage" shall mean a mortgage, deed of trust, sale and leaseback arrangement, or any other form of conveyance in which the Property, or a part or interest in the Property, is pledged as security and contracted for in good faith and for fair value.
- 1.20 "Mortgagee" shall mean the holder of a beneficial interest under a Mortgage or any successor or assignee of the Mortgagee.
- 1.21 "Option Agreement" shall mean that certain Option Agreement in the form substantially the same as that attached hereto as Exhibit F to be entered into by City and Landowner, which agreement provides for Landowner to grant to City an option to acquire the Option Site, as more fully explained in Section 4.8.1 of this Agreement.
- 1.22 "Option Period" shall mean the period of time during which City may exercise the option to acquire the Option Site, as more fully explained in Section 4.8.1 of this Agreement.
- 1.23 "Option Site" shall mean that certain real property that will be the subject of the Option Agreement and that is defined in Section 4.8.1 of this Agreement.
- 1.24 "Park Fees" shall collectively refer to the Initial Park Fee and the Per Unit Park Fees, payable in accordance with Section 4.1 of this Agreement.
- 1.25 "Parking Structure" shall mean the multilevel parking structure to be developed on the Parking Structure Site in the event City exercises its option to acquire the Option Site, including without limitation the spaces on the ground level within the multilevel parking structure.
- 1.26 "Parking Structure Provisions" shall mean the rights and obligations of the Parties with respect to the construction and operation of the Parking Structure, as more fully explained in Section 4.8.2 of this Agreement.
- 1.27 "Parking Structure Easement Agreement" shall mean a separate recorded agreement between Landowner and City to set forth their respective rights and obligations under the Parking Structure Provisions described in Section 4.8.2 of this Agreement.

1.28 "Parking Structure Site" shall mean that certain real property located adjacent to the Option Site and depicted on Exhibit E attached hereto, as further described in Section 4.8.2 of this Agreement.

1.29 "Party" or "Parties" shall mean either City or Landowner or both, as determined by the context.

1.30 "Per Unit Park Fees" shall mean the portion of the Park Fees that are to be paid by Landowner to City upon the issuance of residential building permits for development of any portion of the Property located within Newport Center Block 500, Newport Center Block 600, or San Joaquin Plaza, as more fully explained in Section 4.1 of this Agreement.

1.31 "Project" shall mean all on-site and off-site improvements (including new development and replacement development for existing buildings that may be demolished) that Landowner is authorized and/or required to construct with respect to each parcel of the Property, as provided in this Agreement and the Development Regulations.

1.32 "Property" is described in Exhibit A and depicted on Exhibit B.

1.33 "Public Benefit Fee" shall have the meaning ascribed in Section 4.2 of this Agreement.

1.34 "Term" shall have the meaning ascribed in Section 11 of this Agreement.

1.35 "Traffic Phasing Ordinance" shall mean City's Traffic Phasing Ordinance, codified in Chapter 15.40 of City's Municipal Code and including Appendix A to Chapter 15.40.

1.36 "Transfer of Development Rights" shall mean the resolution approving the transfer to Newport Center Block 500 of development rights for development of approximately 277,161 square feet currently assigned to Newport Center Block 600 (of which up to 72,000 square feet may be utilized by City for the City Hall to be situated on the Option Site if City exercises the Option), that the City Council is considering for approval concurrently with its approval of this Agreement.

2. General Plan Consistency, Zoning Implementation, and Extinguishment of Any of Landowner's Remaining Development Rights Under the CIOSA and the Bonita Canyon Development Agreement. This Agreement and the Development Regulations applicable to the Property will cause City's zoning and other land use regulations for the Property to be consistent with the General Plan. Although development already completed under the CIOSA and the Bonita Canyon Development Agreement remains vested as a conforming use, the CIOSA and the Bonita Canyon Development Agreement provided for vested development rights that Landowner has not yet used and that are inconsistent with the General Plan. The Cancellation of those agreements on the Effective Date will eliminate this inconsistency.

3. Affordable Housing Obligation. The Parties agree that Landowner's compliance with the AHIP satisfies any obligation of Landowner to City under the City of Newport Beach General

Plan Housing Program 2.2.1 with respect to the development of the Property pursuant to and during the Term of this Agreement. This Agreement does not authorize Landowner to transfer any affordable housing credits to any property that is outside the Property. The Parties also agree that the AHIP and this Agreement shall be interdependent and neither shall be effective unless each is approved and the Effective Date occurs. The adopted AHIP may be amended by the mutual consent of the Parties without requiring an amendment to this Agreement.

4. Public Benefits.

4.1 In-Lieu Park Fees for Renovation of Oasis Senior Center and for Park Uses.

Landowner agrees to pay to City the Initial Park Fee and the Per Unit Park Fees as set forth in this Section 4.1 (collectively, the "Park Fees"). Regardless of whether a subdivision map is approved for any or all of the residential units, and prior to and as a condition to City's issuance of the First Residential Building Permit, but in no event earlier than the Effective Date, Landowner shall pay to City the greater of (i) the sum of \$3,733,333.33 (which is 1/3 of the total Park Fees to be paid to City under this Agreement) (the "Initial Park Fee") or (ii) the applicable Per Unit Park Fees (if the First Residential Building Permit includes more than one hundred forty-three (143) residential units).

Landowner's payment of the Initial Park Fee shall entitle Landowner to a credit against payment of the Per Unit Park Fees for the first one hundred forty-three (143) residential units to be developed on the Property. Prior to and as a condition to City's issuance of a building permit for development of the one hundred forty-fourth (144th) residential unit on any portion of the Property located in Newport Center Block 500, Newport Center Block 600, or San Joaquin Plaza, Landowner shall pay to City the sum of \$17,364.11 (the difference between the Initial Park Fee and the total Per Unit Park Fees for 144 residential units) and prior to and as a condition to City's issuance of each subsequent building permit for residential development within that portion of the Property Landowner shall pay to City the sum of \$26,046.51 per unit ("Per Unit Park Fees").

In addition, if Landowner sells any residential unit developed within the Property to a third party purchaser in other than a bulk sale of all of the units in a single residential building, then Landowner shall pay to City at the time of such sale of an individual residential unit the then-applicable park fee for such unit as may be in effect at that time within the City of Newport Beach, less a credit for the amount of the Per Unit Park Fee paid prior to that time. Landowner's obligation to pay such additional fee upon individual sale of a residential unit or units within the Property shall be described in a memorandum to be recorded against the title of each unit at the time that a subdivision map creating the condominium airspace units is recorded by Landowner, in a form acceptable to City. The obligation to pay said additional fee, if applicable, shall survive the termination of this Agreement and shall apply to any bulk sale purchaser of all or any portion of the residential units.

In addition to the foregoing, and notwithstanding any other provision set forth in this Section 4.1, if, on the date that City awards a contract for renovation of the Oasis Senior Center, the total sum of both the Initial Park Fee and the Per Unit Park Fees paid

by Landowner to City to date is less than the sum of \$5,600,000 (the amount of the matching challenge grant referred to below), then within five (5) days after City's award of the contract, Landowner shall pay to City the difference ("Park Fee Advancement"). Landowner's payment of the Park Fee Advancement shall entitle Landowner to a credit against the Initial Park Fee (if not paid by the time the Park Fee Advancement is paid) and against the next Per Unit Park Fees that otherwise would be due and payable to City until the entire credit is exhausted. After such credit is exhausted, prior to and as a condition to City's issuance of each subsequent building permit for residential development of any portion of the Property located in Newport Center Block 500, Newport Center Block 600, or San Joaquin Plaza, Landowner shall continue to pay the Per Unit Park Fees as residential building permits are issued.

City shall earmark \$5,600,000 of the Park Fees to be paid by Landowner (one-half of the total Park Fees) as a matching challenge grant to apply toward contributions to the renovation of the Oasis Senior Center. City shall apply any Park Fees not spent by City on the renovation of the Oasis Senior Center to any park use as determined by City. Landowner acknowledges that the actual amount of funds raised through the matching challenge may be less than \$5,600,000 and that the amount raised shall not affect the amount of Park Fees payable by Landowner to City.

4.2 Public Benefit Fee. Landowner shall pay to City the sum of \$27,090,000 as set forth in this Section 4.2 ("Public Benefit Fee"). Prior to and as a condition to the issuance of the First Building Permit, Landowner shall pay to City the sum of \$13,545,000, which is one-half of the Public Benefit Fee ("Initial Public Benefit Fee"). The balance of the Public Benefit Fee shall be paid to City upon the issuance of building permits for the 430 residential units authorized for development within the Property. The amount payable by Landowner to City for each such residential unit shall be the sum of \$31,500.

City shall use the Public Benefit Fee for any of the following expenses: the design, engineering, and construction of a new City Hall anywhere within the City of Newport Beach, the costs to acquire the Option Site if City exercises the option under the Option Agreement, City's pro rata share of the costs to design and construct the Parking Structure if City builds a City Hall on the Option Site, and any other municipal purpose as determined by City.

4.3 Fair Share Traffic Fees. Landowner acknowledges that the Property is subject to City's Fair Share Traffic Contribution Ordinance, which requires the payment of certain fair share traffic fees for development ("Fair Share Traffic Fees"). Landowner further acknowledges that City is in the process of considering updates and amendments to its Fair Share Traffic Contribution Ordinance and its Fair Share Traffic Fees and that as a result of such updates and amendments the Fair Share Traffic Fee charged by City may be increased (the "Initial Fee Increase"). Notwithstanding any other provision set forth in this Agreement to the contrary, Landowner agrees that Landowner and the Property shall be subject to the modified Fair Share Traffic Contribution Ordinance including the increased fees payable pursuant to the Initial Fee Increase, provided that (i) these fees are generally applicable to all substantially similar new development within City on the same basis that they are applicable to the Property, or (ii) if City elects to impose Fair Share

Traffic Fees on a zone-by-zone basis, these fees are generally applicable to all substantially similar new development within the zone within which the Property is located on the same basis that they are applicable to the Property. After the Initial Fee Increase is approved by City and becomes effective, however, Landowner's responsibility to pay any additional increases to City's Fair Share Traffic Fees shall be limited to an amount not in excess of the percentage increase in the California Department of Transportation Highway Construction Cost Index from and after the date that the Initial Fee Increase becomes effective to the date Landowner pays the applicable Fair Share Traffic Fees. If at any time the California Department of Transportation Construction Index is discontinued or is no longer available, City shall substitute an official index that is most nearly equivalent thereto. Nothing herein is intended to preclude Landowner from satisfying its obligation to pay Fair Share Traffic Fees through in-lieu contributions, subject to and in accordance with the Fair Share Traffic Contribution Ordinance and any modifications thereto, which Landowner acknowledges requires the approval of City's Planning Commission. The improvements and dedication to be made by Landowner at the intersection of MacArthur Boulevard and San Joaquin Hills Road pursuant to Section 7.3 of this Agreement shall be eligible for consideration as an in-lieu contribution under the Fair Share Traffic Contribution Ordinance. Otherwise, the improvements and dedications to be made under this Agreement shall not be eligible for consideration as an in-lieu contribution under the Fair Share Traffic Contribution Ordinance. City acknowledges that the Fair Share Traffic Fees cover all fair share traffic fees associated with development of the Property, and that during the Term of this Agreement, City shall not require additional fair share traffic fees associated with development of the Property other than the Fair Share Traffic Fees described in this Agreement.

4.4 Circulation Enhancements to Public Right of Way. Landowner shall contribute to City the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) ("Circulation Enhancement Contribution") to reimburse City for City's expenses incurred for the design and construction of one or more of the following circulation improvements as determined by the City's Director of Public Works, should City choose to approve the circulation enhancements after its environmental review and approval process and in compliance with CEQA:

- (1) widening of Avocado Avenue between San Miguel Drive and San Nicolas Drive;
- (2) widening, operational improvements and/or other capacity enhancements to San Miguel Drive between MacArthur Boulevard and Avocado Avenue;
- (3) installation of a traffic signal at the intersection of Newport Center Drive and San Nicolas Drive;
- (4) installation of a traffic signal at the intersection of Newport Center Drive and Center Drive; and
- (5) other improvements as may be mutually agreed upon by City's Director of Public Works and Landowner.

Landowner shall pay the Circulation Enhancement Contribution to City from time to time after the Effective Date, within thirty (30) days after receipt of written request for reimbursement from City, with any balance to be paid to City on the date that is sixty (60) months after the Effective Date regardless of whether City has incurred the cost for the foregoing improvements. Alternatively, Landowner and City may mutually agree upon arrangements for Landowner to use the Circulation Enhancement Contribution to construct the foregoing improvements subject to City's approval.

Landowner's commitment to contributing the Circulation Enhancement Contribution is in addition to Landowner's obligation to pay Fair Share Traffic Fees under the Fair Share Traffic Contribution Ordinance, to mitigate traffic impacts under the Traffic Phasing Ordinance, and to any actions Landowner takes to improve access to private property in Newport Center.

4.5 Dedication of Public Rights of Way. Landowner shall provide an offer of dedication to City for the additional public rights of way necessary for circulation improvements on the north side of San Miguel Drive between MacArthur Boulevard and Avocado Avenue and on Avocado Avenue between San Nicolas Drive and San Miguel Drive, at such time as City provides legal descriptions for the public rights of way, which descriptions shall be consistent with the design of the circulation improvements for said public right of way. Landowner shall convey the public right of way to City (through the recordation of an offer of dedication without any restrictions or qualifications) free and clear of all recorded and unrecorded monetary liens, any delinquent property taxes or assessments, and all tenancies, lessees, occupants, licensees, and all possessory rights of any kind or nature. In addition, upon the conveyance, there shall not be any violation of any law, rule, or regulation affecting the public right of way or its use, including any environmental law or regulation, and Landowner shall be responsible for causing said condition to be satisfied. Landowner shall have the right, to the extent necessary and subject to obtaining an encroachment agreement from City, to install, maintain, repair, and replace a Newport Center entry sign at a location mutually acceptable to City and Landowner.

Landowner's offer of dedication to City of the public rights of way described in this Section 4.5 is in addition to Landowner's obligation to pay Fair Share Traffic Fees under the Fair Share Traffic Contribution Ordinance, to mitigate traffic impacts under the Traffic Phasing Ordinance, and to any actions Landowner takes to improve access to private property in Newport Center.

4.6 Open Space Dedication. Landowner shall dedicate to City (through the recordation of a grant deed) the open space parcel in Newport Center comprised of approximately 3.18 acres of land area, bounded on the north by the Orange County Transportation Authority site, the east by MacArthur Boulevard, the south by San Miguel Drive, and the west by Avocado Avenue ("Open Space Parcel"), within thirty (30) days after the earliest of the following: (i) City has awarded a construction contract for the construction of City Hall at any location within the City or (ii) the option to purchase the Option Site has terminated as provided in Section 4.8.1 of this Agreement. Landowner shall convey the Open Space Parcel for open space or public facilities purposes, to City free and clear of all recorded and unrecorded monetary liens, any delinquent property

taxes or assessments, and all tenancies, lessees, occupants, licensees, and all possessory rights of any kind or nature. In addition, upon the conveyance, there shall not be any violation of any law, rule, or regulation affecting the Open Space Parcel or its use, including any environmental law or regulation, and Landowner shall be responsible for causing said condition to be satisfied. Landowner shall, at its sole cost and expense, cause a title company selected by City to issue to City an owner's policy of title insurance for the Open Space Parcel with liability in an amount reasonably determined by City (but not exceeding the fair market value of the Open Space Parcel) showing fee title to the Open Space Parcel vested in City, free and clear of the liens, rights, and encumbrances referred to above. If the Open Space Parcel is dedicated to City, Landowner shall have the right, to the extent necessary and subject to obtaining an encroachment agreement from City, to install, maintain, repair, and replace a Newport Center entry sign at a location mutually acceptable to City and Landowner.

4.7 Maintenance of CIOSA Pre-Paid Transportation Fund. The Cancellation referred to in Section 6.14 of this Agreement terminates the Parties' remaining rights and obligations under the CIOSA, including any obligation of City to repay Landowner for funds that Landowner provided pursuant to the CIOSA. In connection therewith, Landowner agrees that City may retain any balance of pre-paid transportation funds City may be holding as a result of unused CIOSA mitigation. City may use any such remaining balance of prepaid transportation funds for transportation improvements in accordance with the Protocol Agreement for the Circulation Improvement and Open Space Agreement dated December 11, 1995, and the Protocol Agreement Memorandum dated December 11, 2001.

4.8 City's Option to Purchase New City Hall Site; Parking Structure.

4.8.1 Option to Purchase Option Site. No later than ten (10) days after the Effective Date, Landowner and City shall enter into the Option Agreement, which provides for Landowner to grant to City an option to acquire the Option Site for the sum of One Hundred Forty-Five Dollars (\$145.00) per square foot of net land area for the purpose of constructing a new City Hall thereon. The Option Site is not yet subdivided. For purposes of this Agreement, until such time as the exact boundaries of the Option Site are established, the term "Option Site" shall be deemed to mean that certain real property consisting of approximately 46,175 square feet depicted in Exhibit E ("Legal Parcel"), plus any contiguous property adjacent to the Legal Parcel. City shall have the right to establish the boundaries of the Option Site within the land area described in the preceding sentence provided that the Option Site shall not exceed 54,000 square feet of net land area as further explained in the Option Agreement. Once the boundaries of the Option Site are established by City, the term "Option Site" shall be deemed to refer to the land located with the boundaries of the established Option Site. The term of the option to be granted by Landowner to City under the Option Agreement (the "Option Period") will commence on the Effective Date and will expire on the earliest of the following dates: (i) the date that is forty-eight (48) months after the Effective Date; (ii) upon City's termination of the Option Agreement by delivery of written notice of termination to Landowner, which notice City shall have the right to deliver at any time during the Option Period prior to City's exercise of the Option; or (iii) the date City's electorate approves and City implements an initiative restricting the location of a new City Hall to a

site outside of Newport Center Block 500, with such initiative to be deemed implemented upon issuance of a certificate of occupancy for City Hall at that site. As more fully explained in the Option Agreement, City's right to exercise the option is subject to the Effective Date occurring and to City awarding a contract for the construction of a new City Hall on the Option Site. If City exercises the option during the Option Period and acquires the Option Site, this Agreement shall terminate as to the Option Site and shall be removed as an encumbrance upon title to the Option Site upon City's acquisition thereof.

4.8.2 Parking Structure Provisions. If a new City Hall is developed on the Option Site, the parking for the City Hall shall be located on the Parking Structure Site, and Landowner and City shall perform and implement the provisions set forth in this Section 4.8.2 (collectively, the "Parking Structure Provisions"):

(i) Landowner shall construct and operate a new multilevel parking structure on the Parking Structure Site ("Parking Structure").

(ii) The obligations of Landowner and City with respect to the operation, maintenance, repair, and replacement of the Parking Structure and other matters included in the Parking Structure Provisions identified in this Agreement shall be evidenced by a separate recordable document, substantially similar to the easement attached as an exhibit to the Option Agreement, that runs with the land and benefits and burdens all of the property owned by Landowner in Block 500 and the Option Site ("Parking Structure Easement Agreement").

(iii) As part of the Parking Structure Easement Agreement, Landowner shall grant to City an easement for exclusive use of 300 to 375 parking spaces for parking for the City Hall or the uses that may be established on the Option Site, without charge (except as otherwise provided herein), with the exact number of City parking spaces to be determined by City in its sole discretion but not to exceed 375 spaces, and provided that a minimum of 4.17 parking spaces per 1,000 square feet of "Floor Area" (as hereinafter defined) on the Option Site shall be provided. The easement shall provide that City or its successor beneficiary shall pay its pro rata share of the operations and maintenance costs and cost of a capital replacement reserve for the Parking Structure as set forth in clauses (viii) and (ix) below. Landowner shall designate the location of the required spaces within an area located within the first three floors of the Parking Structure (including the ground level) at locations within the Parking Structure nearest to the City Hall. City's parking spaces shall be segregated from the rest of the parking through specific markings, signs, and/or barriers. City shall have the right to establish rules and regulations governing the use of its designated spaces. For purposes of this Agreement, the term "Floor Area" shall mean "Net Floor Area" as defined in City of Newport Beach Municipal Code section 20.03.030.

(iv) As part of the Parking Structure Easement Agreement, Landowner shall grant to City appropriate non-exclusive easements in the Parking Structure and on, over, and across the Parking Structure Site between the Parking Structure and the adjacent public streets and rights of way to enable City to access its parking spaces. Such easements shall provide for City or its successor beneficiaries to pay

a pro rata share of the operations and maintenance costs for the areas subject to such access easements, including charges for maintenance and operation of access gates that control access to such areas.

(v) For cost reference purposes, the design of the Parking Structure shall be generally in accordance with the parking structure constructed in 2007 on the north side of Fashion Island ("Fashion Island 2007 Parking Structure"), including without limitation the level of landscaping, elevators, and quality of materials used.

(vi) No later than ninety (90) days after City occupies the City Hall on the Option Site, City shall pay a pro rata share of Landowner's actual and reasonable out-of-pocket costs incurred to design and construct the Parking Structure, including costs of required utility relocation and costs for offsite improvements necessary to provide access to the Parking Structure, but not including any charge for: (a) the value of the land comprising the Parking Structure Site; (b) the cost of relocating or replacing the parking spaces currently located on the Option Site or the surface parking spaces currently located on the Parking Structure Site; (c) any administrative overhead charge of Landowner; (d) any construction management fee, developer fee, or profit allocation, by whatever name called, other than as paid to independent third party contractors and consultants in which Landowner has no direct or indirect ownership interest; or (e) any other charge or payment similar to the charges and payments referred to in clauses (a)-(d). City's pro rata share shall be based on the ratio that the number of City-designated parking spaces bears to the total number of parking spaces in the Parking Structure. City shall have the right to review and approve the costs incurred by Landowner for which Landowner seeks reimbursement for City's pro rata share. It is understood and agreed that City shall have no obligation to pay for any of the costs to construct, maintain, operate, or repair the Parking Structure if City does not acquire the Option Site. City's obligation to pay its pro rata share shall be included as an obligation in the Parking Structure Easement Agreement.

(vii) Regardless of Landowner's timing for any development in the vicinity of the Property, Landowner shall commence and complete construction of the Parking Structure such that it is operational by the time construction of a new City Hall at the Option Site is completed and ready for occupancy, and the Parties shall cooperate in keeping one another informed of their plans and construction schedules as needed to enable Landowner to satisfy such obligation.

(viii) Landowner shall maintain and operate the Parking Structure. Pursuant to the Parking Structure Easement Agreement, City shall pay a pro rata share of Landowner's actual and reasonable maintenance and operation costs based on the ratio that the number of City-designated parking spaces bears to the total number of parking spaces in the Parking Structure. Reasonable maintenance and operation costs shall include the annual property taxes paid for the Parking Structure Site (except to the extent that City has obtained an exemption for such property taxes due to its status as a government entity), the costs to maintain the landscaping within the Parking Structure Site and within the Parking Structure,

contract maintenance of the Parking Structure, the cost of repairs to the Parking Structure, sweeping, utilities, insurance, security, parking enforcement, and parking attendants (to the extent that the cost of such attendants are not paid by net parking revenues), and excluding costs of administration, accounting, overhead, or other charges for Landowner's staff.

(ix) Landowner shall establish a capital replacement reserve account for the repair and replacement of the Parking Structure. The amount of the capital replacement reserve shall be mutually determined by the Parties and shall be consistent with the capital replacement reserve maintained for the Fashion Island 2007 Parking Structure. The funds in the capital replacement reserve shall be placed in a separate account of Landowner and shall not be commingled with any other funds. City's contribution to the capital replacement reserve shall be based on the ratio that the number of City-designated parking spaces bears to the total number of parking spaces in the Parking Structure. Landowner shall fund or cause to be funded the balance of the capital replacement reserve. Funds in the capital replacement reserve, including all interest earned thereon, shall be used solely and exclusively for the repair and replacement of the Parking Structure or as may otherwise be mutually agreed to by the Parties in writing. Landowner agrees to account to City with respect to the capital replacement reserve fund, including without limitation the amount of contributions thereto, interest earnings, expenditures from the fund, and the balance in the fund, upon City's reasonable request.

(x) Landowner shall, at its sole cost and expense, satisfy any parking obligations it may have to other property owners or parties that may be affected by the development of the Parking Structure on the Parking Structure Site, without creating a burden on City or City's rights to exclusive use of the City-designated parking spaces within the Parking Structure and without any cost to City.

(xi) The foregoing rights and obligations shall terminate upon the expiration or termination of City's option under the Option Agreement if City does not exercise the option.

Although the rights and obligations of the Parties under the Parking Structure Provisions are intended to be final and binding, from and after the Effective Date, the Parties shall exercise diligent efforts to enter into agreements to implement, and set forth in greater detail, these Parking Structure Provisions. Any such implementation agreements likewise shall terminate in the event City does not exercise the option during the Option Period or the Option Agreement otherwise terminates prior to City's exercise of the option. The City Manager, with approval of the City Attorney, is authorized to negotiate, approve, and execute the Parking Structure Easement Agreement and the implementation agreements provided for above, so long as they are consistent with the provisions of this Agreement.

4.8.3 Design Requirements and Consultation for Parking Structure and City Hall. City shall retain the ultimate authority to design the City Hall, but shall provide Landowner with the opportunity to review and comment upon the proposed design of the

City Hall. Landowner shall retain the ultimate authority to design the Parking Structure but shall provide City with the opportunity to review and comment upon the design of the Parking Structure. In addition, City, acting in its regulatory capacity as the agency with authority to review proposed building plans, shall have the same rights to review and approve or disapprove the plans for the Parking Structure as it would for any other parking structure proposed within City. City and Landowner acknowledge that it is mutually beneficial for the Parking Structure and the City Hall to be compatible in design and functionality. The Parties recognize that the City Hall is a unique civic building that should have a distinctive architectural style, but that the style of the City Hall, although distinctive, should incorporate elements of the design vocabulary referenced in the North Newport Center design regulations. Although the design that City selects need not resemble an office building and may be distinctive, City agrees that the City Hall shall not be constructed in a post modern "deconstructivist" style out of character with the existing architectural style of North Newport Center. City and Landowner agree to work in good faith to invite review and comment from the other Party at major design milestones of each facility.

4.8.4. Landowner's Indemnification Regarding Title. Landowner hereby agrees to indemnify, protect, defend and hold harmless City against claims from third parties that: (i) challenge the legal right of Landowner to construct the Parking Structure on the Parking Structure Site as contemplated by this Agreement or (ii) assert rights in or to the Parking Structure Site or the Option Site that preclude use by City of the Option Site or the easement rights granted to City in the Parking Structure Site. Landowner further agrees to reimburse City for the costs of any condemnation action where required for the City to acquire any property interest held by a third party that conflicts with City's ability to acquire and use the property interests granted by Landowner to City under this Agreement.

4.9 . Retrofit Sprinkler Systems

A. Landowner shall retrofit the existing sprinkler systems in a) the Newport Center Drive parkways and medians and b) in the landscape areas within Fashion Island to low flow technology with the following specifications:

- (1) The control system must monitor and adjust itself not less than daily, using either evapotranspiration rates for the Corona del Mar microclimate or soil moisture levels monitored at enough locations in the irrigation area as to cover each soil and slope type in Newport Center;
- (2) The control system must adjust to rain conditions to limit or eliminate watering during rain events;
- (3) The sprinkler heads must eliminate overspray onto roads, sidewalks, and other hardscape either by using highly targeted heads that only water the plant material or by using a sprinkler-like wicking system, such as the *Jardiniere* system; and

(4) The performance of the sprinkler systems must be monitored on a regular basis. Landowner agrees to install flow meters to detect line and/or sprinkler head breaks when wireless flow meter technology is proven and commercially available.

The Newport Center Drive system retrofit shall be completed by June 2008. The Fashion Island retrofit shall be completed in phases in conjunction with the water quality enhancements in Section 4.9B. The specifications listed above will enhance water quality by reducing surface runoff into storm drains in Newport Center.

B. Fashion Island Parking Areas. City and Landowner acknowledge that new development / redevelopment activity within Fashion Island will trigger required water quality improvements associated with those projects. In addition to these required improvements, Landowner commits to expend a minimum of \$1 million to enhance the water quality treatment (which could include biofiltration, media filtration or other technology) of those surface parking areas of Fashion Island which are not otherwise included within the new development or redevelopment projects. Landowner has full discretion as to the treatment methods utilized and improvement phasing, to ensure that the improvements integrate with the water quality treatment plans of the new development areas. Landowner agrees to make annual reports to the City regarding the progress of these enhancements including the work performed and the amount expended.

4.10 Cooperation of Landowner if City Hall Constructed on Property North of Library. If City elects to construct a new City Hall on the property located on the east side of Avocado Avenue, north of the Central Library, Landowner shall cooperate in good faith with City to implement any necessary land use regulations, including zoning amendments, and to release and terminate the use restrictions contained in the deed for the property to allow for and accommodate construction of a new City Hall on that site.

4.11 Dedication of Lower Castaways Upon issuance of the First Building Permit, Landowner shall dedicate to City the Lower Castaways site, depicted in Exhibit G, for municipal or municipally sponsored uses allowed under the General Plan's Recreational Marine Commercial designation, such as a park, marine educational facility, marine research and conservation facility, or marine and harbor dependent service and support uses and other similar uses in furtherance of the Tidelands Trust. The property shall have a deed restriction in favor of Landowner which shall restrict the City's use of the property to such uses, and allow the City to contract with a for profit or non-profit entity to operate certain municipal facilities or to use the property in furtherance of such uses; provided that the city may not transfer the property, by sale or long term lease to any private, for - profit company for any commercial boat marina.

5. Fees.

5.1 Fees Applicable to Property. During the Term of this Agreement, the Development Fees assessable against the Property shall be Park Fees, the Public Benefit Fee, and the Fair Share Traffic Fees, and City shall not levy or require any additional

Development Fees for the development of the Property. Notwithstanding the foregoing, if and to the extent that the Development Regulations applicable to the Property are amended after the Effective Date of this Agreement and Landowner is authorized under the modified Development Regulations to develop any additional density or intensity of use beyond what is allowed as of the Effective Date, City shall retain the right to require Landowner to pay all City fees for such additional density or intensity of use to the extent such fees would be applicable in the absence of this Agreement. As used herein, the term "Development Fees" shall mean the monetary exactions charged by City in connection with a development project for the purpose of defraying all or a portion of the cost of public facilities related to development of the project. The Parties acknowledge that the following fees, taxes, and charges do not constitute Development Fees and that nothing in this Agreement is intended or shall be construed to release Landowner from the obligation to pay such fees, taxes, and charges, including increases, if and when they become due:

- (1) City's normal fees for processing, environmental assessment and review, tentative tract and parcel map review, plan checking, site review and approval, administrative review, building permit, grading permit, inspection, and similar fees imposed to recover City's costs associated with processing, reviewing, and inspecting project applications, plans, and specifications; and
- (2) fees and charges levied by any other public agency, utility, district, or joint powers authority, regardless of whether City collects those fees and charges; and
- (3) community facility district special taxes or special district assessments or similar assessments, business license fees, bonds or other security required for public improvements, transient occupancy taxes, sales taxes, property taxes, sewer lateral connection fees, water service connection fees, new water meter fees, and the Property Development Tax payable under Section 3.12 of City's Municipal Code.

This Agreement does not authorize Landowner to transfer any fees paid to any other property outside the Property that is the subject of this Agreement; nor does this Agreement authorize Landowner to claim a fee credit based on this Agreement that is transferable to any other property or project outside the Property. Once the Term of this Agreement has ended, Landowner shall not receive any credit for future planned development of the Property based on the fees paid pursuant to this Agreement.

5.2 Permitted Increases in Development Fees Applicable to Property. During the Term of this Agreement, City shall not increase the amount of the Public Benefit Fee, nor shall City increase the amount of the Park Fees or the Fair Share Traffic Fees (the three Development Fees applicable to the Property after the Effective Date) except as set forth in Sections 4.1 and 4.3 of this Agreement. This Agreement does not vest Landowner against increases in any other fees other than Development Fees that are payable by Landowner, including without limitation the Property Development Tax referred to in subparagraph (3) of Section 5.1 of this Agreement.

6. Development of Property.

6.1 Applicable Regulations. Other than as expressly set forth in this Agreement, during the Term of this Agreement, the terms and conditions of development applicable to the Property, including but not limited to the permitted uses, the density and intensity of use, and the maximum height, size, and location of proposed buildings, shall be those set forth in the Development Regulations and this Agreement. The permitted uses, density and intensity of development, and the maximum height, location, and size of proposed buildings permitted under the Development Regulations conform with the development studied and contemplated by the Final Environmental Impact Report for the City of Newport Beach General Plan 2006 Update (State Clearinghouse No. 2006011119) and the North Newport Center Addendum to EIR for General Plan 2006 Update (State Clearinghouse No. 2006011119). During the Term of this Agreement, the Development Fees applicable to the Property, and increases in said fees, shall be as set forth in Sections 4.1, 4.2, 4.3, and 5.2 of this Agreement. Any affordable housing requirements applicable to the Property shall be as set forth in the AHIP.

During the Term of this Agreement, City shall not prevent development of the Property that is in compliance with the Development Regulations, or require Landowner to modify or redesign any building which complies with the Development Regulations, regardless of whether City exercises the option to acquire the Option Site.

Landowner may apply to City for permits or approvals necessary to modify or amend the development specified in the Development Regulations, provided that the request does not propose an increase in the maximum density, intensity, height, or size of proposed structures, or a change in use that generates more peak hour traffic or more daily traffic and, in addition, Landowner may apply to City for approval of minor amendments to existing tentative tract maps, tentative parcel maps, or associated conditions of approval, consistent with City of Newport Beach Municipal Code section 19.12.090. This Agreement does not constitute a promise or commitment by City to approve any such permit or approval, or to approve the same with or without any particular requirements or conditions, and City's discretion with respect to such matters shall be the same as it would be in the absence of this Agreement.

City acknowledges that the Development Regulations provide a process for the transfer of development rights among parcels within the Property, consistent with City's General Plan Policy LU 6.14.3, and that if Landowner eliminates any of the existing uses on the Property which are set forth in Exhibit H and the associated development rights, Landowner shall retain the right to rebuild the use and development rights elsewhere on the Property or transfer the development rights among parcels within the Property, subject to and consistent with the Development Regulations and said policy. Notwithstanding any other provision in this Agreement to the contrary, if at any time during the Term of this Agreement, Landowner transfers a development right from a building or buildings anywhere within the Property to any other building within the Property, the building(s) from which the development right is transferred must be demolished and cleared or transformed into an authorized non-habitable use that does not count as development intensity under the General Plan before Landowner can obtain final building permit approval or a certificate of occupancy for the new building(s). Nothing

set forth herein is intended to prohibit or restrict the transfer of development rights elsewhere in Newport Center, consistent with and subject to City's normal rules and regulations.

6.2 Landowner's Vested Rights. During the Term of this Agreement, except to the extent City reserves its discretion as expressly set forth in this Agreement or in the applicable Development Regulations, Landowner shall have the vested right to exercise its discretion within the limits and constraints of the Development Regulations in designing any buildings, structures, streets, sidewalks, buildings, and development within the Property. City shall not exercise or require any design review approval for Landowner's use of the Property unless expressly set forth in the Development Regulations. In connection therewith, Landowner acknowledges that nothing in this Agreement is intended to override any review and approval requirements contained in the Development Regulations or to preclude City from the exercise of any discretionary authority it has under the Development Regulations, provided that pursuant to Government Code section 65865.2, "such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development" set forth in this Agreement.

In addition to the foregoing, Landowner acknowledges and agrees that nothing herein is intended to vest Landowner with any environmental approvals that may be required in connection with the future development of the Property, and that Landowner must submit, process, and obtain the approval of all documentation and information required to comply with the California Environmental Quality Act (California Public Resources Code § 21000 et seq.) with regard to any development of the Property. The Parties acknowledge that the environmental approvals for the improvements described in Section 6.3 of this Agreement are being processed concurrently with this Agreement.

6.3 Description of Certain Project Components. Without limiting the generality of the vested rights described in Section 6.2 of this Agreement, during the Term of this Agreement, subject to any approvals required under the Development Regulations, the Parties acknowledge that the vested rights described in Section 6.2 of this Agreement provide that Landowner has a vested right to develop the following improvements on the Property:

(1) 75,000 square feet in Fashion Island. This square footage will be available for uses, including hotel and retail, that are consistent with the Development Regulations.

(2) 430 residential units in Newport Center Block 500, Newport Center Block 600, or San Joaquin Plaza; provided, however, that to the extent Landowner desires to develop any of said residential units in Newport Center Block 500 or San Joaquin Plaza, it shall be required to comply with the Traffic Phasing Ordinance relative to potential impacts associated with such change in location.

(3) The transfer to Newport Center Block 500 of development rights for development of approximately 277,161 square feet currently assigned to Newport

Center Block 600 and designated for office, hotel, and supporting retail uses, of which up to 72,000 square feet may be utilized by City for the City Hall to be situated on the Option Site if City exercises the Option. Upon transfer to Newport Center Block 500, the development rights will be designated only for uses permitted under the Development Regulations and, to the extent City exercises the option to acquire the Option Site, for a City Hall on the Option Site.

The foregoing development and/or transfer of development rights will occur in new or modified buildings that comply with the Development Regulations. Consistent with the City of Newport Beach General Plan Policy LU 6.14.3, the transfer of the foregoing development rights is consistent with the General Plan and will not result in any adverse traffic impacts.

6.4 Police Power. In all respects not provided for in this Agreement, City shall retain full rights to exercise its police power to regulate the development of the Property. Any uses or developments requiring a use permit, tentative tract map, or other discretionary permit or approval in accordance with the Development Regulations shall require a permit or approval pursuant to this Agreement, and, notwithstanding any other provision set forth herein, this Agreement is not intended to vest Landowner's right to the issuance of such permit or approval nor to restrict City's exercise of discretion with respect thereto, provided that pursuant to Government Code section 65865.2, "such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development" set forth in this Agreement. Not by way of limitation of the foregoing, it is specifically understood that City reserves the right to amend, pursuant to procedures provided by law and this Agreement, City laws, rules, regulations, and policies applicable to the Property as to which Landowner's rights are not expressly vested and such amendment or amendments shall be binding on the Property except to the extent that the same conflict with the express provisions of this Agreement, which provide, inter alia, that no amendment to the Development Regulations shall be applicable if not agreed to by Landowner in writing or authorized by Sections 8 and 9 of this Agreement.

6.5 Time-Share Developments. If Landowner desires to establish time-share developments within the Property in the future, Landowner shall be required to comply with the City of Newport Beach Time-Share Developments Ordinance (City of Newport Beach Municipal Code chapter 20.84), including the requirement for a separate development agreement under the City of Newport Beach Municipal Code section 20.84.050. City retains its full discretion with respect to such matters, including without limitation, the imposition of an in-lieu of transient occupancy tax fee in accordance with City of Newport Beach Municipal Code section 20.84.050, and nothing herein constitutes a promise or commitment by City to approve such use or enter into any such development agreement.

6.6 Available Use in Newport Center Block 500 for City Hall. If a new City Hall is developed on the Option Site, the development intensity for the Property available to Landowner will not be reduced by more than 72,000 square feet, regardless of whether the size of the City Hall exceeds 72,000 square feet. As of the date of this Agreement, City intends that any new City Hall constructed on the Option Site will contain

approximately 72,000 square feet of building area; provided, however, that nothing in this Agreement shall be deemed to prohibit City from constructing a smaller City Hall or from constructing a larger building as long as such building maintains the minimum parking ratio provided for in Section 4.8 of this Agreement. If City acquires the Option Site, City shall be responsible for conducting a traffic analysis and providing traffic mitigation if required to comply with the Traffic Phasing Ordinance with respect to the construction of a City Hall on the Option Site. City acknowledges and agrees that Landowner shall not be responsible for the payment of any fees for any development by City on the Option Site.

6.7 Available Use in Newport Center Block 500 if City Does Not Develop a City Hall on the Option Site. If City does not exercise the option to acquire the Option Site during the Option Period, then the 72,000 square feet of development intensity available to Landowner that otherwise would have been utilized on the Option Site shall remain part of the development intensity designated for office use in Newport Center Block 500, to which Landowner has an exclusive vested right in accordance with this Agreement. In addition, if City acquires the Option Site and the City Hall developed on the Option Site is less than 72,000 square feet, then the unused square footage remains part of the development intensity designated for office use in Newport Center Block 500 and to which Landowner has an exclusive vested right in accordance with this Agreement. If City does not exercise the option to acquire the Option Site during the Option Period, or if City acquires the Option Site and the City Hall developed on the Option Site is less than 72,000 square feet, then Landowner shall be responsible for conducting a traffic analysis and providing traffic mitigation as may be required in compliance with the Traffic Phasing Ordinance and paying applicable Fair Share Traffic Fees with regard to the square footage not used for the City Hall and referred to herein.

6.8 Effect of Agreement on Applications for Land Use Approvals. In connection with any approval that City is required, permitted, or has the right to give relating to the Project, or otherwise under its ordinances, resolutions, and codes, including without limitation the approval of a tentative tract map under the Subdivision Map Act (California Government Code sections 66410-66499.58), City shall not impose any condition or restriction that prevents Landowner from developing and subdividing the Property with the uses, density, intensity, maximum height, and size of proposed structures permitted by the Development Regulations. Subject to review for completeness, City shall accept for processing and shall timely review and act on all applications for further land use entitlement approvals with respect to the Project called for or required under this Agreement. Unless expressly required by the Subdivision Map Act, the Development Regulations, or overriding federal or state law, City in considering any proposed tentative tract map shall not require any decrease or increase in density, intensity, size, relocation, or setback of a proposed development or require any modification of the design of any buildings, condominiums, parcels, units, or other uses located in the proposed subdivision.

6.9 Mello-Roos Community Facilities District. Pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code sections 53311-53368.3), Landowner may petition the City Council to establish one or more community facilities districts including some or all of the Property for the purpose of financing

Landowner's obligations under this Agreement. City shall have the sole discretion to determine whether to establish a community facilities district, the improvements to be financed, and the method of financing these improvements.

6.10 No Conflicting Enactments. Except to the extent City reserves its discretion as expressly set forth in this Agreement, during the Term of this Agreement City shall not apply to the Project any ordinance, policy, rule, regulation, or other measure relating to development of the Project that is enacted or becomes effective after the Effective Date to the extent it conflicts with this Agreement. This Section 6.10 shall not restrict City's ability to enact an ordinance, policy, rule, regulation, or other measure applicable to the Project pursuant to California Government Code section 65866 consistent with the procedures specified in Section 8 of this Agreement. In *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465, the California Supreme Court held that a construction company was not exempt from a city's growth control ordinance even though the city and construction company had entered into a consent judgment (tantamount to a contract under California law) establishing the company's vested rights to develop its property consistent with the zoning. The California Supreme Court reached this result because the consent judgment failed to address the timing of development. The Parties intend to avoid the result of the *Pardee* case by acknowledging and providing in this Agreement that Landowner shall have the vested right to develop the Property at the rate, timing, and sequencing that Landowner deems appropriate within the exercise of Landowner's sole subjective business judgment provided that such development occurs in accordance with this Agreement and the Development Regulations, notwithstanding adoption by City's electorate of an initiative to the contrary after the Effective Date. No City moratorium or other similar limitation relating to the rate, timing, or sequencing of the development or construction of all or any part of the Project and whether enacted by initiative or another method, affecting subdivision maps, building permits, occupancy certificates, or other entitlement to use, shall apply to the Project to the extent such moratorium or other similar limitation restricts Landowner's vested rights in this Agreement or otherwise conflicts with the express provisions of this Agreement.

6.11 Benefits to Landowner. Landowner has expended and will continue to expend substantial amounts of time and money on the planning of the Project and construction of infrastructure for and in conjunction with the Project. Landowner represents and City acknowledges that Landowner would not make these expenditures without this Agreement, and that Landowner makes these expenditures in reliance upon this Agreement. A benefit to Landowner under this Agreement is the assurance that Landowner will preserve the right to develop the Property in accordance with the terms of this Agreement. City acknowledges that Landowner will be investing money and planning efforts in the Project in reliance on City's covenants and representations in this Agreement. City agrees that Landowner may reasonably and justifiably rely on City's covenants and representations in this Agreement and on the enforceability of this Agreement.

6.12 Tentative Subdivision Maps. City agrees that Landowner may file and process new and existing vesting tentative maps for the Property consistent with California Government Code sections 66498.1-66498.9 and City of Newport Beach Municipal Code chapter 19.20. Pursuant to the applicable provision of the California Subdivision Map

Act (California Government Code section 66452.6(a)), any tentative subdivision map approved for the Property, whether designated a "vesting tentative map" or otherwise, shall be extended for the Term of this Agreement.

6.13 Compliance with California Government Code Section 65897.5(c) on Water Supply. Pursuant to California Government Code section 65897.5(c), the tentative map prepared for any subdivision of the Property shall comply with the provisions of California Government Code section 66473.7 relating to the availability of water supply, as enacted as of the Effective Date.

6.14 Cancellation of the CIOSA and the Bonita Canyon Development Agreement. Pursuant to the ordinance adopted by the City Council approving this Agreement, the CIOSA and the Bonita Canyon Development Agreement shall automatically terminate on the Effective Date ("Cancellation"). Within ten (10) days after the Effective Date, the Parties shall cooperate in executing and recording against the properties owned by Landowner that are encumbered by the CIOSA and the Bonita Canyon Development Agreement a written instrument memorializing the termination of said agreements in such form as to permit the agreements to be removed as encumbrances upon title. The Cancellation shall not affect the rights and obligations of any third parties under the CIOSA or the Bonita Canyon Development Agreement.

6.15 No Payments Due from City. The Parties acknowledge that City is not required to make any reimbursement payments to Landowner and that no funding is otherwise due from City to Landowner for improvements made by or at the direction of Landowner to Back Bay View Park, located at Jamboree Road and Pacific Coast Highway.

7. Compliance with Traffic Phasing Ordinance.

7.1 Scope of Traffic Study. The traffic study prepared in conjunction with this Agreement covers all development authorized by this Agreement (including new development and replacement development for existing buildings that may be demolished), with the exception of: (i) construction of a City Hall in Newport Center Block 500 if and to the extent that City is required to comply with the Traffic Phasing Ordinance if City exercises the option to acquire the Option Site and constructs the City Hall thereon; (ii) construction of any residential units in Newport Center Block 500 or San Joaquin Plaza; (iii) the development by Landowner of 72,000 square feet of office space within Newport Center Block 500 if City does not acquire the Option Site and the development rights to said site revert to Landowner, as provided herein; and (iv) the development by Landowner of any part of the 72,000 square feet of office space within Newport Center Block 500 that is not used for the City Hall if City acquires the Option Site, the City Hall developed on the Option Site is less than 72,000 square feet, and the development rights to the square footage not used for the City Hall revert to Landowner, as provided herein.

7.2 Sufficiency of Traffic Study. City acknowledges that the traffic study for the Property prepared prior to the Effective Date satisfies the provisions of the Traffic Phasing Ordinance. Specifically, City acknowledges that the traffic study establishes that the project considered in the traffic study meets the requirements for a Comprehensive

Phased Land Use Development and Circulation System Improvement Plan with all phases not anticipated to be complete within 60 months of project approval and subject to a development agreement that requires circulation improvements, as defined in City of Newport Beach Municipal Code section 15.40.030(B)(2). With the exception of the traffic studies referred to in Section 7.1 of this Agreement, City shall not require any additional traffic studies in conjunction with any application for approvals or permits necessary to construct development authorized by this Agreement as long as the application is consistent with the provisions of this Agreement and the relevant Development Regulations.

7.3 Circulation Improvements No later than the earlier of (i) the date City issues the certificate of occupancy for any new development under the First Building Permit (but specifically excluding the building permit for the Parking Structure), or (ii) the date that is sixty (60) months after the Effective Date, Landowner shall, in compliance with all City requirements, complete construction of a third eastbound left turn lane at the intersection of MacArthur Boulevard and San Joaquin Hills Road (within the existing right of way except for any needed dedication at the southwest corner), to mitigate traffic impacts pursuant to the Traffic Phasing Ordinance.

8. Reservations of Authority. Notwithstanding any provisions set forth in this Agreement to the contrary, the laws, rules, regulations, and official policies set forth in this Section 8 shall apply to and govern the development of the Property.

8.1 Procedural Regulations. Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals, and any other matter of procedure shall apply to the Property, provided that they are adopted and applied City-wide or to all other properties similarly situated in City.

8.2 Consistent Future City Regulations. City ordinances, resolutions, regulations, and official policies governing development and building which do not conflict with the Development Regulations, or with respect to such regulations that do conflict, where Landowner has consented in writing to the regulations, shall apply to the Property.

8.3 Overriding Federal and State Laws and Regulations. Federal and state laws and regulations that override Landowner's vested rights set forth in this Agreement shall apply to the Property, together with any City ordinances, resolutions, regulations, and official policies that are necessary to enable City to comply with the overriding federal and state laws and regulations, provided that:

(1) Landowner does not waive its right to challenge or contest the validity of any such federal, state, or local laws, regulations, or official policies; and

(2) Upon the discovery of a federal or state law or regulation (or City ordinance, resolution, regulation, or official policy undertaken pursuant to those laws and regulations), that prevents or precludes compliance with any provision of this Agreement, City or Landowner shall provide the other Party with written notice of the state or federal law or regulation, provide a copy of the law or regulation, and a written statement of conflict(s) with the provisions of this Agreement.

Promptly thereafter City and Landowner shall meet and confer in good faith in a reasonable attempt to determine whether a modification or suspension of this Agreement, in whole or in part, is necessary to comply with such federal or state law or regulation. In such negotiations, City and Landowner agree to preserve the terms of this Agreement and the rights of Landowner as derived from this Agreement to the maximum feasible extent while resolving the conflict. City agrees to cooperate with Landowner at no cost to City in resolving the conflict in a manner which minimizes any financial impact of the conflict upon Landowner. City also agrees to process in a prompt manner Landowner's proposed changes to the Project and any of the Development Regulations as may be necessary to comply with such federal or state law; provided, however, that the approval of such changes by City shall be subject to the discretion of City, consistent with this Agreement.

8.4 Public Health and Safety. Any City ordinance, resolution, rule, regulation, program, or official policy, that is necessary to protect persons on the Property or in the immediate community from conditions dangerous to their health or safety shall apply to the Property, even though the application of the ordinance, resolution, rule regulation, program, or official policy would result in the impairment of Landowner's vested rights under this Agreement.

8.5 Uniform Building Standards. Existing and future building and building-related standards set forth in the uniform codes adopted and amended by City from time to time, including building, plumbing, mechanical, electrical, housing, swimming pool, and fire codes, and any modifications and amendments thereof.

8.6 Public Works Improvements. To the extent Landowner constructs or installs public works or facilities, the City standards in effect for such public works or facilities at the time of City's issuance of a permit, license, or other authorization for construction or installation of same shall apply.

9. Utility Capacity. With respect to utility services provided by an entity other than City, in the event of a reduction or interruption of said service by the utility provider, City shall require no greater reduction in utility service to any parcel of the Property than the general provider of the service requires. Nothing in this Agreement limits City's ability to impose reasonable conditions on any future development or building permits or approvals that require Landowner to install utility lines and appurtenances servicing the Property. City shall not take any action to obstruct development on the Property on the basis of utility capacity, provided that City is not guaranteeing water supply or the Orange County Sanitation District's ability to provide wastewater treatment services for new development planned for the Property.

If, as a result of City Action and after Landowner has paid the Initial Park Fee and/or Initial Public Benefit Fee to City, sufficient sewer and water hookups, water supplies, and sewage treatment capacity ("Sewer and Water Service") is not available to allow building permits and/or certificates of occupancy to be issued for construction or occupancy of the residential units authorized for development under this Agreement, City shall refund to Landowner all or a portion of the Initial Park Fee and/or the Initial Public Benefit Fee, as applicable. The amount of the refund shall be equal to the applicable per unit fee (\$26,046.51

and/or \$63,000) for each such residential unit for which such fees have been paid and for which building permits and/or certificates of occupancy are not available. As used herein, the term "City Action" shall mean affirmative action taken by City to reduce the Sewer and Water Service currently available, and shall not include any action or event that is outside City's control, including without limitation, any action taken or regulation adopted by any other governmental agency or City ordinances, resolutions, regulations, and official policies that are necessary to enable City to comply with any overriding federal or state laws and regulations. The refunds referred to in this Section 9 shall be made at the time Landowner is otherwise entitled to issuance of the building permit or certificate of occupancy, whichever is applicable, and City is not able to issue the permit because of the City Action taken.

10. Project as Private Undertaking. The development of the Project is a private undertaking. Neither Party is acting as the agent of the other in any respect, and each Party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. This Agreement forms no partnership, joint venture, or other association of any kind. The only relationship between the Parties is that of a government entity regulating the development of private property by the owner of the property.

11. Effective Date; Term. This Agreement shall not become effective and neither Party shall have any rights or obligations hereunder, with the exception of the obligations in Section 4.8 of this Agreement to execute the Option Agreement, until the "Effective Date," which for purposes of this Agreement shall mean the thirty-first (31st) day following the approval or adoption of the last Regulation by the City Council, or such other date that the last Regulation becomes effective in accordance with applicable law. As used herein, the term "Regulation" shall mean this Agreement; the AHIP; the Development Plan, including the design regulations; and the Transfer of Development Rights Resolution. The Parties shall cooperate by executing in recordable form an appropriate memorandum providing notice of the occurrence of the Effective Date as soon as the Effective Date has occurred. The Parties acknowledge that the resolutions and ordinances adopting the AHIP; the Development Plan, including the design regulations; and the Transfer of Development Rights provide that the foregoing plans and regulations do not become operative until the Effective Date of this Agreement.

The term of this Agreement ("Term") shall commence on the Effective Date and shall continue thereafter until the earlier of the following: (i) the date that is twenty (20) years after the Effective Date; or (ii) the date this Agreement is terminated pursuant to Sections 12 or 15.1 of this Agreement.

12. Amendment or Cancellation of Agreement. Other than modifications of this Agreement under Section 8.3 of this Agreement, this Agreement may be amended or canceled in whole or in part only by mutual written and executed consent of the Parties in compliance with California Government Code section 65868 and City of Newport Beach Municipal Code section 15.45.060 or by unilateral termination by City in the event of an uncured default of Landowner.

13. Enforcement. Unless amended or canceled as provided in Section 12 of this Agreement, or modified or suspended pursuant to California Government Code section 65869.5, this Agreement is enforceable by either Party despite any change in any applicable general or specific plan, zoning, subdivision, or building regulation or other applicable ordinance or regulation

adopted by City (including by City's electorate) that purports to apply to any or all of the Property.

14. Periodic Review of Compliance. The Parties shall review this Agreement at least once every 12 months from the Effective Date consistent with California Government Code sections 65865 and 65865.1 and City of Newport Beach Municipal Code section 15.45.070. At the reviews, Landowner shall demonstrate its good faith compliance with this Agreement and shall document the current status of its entitlement use and its provision of the public benefits referred to in Section 4 of this Agreement. Landowner also agrees to furnish evidence of good faith compliance as City may require in the reasonable exercise of its discretion and after reasonable notice to Landowner.

15. Events of Default.

15.1 Default by Landowner. Pursuant to California Government Code section 65865.1, if City determines following a noticed public hearing and on the basis of substantial evidence that Landowner has not complied in good faith with Landowner's obligations pursuant to this Agreement, City shall by written notice to Landowner specify the manner in which Landowner has failed to comply and state the steps Landowner must take to bring itself into compliance. If Landowner does not commence all steps reasonably necessary to bring itself into compliance as required and diligently pursue steps to completion within thirty (30) days after receipt of the written notice from City specifying the manner in which Landowner has failed to comply, then Landowner shall be deemed to be in default under the terms of this Agreement. City may then: (1) seek a modification of this Agreement, (2) terminate this Agreement, or (3) seek any other available remedies as provided in Section 15.3 of this Agreement.

15.2 Default by City. If City has not complied with any of its obligations and limitations under this Agreement, Landowner shall by written notice to City specify the manner in which City has failed to comply and state the steps necessary for City to bring itself into compliance. If City does not commence all steps reasonably necessary to bring itself into compliance as required and diligently pursue steps to completion within thirty (30) days after receipt of the written notice from Landowner specifying the manner in which City has failed to comply, then City shall be deemed to be in default under the terms of this Agreement. Landowner may then exercise any or all of the following remedies: (1) seek a modification of this Agreement; (2) withhold the following payments that might be otherwise due to City under this Agreement: the Per Unit Park Fee, the Initial Public Benefit Fee, the Initial Park Fee, and/or the Circulation Enhancement Contribution until such default has been cured; and/or (3) seek a specific performance or similar equitable remedy as provided in Section 15.3 of this Agreement. Except as provided below, if City adopts or enforces any moratorium, de facto or de jure, or other similar limitation (whether relating to the rate, timing, or sequencing of the development or construction of all or any part of the Project and whether enacted by initiative or otherwise) affecting the processing or approval of subdivision maps, building permits, occupancy certificates, or other entitlement to use which is applied to the Project, then Landowner may exercise any or all of the following remedies: (1) immediately seek a modification of this Agreement; (2) withhold the following payments that might be otherwise due to City under this Agreement: the Initial Public Benefit Fee,

the Initial Park Fee, and/or the Circulation Enhancement Contribution, until City reverses its enactment of such moratorium or limitation; and/or (3) seek any other available remedy as provided in Section 15.3 of this Agreement. City shall not be in default pursuant to this Section if:

- (1) It adopts a temporary City-wide moratorium on development due to its inability to supply sufficient water, sewer or other utilities to then-current customers as necessary to maintain minimum levels of health, safety, and sanitation;
- (2) It is required to enforce a moratorium because of a law, rule, regulation, or plan identified in Section 8.3 of this Agreement; or
- (3) The enactment of the moratorium or other limitation is the result of a court order.

15.3 Specific Performance and Damages Remedies. Due to the size, nature, and scope of the Project and the potential impracticality or impossibility of restoring the Property to its natural condition once implementation of this Agreement has begun, the Parties acknowledge that, except as provided in this Section 15.3 and in Section 15.4 of this Agreement, money damages and remedies at law generally are inadequate and that specific performance is appropriate for the enforcement of this Agreement. The remedy of specific performance or, in the alternative, a writ of mandate, shall be the sole and exclusive remedy available to either Party in the event of the default or alleged default by the other, with the exception that City shall be entitled to damages against Landowner for Landowner's breach or its obligations under Sections 18 or 19 of this Agreement, and Landowner shall be entitled to recover the amount of any refund due for City's failure to provide any refund due under Section 9 of this Agreement but shall not be entitled to recover any other damages. The limitations on the remedy of damages in this Agreement shall not prevent City from enforcing Landowner's monetary obligations hereunder, nor shall it affect the ability of either Party to recover damages for breach of any of the separate agreements contemplated by this Agreement, including without limitation the Parking Structure Easement Agreement and City Hall Option Agreement.

15.4 Limited Recovery of Legal Expenses by Prevailing Party in Any Action. In any judicial proceeding, arbitration, or mediation (collectively, "Action") between the Parties that seeks to enforce the provisions of this Agreement, the prevailing Party shall recover all of its actual and reasonable costs and expenses, regardless of whether they would be recoverable under California Code of Civil Procedure section 1033.5 or California Civil Code section 1717 in the absence of this Agreement. These costs and expenses include expert witness fees, attorneys' fees, and costs of investigation and preparation before initiation of the Action. The right to recover these costs and expenses shall accrue upon initiation of the Action, regardless of whether the Action is prosecuted to a final judgment or decision.

16. Cooperation. Each Party covenants to take reasonable actions and execute all documents that may be necessary to achieve the purposes and objectives of this Agreement.

17. Force Majeure. Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused, through no fault of the Party whose performance is prevented or delayed, by floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes or other labor difficulties, state or federal regulations, or court actions. Except as specified above, nonperformance shall not be excused because of the act or omission of a third person. In no event shall the occurrence of an event of force majeure operate to extend the Term of this Agreement.

18. Indemnity. Landowner agrees to indemnify, defend, and hold harmless City, City's designee, and their respective elected and appointed councils, boards, commissions, officers, agents, and employees from all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorneys' fees and costs) that may arise, directly or indirectly, from the acts, omissions, or operations of Landowner or Landowner's agents, contractors, subcontractors, agents, or employees pursuant to this Agreement. City shall have the right to select and retain counsel to defend any actions, and Landowner shall pay the reasonable cost for this defense. The indemnity provisions in this Section 18 shall survive termination of this Agreement.

19. Third Party Legal Challenge. If a third party brings a legal action challenging the validity or enforceability of any provision of this Agreement or the Project approvals under the Development Regulations ("Third Party Legal Challenge"), City shall defend the Third Party Legal Challenge, and Landowner shall be responsible for the reasonable legal expenses incurred by City in connection with the challenge. As long as Landowner is not in default under this Agreement, City shall not allow any default or judgment to be taken against it or compromise the defense of the action without Landowner's prior written approval. Landowner shall also have the right to settle a Third Party Legal Challenge, provided that nothing in this Agreement shall authorize Landowner to settle the Third Party Legal Challenge on terms that would constitute an amendment or modification of this Agreement or the AHIP; the Development Plan, including the design regulations; or the Transfer of Development Rights Resolution unless City approves the amendment or modification consistent with applicable legal requirements. City reserves its full legislative discretion to make this approval.

20. Mortgagee Rights.

20.1 Encumbrances on Property. The Parties agree that this Agreement shall not prevent or limit Landowner in any manner from encumbering the Property, any part of the Property, or any improvements on the Property with any Mortgage securing financing with respect to the construction, development, use, or operation of the Project.

20.2 Mortgagee Protection. This Agreement shall be superior and senior to the lien of any Mortgage. Nevertheless, no breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value. Any acquisition or acceptance of title or any right or interest in the Property or part of the Property by a Mortgagee (whether due to foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination, or otherwise) shall be subject to all of the terms and conditions of this Agreement. Any Mortgagee who takes title to the Property or any part of the Property shall be entitled to the benefits arising under this Agreement.

20.3 Mortgagee Not Obligated. Notwithstanding the provisions of this Section 20.3, a Mortgagee will not have any obligation or duty under the terms of this Agreement to perform the obligations of Landowner or other affirmative covenants of Landowner, or to guarantee this performance except that:

(1) The Mortgagee shall have no right to develop the Property under the Development Regulations without fully complying with the terms of this Agreement; and

(2) To the extent that any covenant to be performed by Landowner is a condition to the performance of a covenant by City, that performance shall continue to be a condition precedent to City's performance.

20.4 Notice of Default to Mortgagee; Right of Mortgagee to Cure. Each Mortgagee shall, upon written request to City, be entitled to receive written notice from City of:

(1) The results of the periodic review of compliance specified in Section 14 of this Agreement, and

(2) Any default by Landowner of its obligations set forth in this Agreement.

Each Mortgagee shall have a further right, but not an obligation, to cure the default within ten (10) days after receiving notice of monetary defaults and within thirty (30) days after receiving notice of non-monetary defaults. If Mortgagee can only remedy or cure the default by obtaining possession of the Property, then Mortgagee shall have the right to seek to obtain possession with diligence and continuity through a receiver or otherwise, and to remedy or cure the default within thirty (30) days after obtaining possession. Except in case of emergency or to protect the public health or safety, City may not exercise any of its judicial remedies set forth in this Agreement until expiration of the thirty (30)-day period. But in the case of a default that cannot with diligence be remedied or cured within thirty (30) days, the Mortgagee shall have additional time as is reasonably necessary to remedy or cure the default, provided Mortgagee promptly commences to cure the default within thirty (30) days and diligently prosecutes the cure to completion. Landowner shall not be released from performing its obligations in Sections 3 and 4 of this Agreement in the event of a foreclosure by a Mortgagee.

21. Transfers and Assignments.

21.1 Right to Assign. Subject to the last sentence of this Section 21.1, Landowner shall have the right to sell, lease, transfer, or assign the Property in whole or in part to any person, partnership, joint venture, firm, or corporation at any time during the Term of this Agreement without the consent of City, provided that no partial transfer shall violate the Subdivision Map Act (California Government Code sections 66410-66499.58). Upon the effective date of any such sale, lease, transfer, or assignment of the Property, the transferor/assignor shall notify of the name and address of the transferee. Any assignment of this Agreement must be pursuant to a sale or transfer of the Property. Any sale or transfer of the Property shall include the assignment and assumption of the rights, duties, and obligations arising from this Agreement to the transferee with respect to that part of the Property transferred. Landowner shall no longer be obligated under this

Agreement for the part of the Property that was sold or transferred if Landowner is not in default under this Agreement at the time of the sale or transfer. In no event, however, shall Landowner be relieved from its obligations under this Agreement to pay the Public Benefit Fee, Park Fees, and Fair Share Traffic Fees or to fulfill its obligations under Sections 3 and 4 of this Agreement. Notwithstanding the foregoing, from and after the date of this Agreement, Landowner shall not have the right to sell, lease, transfer, or assign (i) the Option Site until the expiration of the Option Period without City having elected to exercise the option to acquire the Option Site, or (ii) the Parking Structure Site until the expiration of the Option Period without City having elected to exercise the option, or if City does exercise the Option, until the construction of the Parking Structure is complete and the Parking Structure is operational.

21.2 Agreement Binding on Successors and Assigns. The burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors in interest of the Parties to this Agreement, and constitute covenants that run with the Property. In order to provide continued notice, the Parties will record this Agreement and any subsequent amendments to it.

22. Estoppel Certificate. At any time, either Party may deliver written notice to the other Party requesting that the Party certify in writing that, to the best of its knowledge:

- (1) This Agreement is in full force and effect and is binding on the Party;
- (2) This Agreement has not been amended or modified either orally or in writing. If this Agreement has been amended, the Party providing the certification shall identify the amendments; and
- (3) The requesting Party is not in default in the performance of its obligations under this Agreement. If the requesting Party is in default, the other Party must describe the nature and amount of the default.

The requesting Party shall execute and return the certificate within sixty (60) days following receipt. Any assignee of a Party's rights and obligations hereunder, as referred to in this Section 22, and any Mortgagee, shall be entitled to rely on the certificate.

23. Further Actions and Instruments. Each Party shall cooperate with and provide reasonable assistance to the other Party to the extent consistent with and necessary to implement this Agreement. Upon the request of a Party at any time, the other Party shall promptly execute, with acknowledgement or affidavit if reasonably required, and file or record the required instruments and writings and take any actions as may be reasonably necessary to implement this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

24. Notices. Any notice or demand that shall be required or permitted by law or any provision of this Agreement shall be in writing. If the notice or demand will be served upon a Party, it either shall be personally delivered to the Party; deposited in the United States mail, certified, return receipt requested, and postage prepaid; or delivered by a reliable courier service that provides a receipt showing date and time of delivery with courier charges prepaid. The notice or demand shall be addressed as follows:

TO CITY: City of Newport Beach
3300 Newport Boulevard
Post Office Box 1768
Newport Beach, California 92663-3884
Attn: City Manager

With a copy to: City Attorney
City of Newport Beach
3300 Newport Boulevard
Post Office Box 1768
Newport Beach, California 92663-3884

TO LANDOWNER: The Irvine Company LLC
550 Newport Center Drive
Newport Beach, California 92660-0015
Attn: General Counsel

With a copy to: Latham & Watkins LLP
600 West Broadway, Suite 1800
San Diego, California 92101-3375
Attn: Christopher W. Garrett

Either Party may change the address stated in this Section 24 by notice to the other Party in the manner provided in this Section 24, and notices shall be addressed and submitted to the new address. Notice shall be deemed to be delivered upon the earlier of: (1) the date received or (2) three business days after deposit in the mail as provided above.

25. Rules of Construction and Miscellaneous Terms.

25.1 Rules of Construction. The singular includes the plural; the masculine and neuter include the feminine; "shall" is mandatory; "may" is permissive.

25.2 Time Is of the Essence. Time is of the essence regarding each provision of this Agreement in which time is an element.

25.3 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, and failure by a Party to exercise its rights upon a default by the other Party, shall not constitute a waiver of that Party's right to demand strict compliance by the other Party in the future.

25.4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be identical and may be introduced in evidence or used for any other purpose without any other counterpart, but all of which shall together constitute one and the same agreement.

25.5 Entire Agreement. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter addressed in this Agreement.

25.6 Severability. The Parties intend that each and every obligation of the Parties is interdependent and interrelated with the other, and if any provision of this Agreement or the application of the provision to any party or circumstances shall be held invalid or unenforceable to any extent, it is the intention of the Parties that the remainder of this Agreement or the application of the provision to persons or circumstances shall be rendered invalid or unenforceable. The Parties intend that neither shall receive any of the benefits of the Agreement without the full performance of all of the obligations provided for under this Agreement. Without limiting the generality of the foregoing, the Parties intend that Landowner shall not receive any of the benefits of this Agreement if any of Landowner's obligations are rendered void or unenforceable as the result of any third party litigation, and City shall be free to exercise its legislative discretion to amend or repeal the development regulations applicable to the Property and Landowner shall cooperate as required, despite this Agreement, should third party litigation result in the nonperformance of Landowner's obligations under this Agreement.

25.7 Construction. This Agreement has been drafted after extensive negotiation and revision. Both City and Landowner are sophisticated parties who were represented by independent counsel throughout the negotiations. City and Landowner each agree and acknowledge that the terms of this Agreement are fair and reasonable, taking into account their respective purposes, terms, and conditions. This Agreement shall therefore be construed as a whole consistent with its fair meaning, and no principle or presumption of contract construction or interpretation shall be used to construe the whole or any part of this Agreement in favor of or against either Party.

25.8 Constructive Notice and Acceptance. Every person who now or later owns or acquires any right, title, or interest in any part of the Project or the Property is and shall be conclusively deemed to have consented and agreed to every provision of this Agreement. This Section 25.8 applies regardless of whether the instrument by which the person acquires the interest references this Agreement.

25.9 No Third Party Beneficiaries. The only parties to this Agreement are City and Landowner. This Agreement does not involve any third party beneficiaries, and it is not intended and shall not be construed to benefit or be enforceable by any other person or entity.

25.10 Applicable Law and Venue. This Agreement shall be construed and enforced consistent with the internal laws of the State of California. Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California, or the United States District Court for the Central District of California. The Parties waive all provisions of law providing for the removal or change of venue to any other court.

25.11 Non-Liability of City Officers and Employees. No official, officer, employee, agent, or representative of City shall be personally liable to Landowner or its successors and assigns for any loss arising out of or connected with this Agreement or the Development Regulations.

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

25.13 Incorporation of Recitals and Exhibits. Recitals A through S are incorporated into this Agreement by this reference. Exhibits A through H are attached to this Agreement and incorporated by this reference as follows:

EXHIBIT DESIGNATION	DESCRIPTION
A	Legal Description of Property
B	Depiction of the Property
C	Development Status, Transportation Improvements and Open Space Dedications Under the CIOA and the Bonita Canyon Development Agreement
D	Affordable Housing Implementation Plan
E	Location of Option Site and Associated Parking Structure
F	Option Agreement
G	Depiction of Lower Castaways Site
H	Existing Development on Property

26. Authority to Execute. The persons executing this Agreement warrant and represent that they have the authority to execute this Agreement on behalf of the entity for which they are executing this Agreement. They further warrant and represent that they have the authority to bind their respective Party to the performance of its obligations under this Agreement.

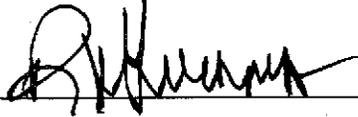
27. Recordation. This Agreement and any amendment, modification, or cancellation to it shall be recorded in the Office of the County Recorder of the County of Orange, by City Clerk within the period required by California Government Code section 65868.5 and City of Newport Beach Municipal Code section 15.45.090.

[SIGNATURE PAGE FOLLOWS]

**SIGNATURE PAGE TO
ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT**

“LANDOWNER”

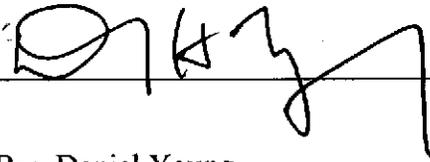
THE IRVINE COMPANY LLC



By: Richard I. Gilchrist

Its: President, Investment Properties Group



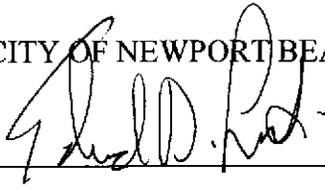


By: Daniel Young

Its: Executive Vice President

“CITY”

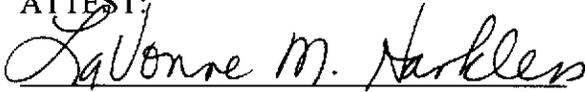
CITY OF NEWPORT BEACH



By: Edward D. Selich

Its: Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



Robin Clauson
City Attorney



State of California
County of Orange

On January 17, 2008 before me,
Rex Morishita, Notary Public, personally
appeared Richard E. Gilchrist and Daniel Young

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 Rex Morishita (Seal)



State of California
County of Orange

On JANUARY 24, 2008 before me,
LEILANI I. BROWN, NOTARY PUBLIC, personally
appeared EDWARD D. SELICH

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 Leilani I. Brown (Seal)



EXHIBIT A:

LEGAL DESCRIPTION OF PROPERTY

Newport Center Block 500:

LEGAL DESCRIPTION

Real property in the City of Newport Beach, County of Orange, State of California, described as follows:

PARCEL NO. 1:

THOSE PORTIONS OF BLOCK 93 OF IRVINE'S SUBDIVISION, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 1, PAGE 88, OF MISCELLANEOUS RECORD MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

PARCEL A: (APN 442-081-07)

BEGINNING AT THE EASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE NORTHERLY RIGHT-OF-WAY LINE OF SAN NICOLAS DRIVE SHOWN AS "SOUTH 80° 14' 38" EAST 91.45" ON MAP OF TRACT NO. 6015 FILED IN BOOK 239, PAGES 28 THROUGH 41 OF MISCELLANEOUS MAPS, IN THE OFFICE OF SAID COUNTY RECORDER; THENCE ALONG THE RIGHT-OF-WAY LINES OF SAID SAN NICOLAS DRIVE, NEWPORT CENTER DRIVE EAST AND SANTA ROSA DRIVE, AS SHOWN ON SAID MAP, THE FOLLOWING COURSES AND DISTANCES; NORTH 80° 14' 38" WEST 91.45 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 25.00 FEET; NORTHWESTERLY 38.16 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 87° 26' 49" TO THE BEGINNING OF A REVERSE CURVE CONCAVE WESTERLY HAVING A RADIUS OF 1670.00 FEET; NORTHERLY 472.13 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 16° 11' 54" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 25.00 FEET; NORTHEASTERLY 38.16 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 87° 26' 49"; NORTH 78° 27' 06" EAST 69.97 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 825.50 FEET; NORTHEASTERLY 195.27 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 13° 33' 11" TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET, A RADIAL TO SAID POINT BEARS NORTH 35° 38' 46" EAST; THENCE SOUTHEASTERLY 4.81 FEET ALONG SAID CURVE CONCAVE THROUGH AN ANGLE OF 11° 01' 42" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 161.00 FEET; THENCE SOUTHEASTERLY 91.20 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 32° 27' 16" TO THE BEGINNING OF A REVERSE CURVE CONCAVE

SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHERLY 32.67 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 74° 53' 02"; THENCE SOUTH 0° 53' 46" EAST 25.50 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 2.00 FEET; THENCE SOUTHWESTERLY 3.14 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 00' 00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 2.00 FEET; THENCE SOUTHWESTERLY 3.14 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 0' 00"; THENCE SOUTH 0° 53' 46" EAST 179.75 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 10.00 FEET; THENCE SOUTHWESTERLY 6.59 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 37° 45' 40"; THENCE SOUTH 36° 51' 54" WEST 9.49 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 10.00 FEET; THENCE SOUTHERLY 6.59 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 37° 45' 40"; THENCE SOUTH 0° 53' 46" EAST 31.50 FEET TO POINT "A" HEREINAFTER REFERRED TO; THENCE CONTINUING SOUTH 0° 53' 46" EAST 31.50 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 10.00 FEET; THENCE SOUTHEASTERLY 6.59 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 37° 45' 40"; THENCE SOUTH 38° 39' 26" EAST 9.49 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 10.00 FEET; THENCE SOUTHERLY 6.59 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 37° 45' 40"; THENCE SOUTH 0° 53' 46" EAST 212.75 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY 24.40 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 55° 55' 53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 147.00 FEET; THENCE SOUTHWESTERLY 66.40 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 25° 52' 43" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY 9.78 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 22° 24' 25" TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 950.50 FEET AND THE NORTHERLY RIGHT-OF-WAY LINE OF SAID SAN NICOLAS DRIVE, A RADIAL TO SAID POINT BEARS NORTH 22° 12' 47" EAST; THENCE WESTERLY 206.65 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 12° 27' 25" TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:

COMMENCING AT "POINT A" ABOVE DESCRIBED; THENCE SOUTH 89° 06' 14" WEST 5.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 0° 53' 46" WEST 52.50 FEET; THENCE SOUTH 89° 06' 14" WEST 120.00 FEET; THENCE SOUTH 0° 53' 46" EAST 105.00 FEET; THENCE NORTH 89° 06' 14" EAST 120.00 FEET, THENCE NORTH 0° 53' 46" WEST 52.50 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL B: (PORTION OF 442-081-07)

COMMENCING AT "POINT A" DESCRIBED IN PARCEL A ABOVE; THENCE SOUTH 89° 06' 14" WEST 5.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 0° 53' 46" WEST 52.50 FEET; THENCE SOUTH 89° 06' 14" WEST 120.00 FEET; THENCE 0° 53' 46" EAST 105.00 FEET; THENCE NORTH 89° 06' 14" EAST 120.00 FEET; THENCE NORTH 0° 53' 46" WEST 52.50 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL C: (APN 442-081-08)

COMMENCING AT THE EASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE SOUTHERLY RIGHT OF WAY LINE OF SANTA ROSA DRIVE SHOWN AS "NORTH 78° 27' 06" EAST 69.97 ON A MAP OF TRACT 6015 FILED IN BOOK 239, PAGES 28 THROUGH 41 OF MISCELLANEOUS MAPS IN THE OFFICE OF SAID COUNTY RECORDER, SAID EASTERLY TERMINUS BEING THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 825.50 FEET; THENCE NORTHEASTERLY 195.27 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 13° 33' 11" TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET AND THE TRUE POINT OF BEGINNING, A RADIAL TO SAID POINT BEARS NORTH 35° 38' 46" EAST; THENCE SOUTHEASTERLY 4.81 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 11° 01' 42" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 161.00 FEET; THENCE SOUTHEASTERLY 91.20 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 32° 27' 16" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHERLY 32.67 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 74° 53' 02"; THENCE SOUTH 0° 53' 46" EAST 25.50 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 2.00 FEET; THENCE SOUTHWESTERLY 3.14 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 00' 00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 2.00 FEET; THENCE SOUTHWESTERLY 3.14 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 00' 00"; THENCE SOUTH 0° 53' 46" EAST 179.75 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 10.00 FEET; THENCE SOUTHERLY 6.59 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 37° 45' 40"; THENCE SOUTH 36° 51' 54" WEST 9.49 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 10.00 FEET; THENCE SOUTHERLY 6.59 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 37° 45' 40"; THENCE SOUTH 0° 53' 46" EAST 63.00 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 10.00 FEET; THENCE SOUTHEASTERLY 6.59 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 37° 45' 40"; THENCE SOUTH 38° 39' 26" EAST 9.49 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 10.00 FEET; THENCE SOUTHERLY 6.59 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 37° 45' 40"; THENCE SOUTH 0° 53' 46" EAST 212.75 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF

25.00 FEET; THENCE SOUTHWESTERLY 24.40 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 55° 55' 53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 147.00 FEET; THENCE SOUTHWESTERLY 66.4 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 25° 52' 43" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY 9.78 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 22° 24' 25" TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 950.50 FEET AND THE NORTHERLY RIGHT OF WAY LINE OF SAN NICOLAS DRIVE ON SAID MAP OF TRACT 6015, A RADIAL TO SAID POINT BEARS NORTH 22° 12' 47" EAST; THENCE SOUTHEASTERLY 55.46 FEET ALONG SAID CURVE AND SAID RIGHT OF WAY LINE THROUGH AN ANGLE OF 3° 20' 36" TO A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 25.00 FEET; A RADIAL TO SAID POINT BEARS SOUTH 86° 12' 25" WEST; THENCE NORTHERLY 9.44 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 21° 37' 37" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 95.00 FEET; THENCE NORTHEASTERLY 122.78 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 74° 02' 54" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 262.03 FEET; THENCE SOUTHEASTERLY 193.09 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 42° 13' 18"; THENCE SOUTH 45° 53' 46" EAST 109.58 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHEASTERLY AND SOUTHWESTERLY 39.27 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 00' 00"; THENCE SOUTH 44° 06' 14" WEST 100.91 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY 12.72 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 29° 09' 46", THENCE NON-TANGENT SOUTH 46° 44' 00" EAST 56.70 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 25.00 FEET, A RADIAL TO SAID POINT BEARS NORTH 76° 44' 00" WEST; THENCE NORTHEASTERLY 13.45 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 30° 50' 14"; THENCE NORTH 44° 06' 14" EAST 99.45 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 25.00 FEET; THENCE NORTHEASTERLY AND SOUTHEASTERLY 39.27 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 00' 00"; THENCE SOUTH 45° 53' 46" EAST 15.01 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 40.00 FEET; THENCE SOUTHEASTERLY AND NORTHEASTERLY 62.83 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 00' 00"; THENCE NORTH 44° 06' 14" EAST 289.00 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 40.00 FEET; THENCE NORTHEASTERLY AND NORTHWESTERLY 62.83 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 00' 00"; THENCE NORTH 45° 53' 46" WEST 254.09 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY AND NORTHEASTERLY 39.27 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 00' 00" THENCE NORTH 44° 06' 14" EAST 104.09 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 25.00 FEET; THENCE NORTHEASTERLY 13.00 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 29°

47' 41" TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF SAN JOAQUIN HILLS ROAD AS SHOWN ON SAID MAP OF TRACT 6015; THENCE NON-TANGENT NORTH 46° 41' 16" WEST ALONG SAID RIGHT OF WAY LINE 48.72 FEET TO A POINT ON A NON-TANGENT CURVE IN THE BOUNDARY OF THAT CERTAIN PARCEL SHOWN ON A MAP FILED IN BOOK 13, PAGE 41 OF PARCEL MAPS IN THE OFFICE OF SAID COUNTY RECORDER, SAID CURVE BEING CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET, A RADIAL TO SAID POINT BEARS SOUTH 76° 12' 47" EAST; THENCE SOUTHWESTERLY 13.23 FEET ALONG SAID CURVE AND SAID BOUNDARY THROUGH AN ANGLE OF 30° 19' 01"; THENCE CONTINUING ALONG SAID BOUNDARY SOUTH 44° 06' 14" WEST 103.60 FEET TO THE BEGINNING OF A CURVE IN SAID BOUNDARY CONCAVE NORTHERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY AND NORTHWESTERLY 39.27 FEET ALONG SAID CURVE AND SAID BOUNDARY THROUGH AN ANGLE OF 90° 00' 00"; THENCE NORTH 45° 53' 46" WEST ALONG SAID BOUNDARY AND ITS NORTHWESTERLY PROLONGATION 190.00 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 313.67 FEET; THENCE NORTHWESTERLY 111.43 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 20° 21' 13" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 121.38 FEET; THENCE NORTHWESTERLY 108.34 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 51° 08' 21"; THENCE NORTH 76° 40' 54" WEST 100.00 FEET; THENCE NORTH 75° 36' 41" WEST 53.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 66.00 FEET; A RADIAL TO SAID POINT BEARS SOUTH 13° 19' 06" WEST; THENCE NORTHWESTERLY 62.51 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 54° 16' 02" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY 9.79 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 22° 26' 33" TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF SAID SANTA ROSA DRIVE, SAID POINT OF BEGINNING ON A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 825.50 FEET, A RADIAL TO SAID POINT BEARS SOUTH 29° 13' 23" EAST; THENCE SOUTHWESTERLY 59.38 FEET ALONG SAID CURVE AND SAID RIGHT OF WAY LINE THROUGH AN ANGLE OF 4° 07' 18" TO THE TRUE POINT OF BEGINNING.

PARCEL D: (APN 442-081-06)

BEGINNING AT THE EASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE NORTHERLY RIGHT OF WAY LINE OF SAN NICOLAS DRIVE SHOWN AS "SOUTH 80° 14' 38" EAST 91.45'" ON A MAP OF TRACT 6015 FILED IN BOOK 239, PAGES 28 THROUGH 41 OF MISCELLANEOUS MAPS IN THE OFFICE OF SAID COUNTY RECORDER, SAID EASTERLY TERMINUS BEING THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 950.50 FEET; THENCE SOUTHEASTERLY 262.11 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 15° 48' 01" TO A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 25.00 FEET AND THE TRUE POINT OF BEGINNING, A RADIAL TO SAID POINT BEARS 86° 12' 25" WEST; THENCE NORTHERLY 9.44 FEET ALONG SAID

CURVE THROUGH AN ANGLE OF 21° 37' 37" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 95.00 FEET; THENCE NORTHEASTERLY 122.78 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 74° 02' 54" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 262.03 FEET; THENCE SOUTHEASTERLY 193.09 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 42° 13' 18"; THENCE SOUTH 45° 53' 46" EAST 109.58 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHEASTERLY AND SOUTHWESTERLY 39.27 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 90° 00' 00"; THENCE SOUTH 44° 06' 14" WEST 100.91 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY 12.72 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 29° 09' 46"; THENCE NON-TANGENT NORTH 46° 44' 00" WEST 34.74 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 950.50 FEET AND BEING THE SOUTHEASTERLY CONTINUATION OF THE NORTHERLY RIGHT OF WAY LINE OF SAID SAN NICOLAS DRIVE; THENCE NORTHWESTERLY 293.80 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 17° 42'37" TO THE TRUE POINT OF BEGINNING.

PARCEL E: (APN 442-081-01)

BEGINNING AT THE NORTHWESTERLY TERMINUS OF THAT CERTAIN COURSE IN THE SOUTHWESTERLY RIGHT OF WAY LINE OF SAN JOAQUIN HILLS ROAD SHOWN AS "SOUTH 46° 14' 16" EAST 286.60" ON A MAP OF TRACT 6015 FILED IN BOOK 239, PAGES 28 THROUGH 41 OF MISCELLANEOUS MAPS IN THE OFFICE OF SAID COUNTY RECORDER; THENCE SOUTH 46° 14' 16" EAST 236.39 FEET ALONG SAID RIGHT OF WAY LINE AND ALONG THE BOUNDARY OF THAT CERTAIN PARCEL SHOWN ON A MAP FILED IN BOOK 13, PAGE 41 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET; A RADIAL TO SAID POINT BEARS SOUTH 76° 12' 47" EAST; THENCE SOUTHWESTERLY 13.23 FEET ALONG SAID CURVE AND SAID BOUNDARY THROUGH AN ANGLE OF 30° 19' 01"; THENCE CONTINUING ALONG SAID BOUNDARY SOUTH 44° 06' 14" WEST 103.60 FEET TO THE BEGINNING OF A CURVE IN SAID BOUNDARY CONCAVE NORTHERLY HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY AND NORTHWESTERLY 39.27 FEET ALONG SAID CURVE AND SAID BOUNDARY THROUGH AN ANGLE OF 90° 00' 00" THENCE NORTH 45° 53' 46" WEST ALONG SAID BOUNDARY AND ITS NORTHWESTERLY PROLONGATION 190.00 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 313.67 FEET; THENCE NORTHWESTERLY 111.43 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 20° 21' 13" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 121.38 FEET; THENCE NORTHWESTERLY 108.34 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 51° 08' 21"; THENCE NORTH 76° 40' 54" WEST 100.00 FEET; THENCE NORTH 75° 36' 41" WEST 53.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE

NORTHEASTERLY HAVING A RADIUS OF 66.00 FEET; A RADIAL TO SAID POINT BEARS SOUTH 13° 19' 06" WEST; THENCE NORTHWESTERLY 62.51 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 54° 16' 02" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY 9.19 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 22° 26' 33" TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF SANTA ROSA DRIVE AS SHOWN ON THE MAP OF SAID TRACT 6015; SAID POINT BEING ON A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 825.50 FEET; A RADIAL TO SAID POINT BEARS SOUTH 29° 13' 23" EAST; THENCE NORTHEASTERLY 190.16 FEET ALONG SAID CURVE AND SAID RIGHT OF WAY LINE THROUGH AN ANGLE OF 13° 11' 54"; THENCE NORTH 47° 37' 43" EAST 2.20 FEET CONTINUING ALONG SAID RIGHT OF WAY LINE TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 25.00 FEET THENCE NORTHEASTERLY AND SOUTHEASTERLY 38.96 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 89° 17' 26" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 6072.50 FEET AND THE SOUTHWESTERLY RIGHT OF WAY LINE OF SAID SAN JOAQUIN HILLS ROAD; THENCE SOUTHEASTERLY 329.29 FEET ALONG SAID CURVE AND SAID RIGHT OF WAY LINE THROUGH AN ANGLE OF 3° 06' 25" TO THE POINT OF BEGINNING.

EXCEPTING THAT PORTION SHOWN ON A MAP FILED IN BOOK 13, PAGE 41, PARCEL MAPS, RECORDS OF SAID COUNTY.

PARCEL F:

THE EASEMENT ON, OVER, UNDER AND ACROSS THE LAND DESCRIBED IN, AS MORE PARTICULARLY DESCRIBED IN, AND SUBJECT TO THE LIMITATIONS CONTAINED IN, THAT CERTAIN NEWPORT CENTER, BLOCK 500 EAST, DECLARATION OF ACCESS EASEMENTS DATED AS SEPTEMBER 19, 1984, MADE BY THE IRVINE COMPANY, A MICHIGAN CORPORATION, AND RECORDED ON SEPTEMBER 27, 1984, IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA AS INSTRUMENT NO. 84-402558, TO THE EXTENT SUCH EASEMENTS ARE APPURTENANT TO ANY OF THE ABOVE PARCELS A, B, C, D OR E DESCRIBED ABOVE.

PARCEL NO. 6: (APNS 442-081-13 AND 442-081-14)

PARCELS 1 AND 4, OF PARCEL MAP NO. 84-706, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 192, PAGES 1 AND 2 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Newport Center Block 600:

PARCEL 1: APN. 442-101-18

PARCEL 1, AS SHOWN ON EXHIBIT "B" ATTACHED TO LOT LINE ADJUSTMENT NO. 94-2 RECORDED MARCH 9, 1994 AS INSTRUMENT NO. 94-0167617 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL 2: APNS. 442-101-11 AND 442-101-16

PARCEL B AND PARCEL 4, AS SHOWN ON A PARCEL MAP FILED IN BOOK 196, PAGES 14 THROUGH 16 INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 3: APNS. 442-101-19, 442-101-20, 442-101-21, 442-101-22, 442-101-23, 442-101-24 AND 442-101-14

PARCELS 1 THROUGH 5 AND LETTERED LOTS A AND B, AS SHOWN ON A PARCEL MAP FILED IN BOOK 295, PAGES 33 THROUGH 40 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 4: APNS. 442-101-09 AND 442-101-13

PARCELS 1 AND 2 AS SHOWN ON EXHIBIT "B" ATTACHED TO CITY OF NEWPORT BEACH LOT LINE ADJUSTMENT NO. 2002-014 RECORDED JANUARY 9, 2003 AS INSTRUMENT NO. 2003000028579 OF OFFICIAL RECORDS.

San Joaquin Plaza:

PARCEL 1: APN. 442-261-16 and 442-261-03

PARCEL 3, AS SHOWN ON A MAP FILED IN BOOK 81 PAGES 8 AND 9 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM THAT PORTION OF SAID LAND LYING WITHIN PARCELS 1 THROUGH 4 AS SHOWN ON A MAP, FILED IN BOOK 175 PAGES 22 TO 24 OF PARCEL MAPS, RECORDS OF SAID COUNTY.

PARCEL 2: APN. 442-261-01

PARCEL 1, AS SHOWN ON A MAP FILED IN BOOK 34, PAGE 40 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 3: APN. 442-261-19

LOT 1 AS SHOWN ON EXHIBIT " B " ATTACHED TO CITY OF NEWPORT BEACH
LOT LINE ADJUSTMENT NO. 98-12 RECORDED DECEMBER 29, 1998 AS
INSTRUMENT NO. 19980898644 OF OFFICIAL RECORDS.

Fashion Island:

PARCEL A:

PARCELS 1 THROUGH 9 INCLUSIVE, IN THE CITY OF NEWPORT BEACH,
COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON PARCEL MAP NO.
86-399, AS SHOWN ON A MAP FILED IN BOOK 221, PAGES 30 THROUGH 36,
INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF
SAID COUNTY.

PARCEL B:

LOTS 13 THROUGH 17 INCLUSIVE AND LOTS "Q", "R", "S", "U", "R-1", "R-2"
AND "R-3", OF TRACT NO. 6015, IN THE CITY OF NEWPORT BEACH, COUNTY OF
ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 239, PAGES
28 TO 41 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY
RECORDER OF SAID COUNTY.

PARCEL C:

PARCEL 1, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE
OF CALIFORNIA, AS SHOWN ON A PARCEL MAP FILED IN BOOK 67, PAGES 2 AND
3 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID
COUNTY.

PARCEL D:

PARCEL 1, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE
OF CALIFORNIA, AS SHOWN ON A PARCEL MAP FILED IN BOOK 75, PAGE 48 OF
PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL E:

PARCEL 4 OF PARCEL MAPS, AS SHOWN ON A MAP FILED IN BOOK 67,
PAGES 2 AND 3 OF PARCEL MAPS AND LOT "W" OF TRACT NO. 6015, AS PER MAP
RECORDED IN BOOK 239, PAGE 28 THROUGH 41 OF MISCELLANEOUS MAPS, ALL
IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA,
IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING WITHIN
THE LAND DESCRIBED AS PARCELS 1 AND 2 OF THE CERTAIN LOT LINE
ADJUSTMENT N.B.L.L.A. 87-3, RECORDED NOVEMBER 13, 1987 AS INSTRUMENT
NO. 87-640346, OFFICIAL RECORDS OF SAID COUNTY.

PARCEL F:

ALL EASEMENTS, RIGHTS, BENEFITS AND PRIVILEGES (INCLUDING ALL EASEMENTS OF USE, SUPPORT, ATTACHMENTS, ACCESS, PEDESTRIAN AND VEHICULAR PASSAGE, ENCROACHMENT, AND OF ERECTION AND MAINTENANCE OF UTILITY LINES) IN FAVOR OF AN FOR THE BENEFIT OF PARCELS A, B, C, D, AND E ABOVE, ALL SET FORTH IN (A) THAT CERTAIN AMENDMENT IN ITS ENTIRETY AND RESTATEMENT OF DECLARATION OR RESTRICTIONS AND ESTABLISHMENT OF EASEMENTS DATED AS OF MARCH 26, 1976 BY AND AMONG THE IRVINE COMPANY, A MICHIGAN CORPORATION ("CHH"), ADCOR REALTY CORPORATION, A NEW YORK CORPORATION ("ADCOR"), AND FEDERATED DEPARTMENT STORES, INC., A DELAWARE CORPORATION ("FEDERATED"), AND RECORDED ON MARCH 26, 1976 IN BOOK 11687, AT PAGES 1012 THROUGH 1043, INCLUSIVE, OF THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA AS AMENDED BY THAT CERTAIN FIRST AMENDMENT TO RESTATED DECLARATION OF RESTRICTIONS AND ESTABLISHMENT OF EASEMENTS DATED AS OF MARCH 29, 1988 BY AND AMONG IRVINE, CHH, ADCOR, FEDERATED AND THE NEIMAN-MARCUS GROUP, INC., A DELAWARE CORPORATION (SUCCESSOR IN INTEREST TO CHH AS TO THE "NEIMAN-MARCUS SITE", AS DEFINED IN SUCH INSTRUMENT), AND RECORDED MAY 9, 1988 AS INSTRUMENT NO. 88-213609, OFFICIAL RECORDS.

PARCEL G:

A NON-EXCLUSIVE EASEMENT IN GROSS ON, OVER, UNDER OR ACROSS THE LAND OF THE PURPOSES SHOWN AS EXISTING OR PROPOSED ON ANY HERETOFORE RECORDED PARCEL OR TRACT MAP OF THE LAND OR ANY PORTION THEREOF, INCLUDING BUT NOT LIMITED TO (1) THE INSTALLATION, EMPLACEMENT AND MAINTENANCE OF ELECTRIC, GAS, TELEPHONE, CABLE TELEVISION, WATER GAS, SANITARY SEWER LINES, DRAINAGE FACILITIES OR ANY OTHER UTILITIES, TOGETHER WITH THE RIGHT TO ENTER UPON THE LAND (WITHOUT UNREASONABLY INTERFERING WITH REASONABLE USE AND ENJOYMENT THEREOF) IN ORDER TO SERVICE, MAINTAIN, REPAIR, RECONSTRUCT, RELOCATE OR REPLACE ANY OF SUCH LINES OR FACILITIES; AND (II) INGRESS AND EGRESS OVER ANY PUBLIC OR PRIVATE BICYCLE AND PEDESTRIAN TRAILS OR OTHER SPECIFIC DESIGNATED USE AREAS, IF ANY, AS RESERVED IN THE DEED RECORDED APRIL 19, 1979 IN BOOK 13111, PAGE 430, OFFICIAL RECORDS.

PARCEL H:

A NON-EXCLUSIVE EASEMENT ON, OVER, UNDER OR ACROSS THE LAND WITHIN THE SETBACK AREAS DESCRIBED IN SECTION 3(K) OF THE DEED REFERRED TO BELOW EXTENDING INWARD FROM ALL PROPERTY LINES BORDERING ON ANY PUBLIC OR PRIVATE STREET FOR THE INSTALLATION,

EMPLACEMENT, REPLACEMENT, REPAIR, OPERATION AND MAINTENANCE OF ELECTRIC, TELEPHONE, CABLE TELEVISION, WATER, GAS, SANITARY SEWER LINES, DRAINAGE FACILITIES OR ANY OTHER UTILITIES, AND ALL VAULTS, FENCES, HEDGES, TREES, LAWNS, PLANTINGS OR OTHER LANDSCAPING, TRAFFIC OR OTHER SIGNALS, SLOPES, CURBS, GUTTERS, SIDEWALKS, SIGNS, MONUMENTS OR MAKERS OR SIMILAR IMPROVEMENTS OR FACILITIES AS SHOWN ON THE PLAN ATTACHED THERETO OR AS OTHERWISE APPROVED BY GRANTEE FROM TIME TO TIME, WHICH APPROVAL SHALL NOT BE UNREASONABLY WITHHELD, AS RESERVED IN THE DEED RECORDED APRIL 19, 1979 IN BOOK 1311, PAGE 430, OFFICIAL RECORDS.

APNS: 442-021-16, 442-021-08, 442-021-28, 442-021-29, 442-021-27, 442-021-36, 442-021-30, 442-021-10, 442-021-34, 442-021-35, 442-021-32, 442-021-31, 442-021-26, 442-021-25, 442-021-17, 442-021-11, 442-021-33, 442-021-21 AND 442-021-13.

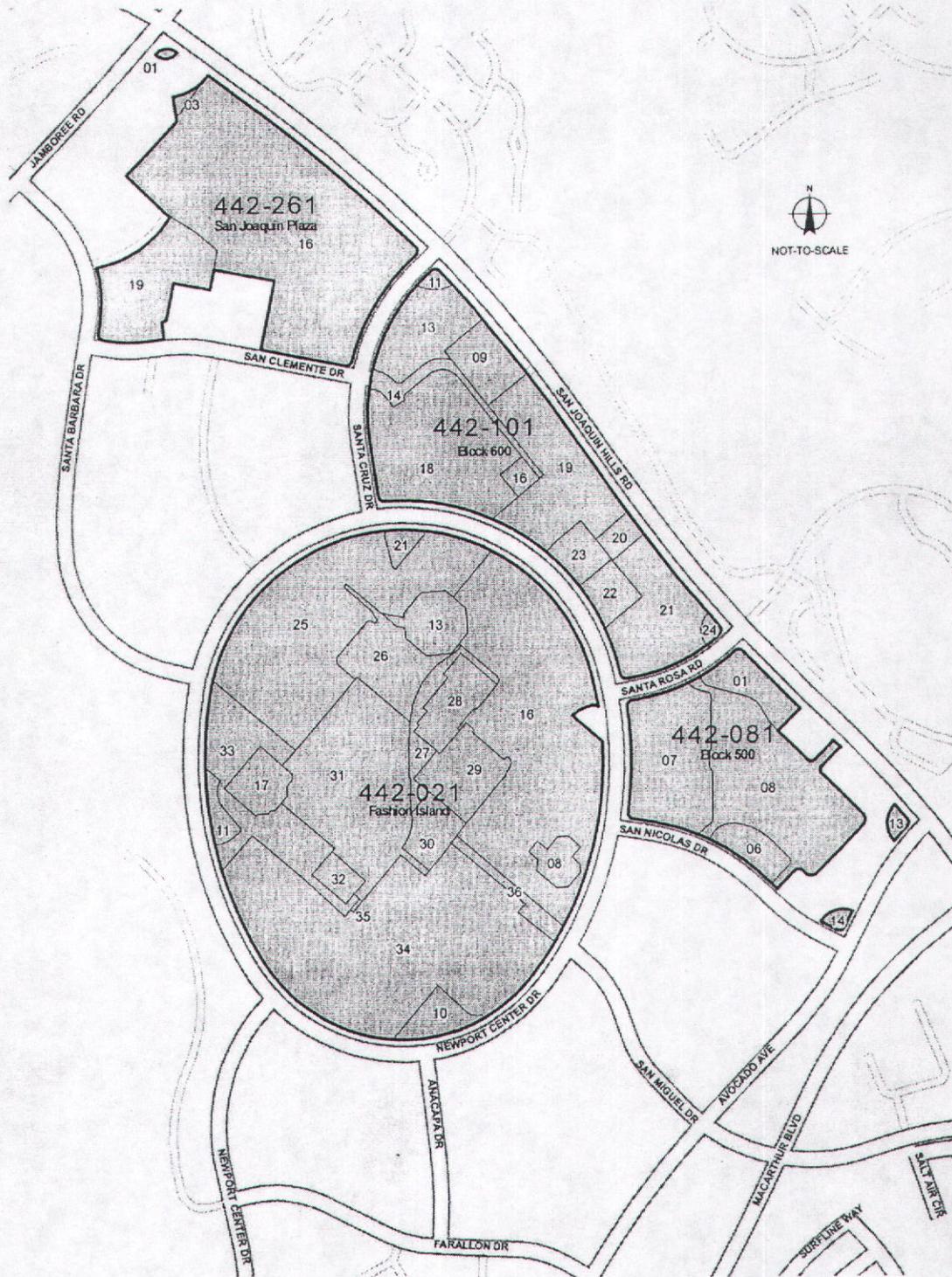


EXHIBIT B:

DEPICTION OF PROPERTY

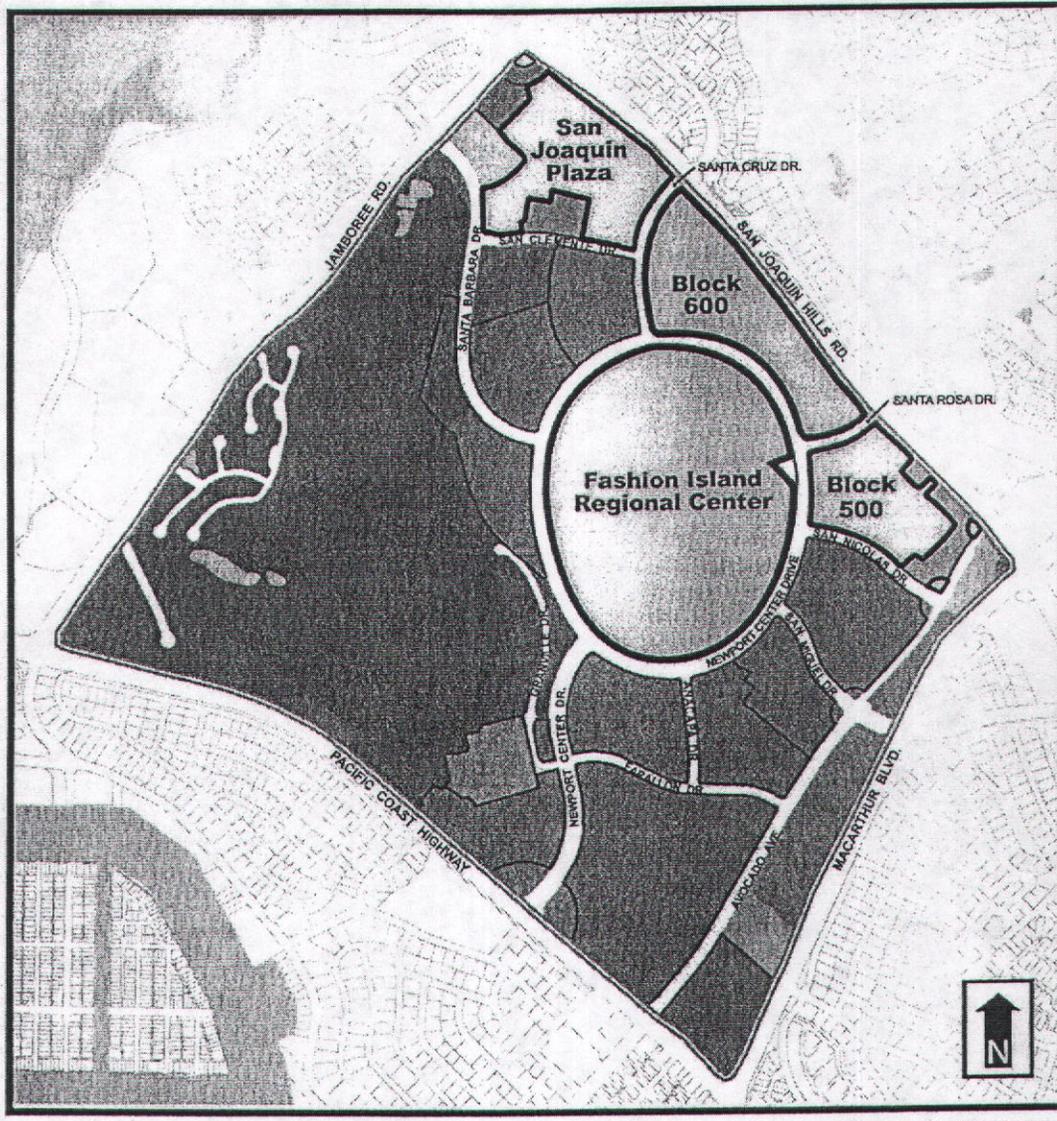


EXHIBIT C:

**DEVELOPMENT STATUS, TRANSPORTATION IMPROVEMENTS
AND OPEN SPACE DEDICATIONS UNDER
CIOSA AND THE BONITA CANYON DEVELOPMENT AGREEMENT**

CIOSA

<i>Open Space Dedication Requirement:</i> 138.1 acres	<i>Actual Open Space Conveyed/Offered:</i> 146.0 acres	<i>Completion Status:</i> 106%
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<i>Transportation Improvements Required:</i>	<i>Total Program Funding Requirement:</i>	<i>Expended or Committed to Date:</i>	<i>Amount Available for Future Projects:</i>
Frontage Improvements	\$5,220,360	\$5,220,360	\$0
Fair Share Contribution	\$1,398,428	\$1,398,428	\$0
Advancement	\$14,295,572	\$12,191,740	\$0
Total	\$21,014,360	\$21,014,360	\$0
Outside Funds Used to Complete CIOSA Improvements	\$0	<u>\$30,108,183</u>	
Total CIOSA Related Funding Expended		\$51,122,543	

<i>Approved Development:</i>	<i>Completed Development:</i>	<i>Completion Status:</i>
1076 residential units	945 residential units	88%
94,000 office square feet	94,000 office square feet	100%
30,000 regional retail square feet	30,000 office square feet	100%
68 hotel units	0 hotel units	0%

BONITA CANYON DEVELOPMENT AGREEMENT

<i>Park Dedication Requirement:</i>	<i>Completion Status:</i>
Acquisition and improvement of Bonita Canyon Sports Park	100%

<i>Transportation Improvements Required:</i>	<i>Completion Status:</i>
Dedication of required right of way and widening of Bonita Canyon Road, Bison Road, and MacArthur Boulevard	100%

<i>Approved Development:</i>	<i>Completed Development:</i>	<i>Completion Status:</i>
1521 residential units	1339 residential units	88%
55,000 general commercial square feet	54,000 general commercial square feet	98%

<i>Approved Development:</i>	<i>Completed Development:</i>	<i>Completion Status:</i>
1076 residential units	945 residential units	88%
94,000 office square feet	94,000 office square feet	100%
30,000 regional retail square feet	30,000 office square feet	100%
68 hotel units	0 hotel units	0%

EXHIBIT D:

**NORTH NEWPORT CENTER
PLANNED COMMUNITY**

**AFFORDABLE HOUSING
IMPLEMENTATION PLAN**

**Prepared For:
The City of Newport Beach**

November 2007

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I. Introduction

The North Newport Center Planned Community (Planned Community) approval by the City of Newport Beach includes a Planned Community Development Plan that implements the goals and policies of the City's General Plan. The Planned Community, as shown on Exhibit 1, consists of four sub-areas within North Newport Center, a regional center comprised of major retail, professional office, entertainment, recreation, hotel and residential development.

Block 500, Block 600 and San Joaquin Plaza are designated in the General Plan as MU-H3, a designation which allows for a mixed-use area combining commercial, office, entertainment and residential uses. The Planned Community Development Plan for North Newport Center allows construction of 430 residential units in these blocks, and affordable housing units must be provided in accordance with City Housing Element. This Affordable Housing Implementation Plan (AHIP) outlines how the required affordable housing will be provided.

Background

The City's Housing Element includes a goal that 15% of all new housing units in the City be affordable to very low, low and moderate income households. The Housing Element identifies moderate income households as those with annual incomes between 80% and 120% of the county median household income. Low income households are those with annual incomes between 51% and 80% of the county median household income. Very low income households are those with annual incomes of 50% or less of the County median household income. Projects with more than 50 units are required to prepare an AHIP that specifies how the development will meet the City's affordable housing goal.

The Southern California Association of Governments (SCAG) prepares the state-mandated Regional Housing Needs Assessment (RHNA). The RHNA quantifies the need for housing within each jurisdiction during specified planning periods. The City's General Plan Housing Element must include its "fair share" regional housing needs allocation for all income groups which must be updated periodically. The most recently published SCAG RHNA identifies the City allocation as follows:

- Total allocation between 1/1/06 and 6/30/14 – 1,784
- Very low income allocation – 22% (392 units)
- Low income allocation – 18% (321 units)
- Moderate income allocation – 20.3% (362 units)

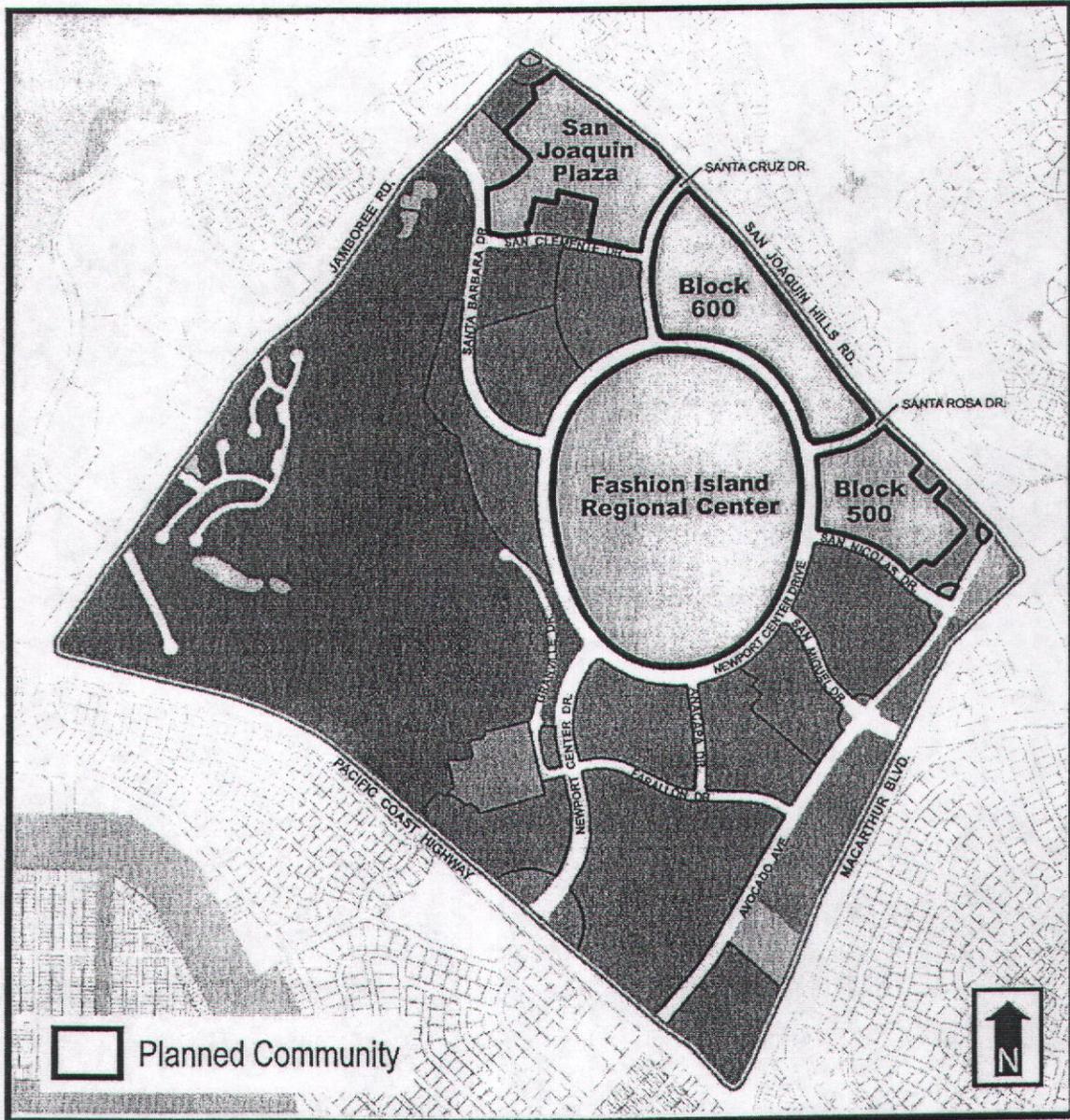


Exhibit 1 - North Newport Center Planned Community

II. Affordable Housing Plan

Proposed Plan

The City's General Plan Housing Element allows for sale or for rent options in order to meet the obligation for affordable housing units. In addition, affordable housing may be provided off-site, with City approval. Consistent with these Housing Element provisions, this Affordable Housing Implementation Plan includes the following options. Locations of the sites are included on Exhibit 2.

A. New Construction

The Irvine Company is the owner of a 0.75-acre parcel of land located at the former Child Time Center near the intersection of San Joaquin Hills Road and San Miguel Avenue. The site is designated in the Newport Beach General Plan for Multiple Residential with a density of 10 units. With a density bonus for affordable housing, the site could accommodate 14 multi-family units. The Irvine Company may construct 14 housing units on this site to be offered for sale or for rent. If this option is selected, The Irvine Company will record a legal deed restriction on the property which insures the units will meet the affordability requirements for a period of at least 30 years.

The units must be rented to households qualifying as very low, low or moderate income households. The annualized rents chargeable for occupancy of the Affordable Units shall not exceed thirty percent (30%) of the amount of Very Low, Low or Moderate Income. The sales price of affordable for sale units shall not exceed three times the income limits.

The restriction on these units, tenant selection procedures, monitoring, etc. will be included in an affordable housing agreement, which shall be submitted for review and approval by the City Attorney and recorded against the property.

B. Covenants on Existing Units

The Irvine Company owns The Bays, an apartment complex consisting of three buildings known as Baywood, Bayview and Bayport, which is shown on Exhibit 2. The total number of units in The Bays is 556. Forty-six units in Baywood are restricted as low-income units through 2011.

The Irvine Company will restrict tenant incomes and rental costs for housing units located in The Bays complex for a period of 30 years with a recorded document. The number of restricted units will be sufficient to provide the number of affordable units described later in this AHIP, depending on the income level to be served. The Irvine Company will identify which apartments are proposed to meet the affordable housing obligation, and will not use units that are under any other affordable housing covenant at the time they are proposed to meet the obligation for North Newport Center. The City will inspect the apartments designated to meet the affordable housing requirement to ensure compliance with relevant codes, proper maintenance and adequate

common areas. The Irvine Company will agree to make improvements, if necessary, to ensure viable housing for the 30 year period.

The units must be rented to households qualifying as very low, low or moderate income households. The annualized rents chargeable for occupancy of the Affordable Units shall not exceed thirty percent (30%) of the Very Low, Low or Moderate Income limits.

The restriction on these units, tenant selection procedures, monitoring, etc. will be included in an affordable housing agreement, which shall be submitted for review and approval by the City Attorney and recorded against the property(ies).

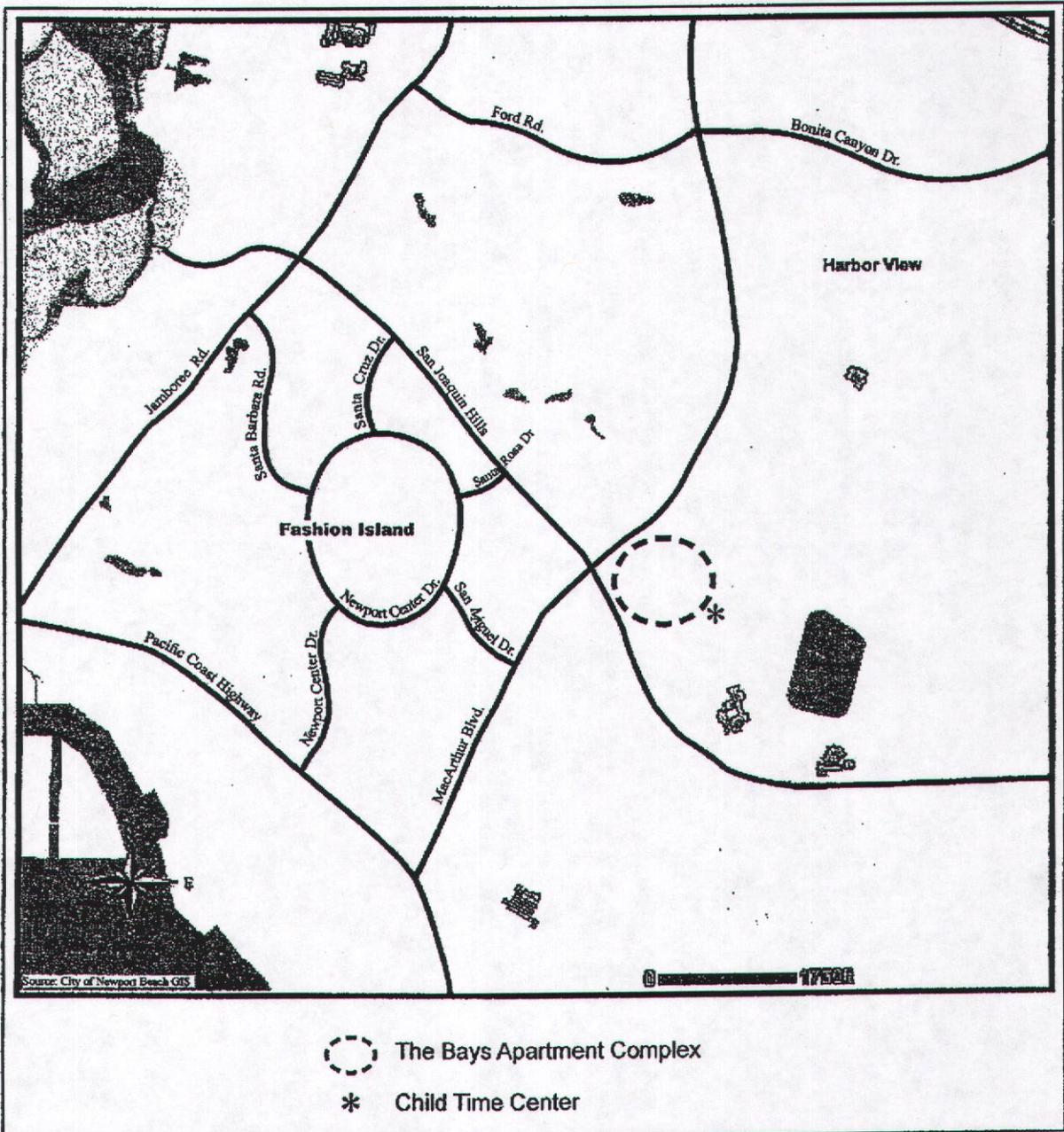


Exhibit 2 - Child Time Center and The Bays Apartment Complex Locations

Number of Affordable Units/Income Levels

The requirement for affordable housing shall be based on income categories. The Irvine Company will provide either very low, low or moderate income housing, or a combination of income categories, using the percentages shown in the table below.

INCOME CATEGORY	PERCENTAGE REQUIRED	TOTAL AMOUNT
Very Low	10%	43 units
Low	15%	65 units
Moderate	20%	86 units

Implementation

The affordable housing units required under this AHIP will be provided incrementally. The affordable units shall be phased as follows:

- Certificate of use and occupancy for 100th market rate unit / one-third of required units
- Certificate of use and occupancy for 200th market rate unit / one-third of required units
- Certificate of use and occupancy for 300th market rate unit / one-third of required units

Affordable housing agreements shall be executed and recorded at each phase identified above for any units constructed on the Child Time site and for designated affordable units in The Bays apartment complex prior to the point where a certificate of use and occupancy is issued for the related market rate units.

Conclusion

Implementation of this AHIP will result in the availability of affordable housing units as identified above within the City of Newport Beach in accordance with the City's Housing Element.

III. Consistency with Housing Element

The City of Newport Beach adopted a General Plan in 2006. A Housing Element was included in the General Plan in accordance with State law. The Housing Element identifies goals and programs for the provision of affordable housing in the City. The AHIP is intended to meet the specific goals of the Housing Element as follows:

Policy H2.1 Encourage preservation of existing and provision of new housing affordable to very low, low and moderate income households.

Program

2.1.2 Take all feasible actions, through use of development agreements, expedited development review and expedited processing of grading, building and other development permits, to ensure expedient construction and occupancy for projects approved with low and moderate income housing requirements.

The AHIP supports the City's requirement for the provision of affordable housing for all new development with more than 50 residential units. The Irvine Company has prepared a Development Agreement in accordance with this Policy/Program.

Policy H2.2 Encourage the housing development industry to respond to housing needs of the community and to the demand for housing as perceived by the industry, with the intent of achieving the Regional Housing Needs Assessment construction goals within five years.

Program

2.2.1 Require a proportion of affordable housing in new residential developments or levy an in-lieu fee. The City's goal over the five-year planning period is for an average of 15 percent of all new housing units to be affordable to very low, low and moderate-income households. The City shall either (a) require the payment of an in-lieu fee, or (b) require the preparation of an Affordable Housing Implementation Plan (AHIP) that specifies how the development will meet the City's affordable housing goal, depending on the following criteria for project size:

1. Projects of 50 or fewer units shall have the option of preparing an AHIP or paying the in-lieu fee.

2. Projects where more than 50 units are proposed shall be required to prepare an AHIP.

Implementation of this program will occur in conjunction with City approval of any residential discretionary permits or Tentative Tract Maps. To insure compliance with the 15 percent affordability requirements, the City will include conditions in the approval of discretionary permits and Tentative Tract Maps to require on-going monitoring of those projects.

Program

2.2.4 All required affordable units shall have restrictions to maintain their affordability for a minimum of 30 years.

As described in Section II, the affordable housing provided per the AHIP will meet the Housing Element requirement for the total affordable units required. The units will be deed restricted to remain affordable for a period of 30 years. In addition, the developer will provide periodic reports in the form required by the City. The provision of the affordable housing units will assist the City in meeting the RHNA construction goals.

In conclusion, the AHIP is consistent with the relevant goals and programs in the City's 2006 General Plan Housing Element.

IV. Amendments to the AHIP

This AHIP may be amended with the approval of the City Council. No modification of the General Plan requirement for affordable units is allowed, unless the requirement is reduced through an amendment to the General Plan prior to implementation of development.

V. Authority

The AHIP has been adopted by the City of Newport Beach per Resolution No. _____ on the ____ day of _____, 200_.

EXHIBIT E:

LOCATION OF OPTION SITE AND ASSOCIATED PARKING STRUCTURE

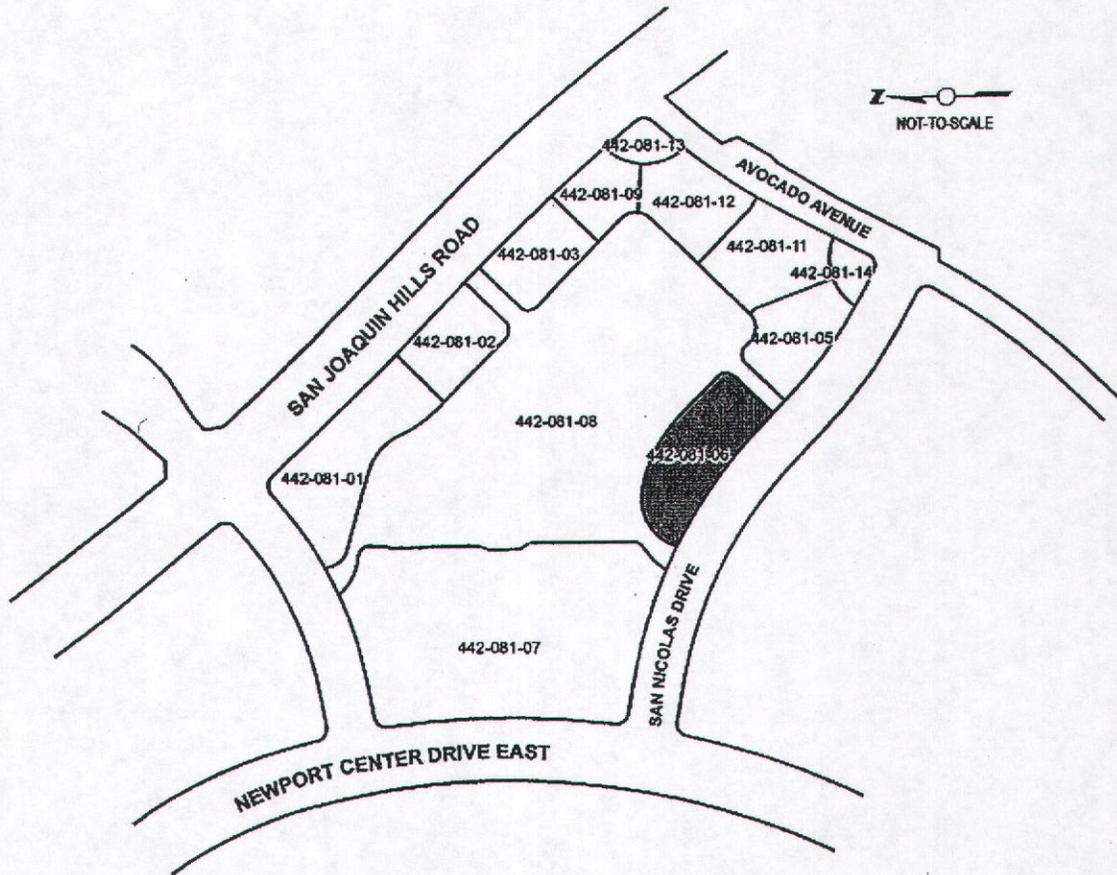


EXHIBIT F:
OPTION AGREEMENT

[Attached]

OPTION AGREEMENT

January 4, 2008
This OPTION AGREEMENT ("Agreement") is entered into as of this ~~_____~~ day of December 18, 2007, by and between THE IRVINE COMPANY LLC, a Delaware limited liability company, successor-in-interest to The Irvine Company, a Michigan corporation ("Optionor"), and the CITY OF NEWPORT BEACH, a California municipal corporation ("City").

RECITALS

A. Optionor is the owner of that certain real property located in the City of Newport Beach, County of Orange, State of California, consisting of (i) approximately 46,175 square feet of land area more particularly described in Exhibit "1-A" attached hereto (the "Legal Parcel") and (ii) the real property adjacent to said land area and described in Exhibit "1-B" attached hereto (the "Existing Adjacent Parcel"). The location of the Legal Parcel is depicted as the shaded parcel on the Site Map attached hereto as Exhibit "2".

B. Optionor and City desire to enter into this Agreement to provide for Optionor to grant to City and City to obtain from Optionor, upon the terms set forth in this Agreement, an option to purchase the Legal Parcel and a portion of the Existing Adjacent Parcel, with the total net land area not to exceed 54,000 square feet, the boundaries to be established by City in accordance with this Agreement (the Legal Parcel and said portion of the Existing Adjacent Parcel sometimes are referred to herein as the "Land"). The parties desire for the Land to be conveyed together with all improvements thereon, all easements, licenses, and interests appurtenant thereto, and all development rights, governmental approvals, and land entitlements, owned or held by Optionor, to the extent pertaining to the Land (collectively, the "Property").

C. City and Optionor are entering into this Agreement pursuant to Section 4.8.1 of that certain Zoning Implementation and Public Benefit Agreement between City and Optionor dated December 18, 2007 ("Development Agreement").

AGREEMENT

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, Optionor and City agree as follows:

1. OPTION TO ACQUIRE.

1.1 Survey, Legal Description of Land; Compliance with Subdivision Map Act. City shall have the right to establish the boundaries of the Land provided that (a) the boundaries shall not extend beyond the combined existing boundaries of the Legal Parcel, and the Existing Adjacent Parcel, (b) the Land shall not exceed 54,000 square feet of net land area (as defined below), and (c) to the extent the boundaries of the Land extend beyond the Legal Parcel, the shape and configuration of the Land shall be reasonably related to City's good faith efforts to design an efficient and functional City Hall on the Land and shall not unreasonably impair Landowner's ability to develop, use, and obtain ingress to and egress from the balance of the Existing Adjacent Parcel, as determined by Optionor in its reasonable discretion. By

OPTION AGREEMENT

Jan 18
2007
This OPTION AGREEMENT ("Agreement") is entered into as of this 18 day of December 18, 2007, by and between THE IRVINE COMPANY LLC, a Delaware limited liability company, successor-in-interest to The Irvine Company, a Michigan corporation ("Optionor"), and the CITY OF NEWPORT BEACH, a California municipal corporation ("City").

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September 30, 2008, City shall notify Optionor of the land area that City has determined will comprise the Land through an exhibit depicting the boundaries of the Land. If Optionor objects to said proposed boundaries, then Optionor shall so inform City by written notice within five (5) business days. The notice shall set forth with reasonable particularity the nature of Optionor's objections, and Optionor and City thereafter shall cooperate in good faith to develop mutually acceptable boundaries consistent with the intent set forth above. If Optionor does not object within said five (5) business day period, then Optionor shall be deemed to have approved the boundaries proposed by City. Within thirty (30) days after approval by Optionor of the boundaries for the Land, Optionor shall obtain and deliver to City a current survey of the Land consistent with said boundaries ("Survey") prepared by a licensed civil engineer or registered surveyor in accordance with the current ALTA/ACSM standards, and shall be certified to City, Optionor, and First American Title Company ("Title Company"). The Survey shall establish both the gross land area and net land area of the Property for purposes of confirming the Purchase Price pursuant to Section 2 of this Agreement. As used herein, the term "net land area" shall mean the gross land area of the Land excluding any areas around the perimeter of the Land that have been or are required to be dedicated to City for road or sidewalk purposes (i.e., if the legal parcel in which the Land is situated includes the half width of the abutting street). In addition, the Survey shall show a metes and bounds description of the Land, consistent with the boundaries approved by City and Optionor pursuant to the foregoing, and shall show all easements encumbering and easements appurtenant to the Land, visible or recorded, and roads and other means of physical and record ingress and egress to and from the Land. Within thirty (30) days after City's receipt of the Survey, City shall deliver written notice to Optionor approving or disapproving the same. In the event that City disapproves the Survey, said disapproval shall identify in detail any changes that are required to be made in order to obtain City's approval thereof and Optionor shall promptly make said changes, provided that (i) the land area of the Land as described in the metes and bounds description shall be consistent with boundaries approved by City and Optionor pursuant to the foregoing and (ii) the changes shall not require Optionor to take any actions, other than revision of the Survey, which would require Optionor to spend any monies or incur any obligations. Upon City's approval of the Survey, the term "Land" as used in this Agreement shall mean the land described in the approved metes and bounds description. City's approval of the Survey shall be for the purpose of establishing the metes and bounds description of the Land and the net land area for purposes of establishing the Purchase Price in accordance with Section 2, and shall not constitute City's approval of any easements or encumbrances on the Property.

The parties acknowledge that the Land is not an existing "legal lot" under the Subdivision Map Act. Accordingly, promptly following the approval of the Survey, Optionor and City shall take such steps as may be appropriate to effect such lot line adjustments as reasonably may be proposed by Optionor or City to (a) establish and/or confirm that the Land, as described and approved per the Survey, thereafter shall consist exclusively of one or more legal lots under the Subdivision Map Act, and (b) establish and/or confirm that any property adjoining the Land and retained by Optionor (any such property, the "Retained Property"), including any property that remains from a former legal lot after adjustments of boundary lines so as to establish the Land, thereafter shall consist exclusively of one or more legal lots under the Subdivision Map Act. At the request of Optionor and subject to any public review process, such steps may include any actions that reasonably may be required of City, at no cost to City, in order to establish or confirm that the Retained Property shall be in compliance with the Subdivision Map Act (e.g.,

the issuance by City of a certificate of compliance with respect to the Retained Property). The completion of the above described steps in accordance with applicable law sometimes is referred to herein as the "Subdivision Map Act Condition."

Optionor acknowledges that minor boundary adjustments may need to be made to the existing rights-of-way within the vicinity of the Land in order to accommodate the creation of the Land as a separate parcel and the construction of a City Hall thereon, and Optionor shall, within thirty (30) days after written request by City, dedicate to City the rights-of-way necessary to accommodate said boundary adjustments.

1.2 Grant of Option. Optionor hereby grants to City an option to purchase the Property upon all of the terms, covenants, and conditions contained in this Agreement ("Option") and in the Escrow Instructions to be executed in accordance with Section 1.5 below. The Option created hereby shall be irrevocable by Optionor and shall be binding upon the successors and assigns of Optionor. Optionor's granting of the Option to City shall be in consideration of City's performance of its obligations set forth in that certain Zoning Implementation and Public Benefit Agreement between Optionor and City dated December 18, 2007 (the "Development Agreement"), and City shall not be required to pay any option fee, or pay or provide any other consideration or purchase price for the Option. Contingent upon the occurrence of the Effective Date, as referred to in Section 11 of the Development Agreement, Optionor hereby represents and warrants to City that the Development Agreement has been duly executed and delivered by Optionor to City, that all steps and approvals have been taken and obtained under applicable law in order for the Development Agreement to become effective and to become the binding obligation of Optionor, and that the Development Agreement constitutes a valid and binding obligation of Optionor, fully enforceable against Optionor in accordance with its terms. Contingent upon the occurrence of the Effective Date, as referred to in Section 11 of the Development Agreement, City hereby represents and warrants to Optionor that the Development Agreement has been duly executed and delivered by City, that all steps and approvals have been taken and obtained under applicable law in order for the Development Agreement to become effective and to become the binding obligation of City, and that the Development Agreement constitutes a valid and binding obligation of City, fully enforceable against City in accordance with its terms.

1.3 Option Period. The term of this Option ("Option Period") shall commence on the Effective Date, as defined in Section 11 of the Development Agreement, and expire on the earliest of the following dates: (i) the date that is 48 months after the Effective Date; (ii) upon City's termination of this Agreement by delivery of written notice of termination to Optionor, which notice City shall have the right to deliver at any time during the Option Period prior to City's exercise of the Option; (iii) the date City's electorate approves and City implements an initiative restricting the location of a new City Hall building to a site outside of Newport Center Block 500, with such initiative to be deemed implemented upon the issuance of a certificate of occupancy for a City Hall building at that site; or (iv) the date (if any) upon which the Development Agreement ceases to be in full force and effect.

1.4 Conditions to Exercise of Option. City's right to exercise the Option shall be subject to the satisfaction of the following conditions: (i) the Effective Date under the Development Agreement shall have occurred, and the Development Agreement shall continue to

be in full force and effect, and (ii) City shall have awarded a contract for the construction of a new City Hall on the Property, which contract shall call for construction substantially consistent with the design adopted by the City pursuant to Section 6 of this Agreement.

1.5 Manner of Exercise of Option. In the event this Agreement has not earlier terminated pursuant to the provisions of Section 1.3 above, City shall have the right to exercise the Option during the Option Period by delivering to Optionor or Optionor's counsel written notice of City's election to acquire the Property, together with three (3) originals of the Agreement for Purchase and Sale of Real Property and Escrow Instructions in the form attached hereto as Exhibit "6" ("Escrow Instructions"), with each original of said Escrow Instructions fully executed by City and with (a) the blank in Section 2.1 of the Escrow Instructions completed with the Purchase Price, (b) the blank in Section 3.2(b) of the Grant Deed completed to reference the executed Escrow Instructions, (c) Exhibit "3" to the form of Grant Deed completed to reference the plans for the construction of the new City Hall, as adopted per Section 6 of this Agreement, (d) Exhibit "4" to the form of Grant Deed completed to reference the Conduit Area identified pursuant to Section 6 of this Option Agreement, and (e) Exhibit "5" to the form of Grant Deed be completed to reference the Parking Structure Site identified in the Development Agreement. Optionor shall thereupon promptly execute the Escrow Instructions, with Sections 5 and 6 initialed by Buyer and Seller, respectively, in the spaces provided, and deliver, within seven (7) days after receipt thereof, one fully executed original to City and one fully executed original to First American Title Company at its offices located at 2 First American Way, Santa Ana, CA 92707 ("Escrow Holder"), and shall retain one fully executed original for Optionor's records. Thereafter, Optionor and City shall cooperate in executing any additional and supplemental escrow instructions as may be required by the Escrow Holder to perform its duties with respect to the escrow, provided that in the event of any conflict between the form of Escrow Holder's standard escrow instructions and the Escrow Instructions, the Escrow Instructions shall govern. The date that the Escrow Instructions are executed and delivered by City to Optionor shall be the date inserted on the first page of the Escrow Instructions as the date of the Opening of Escrow. The Close of Escrow shall occur within thirty (30) days following the exercise of the Option by City, as more particularly provided in the Escrow Instructions.

1.6 Recordation of Memorandum. Within five (5) business days after the date the metes and bounds description of the Land is determined in accordance with Section 1.1 of this Agreement, Optionor shall execute and deliver to City a short form memorandum of this Agreement ("Memorandum") in the form attached hereto as Exhibit "3." Said Memorandum shall be completed to insert the Effective Date in the blank in Section 1 of the Memorandum. Upon receipt of the Memorandum from Optionor, City shall execute the Memorandum and cause it to be recorded in the Official Records of Orange County, California.

1.7 Document to Remove Cloud. This Agreement constitutes only an Option to purchase the Property, and although the Option granted hereby shall automatically terminate with respect to the Property unless exercised within the time and in accordance with the other provisions set forth herein, City agrees that upon termination or expiration of the Option Period or, if City timely exercises the Option but the Closing provided for in the Escrow Instructions does not occur for any reason other than an uncured material default by Optionor, City shall execute, acknowledge, and deliver to Optionor upon Optionor's request therefor, a quitclaim

deed or such other document(s) required by a reputable title company to remove any cloud from Optionor's title to the Property that might arise as a result of the Option.

2. PURCHASE PRICE.

In the event that City exercises the Option, the purchase price payable by City to Optionor for the Property shall be the sum of One Hundred Forty-Five Dollars (\$145.00) per square foot of net land area ("Purchase Price"). The net land area of the Property shall be determined by the Survey to be obtained by Optionor and approved by City pursuant to Section 1.1 of this Agreement. Within five (5) days after City's approval of the Survey as provided for in Section 1.1, City and Optionor each shall execute and deliver to the other a written instrument confirming the net land area of the Property and the Purchase Price resulting therefrom. Prior to executing the Escrow Instructions, the parties shall insert the amount of the Purchase Price into the blank in Section 2.1 of the Escrow Instructions. If City exercises the Option, the Purchase Price shall be paid by City to Optionor at the Closing in accordance with the terms set forth in the Escrow Instructions. As used herein, the terms "Closing," "Close of Escrow" and "Closing Date" shall have the meaning ascribed in Section 3.1 of the Escrow Instructions.

3. INSPECTIONS AND REVIEW.

3.1 Delivery of Property Documents. Within five (5) days after the date of this Agreement, Optionor shall deliver to City all documents, reports, agreements or other items which, to the knowledge of Optionor, are in Optionor's possession or control relating to the Property, including without limitation the following to the extent within the knowledge of Optionor (collectively, the "Property Documents"): all information and documents relating to the condition of the soils, groundwater, subsurface improvements, including without limitation building foundations and underground utility lines, and subsurface physical and environmental conditions on and under the Property, including copies of all asbestos, lead-based paint, soils, seismic, geologic, drainage, toxic waste, engineering, environmental and similar type reports and surveys; all information and documents relating to the physical and environmental condition of the structures located on the Property; any survey of the Property; and all engineering reports and studies relating to the physical and environmental condition of the Property. During the Option Period, Optionor shall promptly deliver to City any additional Property Documents that Optionor comes to possess or control after the date of this Agreement. Optionor makes no representations as to the accuracy or completeness of such information or to any analyses based on such information.

3.2 Condition of Title. Prior to the date of this Agreement, City reviewed that certain preliminary title report dated December 11, 2007, issued by the Title Company under Order No. 325913-SA1 ("Title Report"). City agrees it shall accept title to the Property on the Close of Escrow subject to the following title exceptions (collectively, the "Approved Title Exceptions"): (i) the standard printed exceptions and exclusions contained in the form of the Title Policy commonly used by Title Company; (ii) the exceptions disclosed as items 14 and 17 of the Title Report; (iii) the Grant Deed attached as Exhibit "B" to the Escrow Instructions; and (iv) any other exceptions to title that may be caused by City or that may be approved in writing by City in its sole and absolute discretion. If City exercises the Option to purchase the Property, Optionor shall be responsible for removing prior to the Close of Escrow all title exceptions that

do not constitute Approved Title Exceptions. Without City's written consent, Optionor shall not allow any new title exceptions or defects to be created that will not be eliminated or removed by Optionor prior to the Closing (if City timely exercises the Option).

3.3 Right of Entry. During the Option Period (and, if City timely exercises the Option, from that date until the Closing or the termination of the Escrow Instructions, whichever first occurs), City (either directly or through any of City's employees, representatives, agents, engineers, consultants, contractors, and designees) shall have the right to enter onto the Property to make such independent investigations, inspections, tests, reviews, studies or surveys as City deems necessary or appropriate, including without limitation, any desired investigations of the site work, soil, subsurface soils, drainage, seismic and other geological and topographical matters, and location of any asbestos, toxic substances, hazardous materials or wastes, provided, however, that: (i) all of the foregoing inspections, investigations, tests, etc. shall be performed by City at City's sole cost and expense; (ii) City shall not enter the Property for any such purposes unless it first has provided Optionor with evidence reasonably satisfactory to Optionor that City (and its employees, representatives, agents, engineers, consultants, contractors or designees, as the case may be) possess insurance reasonably acceptable to Optionor in scope and coverage to protect against damages or losses that may be suffered in connection with such activities, and that Optionor has been made an additional insured with respect to such policies; (iii) City shall provide written notice to Optionor at least 48 hours prior to inspection and any on-site inspection must be conducted in the company of a representative of Optionor; (iv) with respect to any invasive inspections, City shall obtain the prior written approval of Optionor prior to conducting such inspections, investigations, tests, etc. which approval shall not be unreasonably withheld, conditioned or delayed; (v) City shall, in a timely manner, repair any and all damage to the Property caused by such inspections, investigations, tests, etc. and return the Property as close as reasonably practicable to its original condition prior to City's entry, unless such repair would be legally prohibited under any environmental or other applicable laws (in which case City shall be responsible for reimbursing Optionor in full for the reasonable costs that would be required to repair and restore the Property to such standard, excluding the costs attributable to compliance with environmental and other applicable laws); (vi) City shall keep the Property free of all liens in connection with its inspection of the Property and shall cause all such liens to be removed immediately upon its being notified of same; and (vii) City shall not materially disrupt the ordinary course of Optionor's businesses and/or activities on the Property during any such inspections, investigations, tests, etc. (including without limitation parking of automobiles or any business or activities conducted by any tenants or other third parties on the Property with the permission of Optionor, although Optionor agrees that it shall cooperate reasonably with City (subject to any contractual limitations which may be binding upon Optionor) in order to permit City to undertake its desired inspections, inspections, tests, etc.). City shall indemnify, defend and hold harmless Optionor from and against any and all damage, liability or expense arising from the entries of City, its agents, contractors, consultants, and employees upon the Property; provided, that the foregoing indemnity shall not apply to any damage, liability or expense arising from or related to (a) the mere discovery of matters by City during its investigation of the Property, including any latent defects in or Hazardous Materials on or in the Property or any diminution in value of the Property as a result thereof, or (b) negligent or wrongful acts or omissions of the Optionor or its agents, representatives or employees.

4. REPRESENTATIONS AND WARRANTIES; CONDITION OF PROPERTY.

4.1 Optionor's Representations and Warranties. Optionor hereby makes the following representation and warranties as of the date hereof and acknowledges that the execution of this Agreement by City has been made and, if the Option is exercised, the acquisition by City of the Property will be made in material reliance by City on such covenants, representations and warranties:

(a) Power, Consents. Optionor has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, to perform its obligations hereunder and to consummate the transaction contemplated hereby, and all documents to be executed by Optionor hereunder, including the Escrow Instructions if City exercises the Option, are and at the time of Closing will be duly executed and delivered by Optionor, are and at the time of Closing will be legal, valid and binding obligations of Optionor enforceable against Optionor in accordance with their respective terms and do not and at the time of Closing will not violate any provision of any agreement or judicial order to which Optionor or the Property is subject. Optionor has obtained all necessary authorizations, approvals and consents to the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

(b) No Litigation. Optionor has not received written notice of any pending or threatened claims, allegations, lawsuits or governmental investigations of any kind, whether for personal injury, property damage, property taxes or otherwise affecting or relating to the Property, nor to the actual knowledge of Optionor, any such action or proceeding pending or threatened.

(c) Compliance with Laws. To Optionor's actual knowledge, the Property is not in violation of any applicable law, rule, statute, ordinance or regulation, and Optionor has not received any written notification from any applicable governmental authority having jurisdiction over the Property of any existing, past or potential violation of applicable law.

(d) Hazardous Materials. Optionor has no actual knowledge, and has not received any written notice or communication from any governmental agency having jurisdiction over the Property notifying Optionor, of the presence of surface or subsurface zone Hazardous Materials in, on, under or adjacent to the Property or any portion thereof (provided, however, that the parties acknowledge that Optionor has informed City of Optionor's understanding that those certain properties in the vicinity of the Land listed on Exhibit "4" may have experienced Hazardous Materials contamination problems, and that Optionor makes no representation, warranty or other assurance as to the nature, extent or status of such contamination problems, but rather encourages City to consider the consequences of the same during the course of its due diligence). The term "Hazardous Materials" shall mean (i) hazardous wastes, hazardous materials, hazardous substances, hazardous constituents, toxic substances or related materials, whether solids, liquids or gases, including, but not limited to, substances deemed as "hazardous wastes," "hazardous materials," "hazardous substances," "toxic substances," "pollutants,"

"contaminants," "radioactive materials," or other similar designations in, or otherwise subject to regulation under, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601 et seq.; the Toxic Substance Control Act ("TSCA"), 15 U.S.C. § 2601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1802; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 9601, et seq.; the Clean Water Act ("CWA"), 33 U.S.C. § 1251 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300 et seq.; the Clean Air Act ("CAA"), 42 U.S.C. § 7401 et seq.; the Hazardous Waste Control Law, California Health and Safety Code § 25025 et seq., the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code, Division 20, Chapter 6.8, the Hazardous Materials Release Response Plans and Inventory Act, California Health and Safety Code, Division 20, Chapter 6.95, The Underground Storage of Hazardous Substances Act, California Health and Safety Code, Division 20, Chapter 6.7, the Porter-Cologne Act, California Water Code § 13050 et seq. and in any permits, licenses, approvals, plans, rules, regulations or ordinances adopted, or other criteria and guidelines promulgated pursuant to the preceding laws or other similar federal, state or local laws, regulations, rules or ordinances now or hereafter in effect relating to environmental matters (collectively, "Environmental Laws"); including without limitation (A) petroleum, (B) refined petroleum products, (C) waste oil, (D) waste aviation or motor vehicle fuel, (E) asbestos, or (F) lead-based paint.

(e) Rights of Third Parties. Optionor has not entered into any lease or other agreement for possession or sale with any person or entity, except City, pursuant to which such person or entity has any interest or future right or interest to occupancy, possession or use of all or any portion of the Property, except for those agreements listed on Exhibit "5" or any other agreements that may be listed in the Title Report, all of which City is encouraged to review in accordance with the provisions of this Agreement.

(f) Bankruptcy. Optionor has not, and as of the Closing if City exercises the Option, Optionor shall not have (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 Optionor's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Optionor's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Optionor's assets, which remains pending as of such time, (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.

For purposes of this Agreement, whenever any representation, warranty, certification or other statement of Optionor is stated to be made to the "knowledge," "best knowledge," or "actual knowledge" of Optionor or any of its agents or representatives, such statement shall be deemed to refer to, and to be strictly limited and confined to, the present actual knowledge of Dan Miller, Senior Vice President, Entitlement & Public Affairs; Ron Keith, Executive Vice President, Commercial Property Development; and Danielle Sim, Senior Vice President, Property Operations, and without any obligation on the part of such persons to undertake any further investigation or inquiry (including without limitation any investigation or inquiry into

files or into the content or effect of applicable laws). In no event shall such individuals have any personal liability on account of such knowledge or their designation for purposes of this paragraph. If Optionor becomes aware of any act or circumstance which would materially change or render materially incorrect, in whole or in part, any representation or warranty made by Optionor under this Agreement, whether as of the date given or any time thereafter through the Closing Date and whether or not such representation or warranty was based upon Optionor's actual knowledge and/or belief as of a certain date, Optionor shall promptly deliver written notice of such changed fact or circumstance to City. In addition, if at any time prior to the termination of the Option Period or the close of the escrow provided for in the Escrow Instructions, whichever first occurs, any of the individuals specifically referred to in this paragraph ceases to be employed by Landowner or ceases to occupy his or her current job position in terms of responsibility with respect to the Property that is the subject of this Agreement, the person or persons then employed by Landowner who replace such person(s) in such job position(s) or capacity(ies) automatically shall be deemed to have been added to the list of persons specified above for purposes of the obligation of Optionor to promptly deliver such written notice to City of such changed fact or circumstance.

4.2 Survival. All representations and warranties contained in Section 4.1 shall be true and correct on the date hereof, and Optionor's liability for misrepresentation of or breach of warranty, representation or covenant, wherever contained in this Agreement, shall survive the execution and delivery of this Agreement and the Closing for a period of twelve (12) months from the Closing Date, and thereafter Optionor shall have no liability with respect thereto; and provided further, however, Optionor shall have no liability whatsoever to City with respect to a breach of any of the representations and warranties herein contained if City obtains knowledge of a fact or circumstance the existence of which would constitute a breach of Optionor's representations and warranties hereunder prior to the Closing Date and City proceeds to Closing, in which event each representation or warranty shall be deemed automatically amended to conform with the knowledge of City as of the Closing Date, and Optionor shall have no liability whatsoever for such previously inaccurate representation or warranty. For the purposes hereof, City shall be deemed to have knowledge of any fact or circumstance set forth in any environmental assessment, soils, geological, physical condition or other report received by City prior to Closing, and the representations and warranties herein contained shall be deemed automatically modified to the extent information contained in any environmental assessment, soils, geological, physical condition or other report received by City prior to Closing is inconsistent with the matters covered herein.

4.3 Disclaimer of Further Representations or Warranties: AS-IS Sale. If City elects to exercise the Option to acquire the Property, City acknowledges it will have had an adequate opportunity to review, enter, inspect and assess the Property and the Property Documents, and all aspects thereof, including without limitation the Property's physical characteristics and conditions, the nature and extent of any environmental contamination within the Property (and of any steps to remediate the same), the condition of the soils within the Property, the geological condition of the Property and the relative seismic risks pertaining to the Property, the availability or adequacy of access to the Property, the nature of any other properties surrounding or within the vicinity of the Property, and all other matters related or relevant to the Property, the acquisition thereof or the development thereof. Upon the Close of Escrow, and except as otherwise expressly provided in this Agreement, City shall be deemed to have waived

any and all objections to any of the foregoing matters and to have accepted the Property in its present "AS-IS," "WHERE-IS," "WITH ALL FAULTS" condition; provided, however, that nothing in this Section 4.3 is intended to limit or restrict Optionor's representations and warranties set forth in Section 4.1 or City's right to rely upon the same and its remedies for Optionor's breach thereof for the period of time set forth in Section 4.2.

5. OPTIONOR'S COVENANTS.

During the period between the execution of this Agreement and the expiration of the Option Period (and, if City timely exercises the Option, from that date until the Closing), (i) Optionor shall not further encumber or place any further liens or encumbrances on the Property, including, but not limited to, covenants, conditions, restrictions, easements, liens, leases, tenancies, or other possessory interests without the prior written consent of City which consent may be withheld by City in its sole discretion; provided, however, that City agrees that City's consent shall not be required, and Optionor shall have the right to proceed with, any such encumbrances which by their terms shall terminate or be terminable by Optionor at or before the Closing (and provided further that to the extent any such encumbrances cause any material damage to the Property, Optionor shall repair such damage at or before the Closing); (ii) Optionor shall not take any affirmative action to cause physical damage to the Property, and shall not place or authorize to be deposited, stored, or placed on, in, or under any portion of the Property any Hazardous Materials other than in strict compliance with applicable federal, state, and local environmental laws and as may be appropriate and necessary to maintain and repair the Property (e.g., the use of minor amounts of pesticides to control weeds); and (iii) Optionor shall not take or permit to be taken any actions constituting waste of the Property and shall maintain or cause to be maintained the Property in substantially the same condition as exists on the date of this Agreement and, except in the ordinary course of business, Optionor shall not make any alterations to the Property.

6. DESIGN AND CONSTRUCTION OF CITY HALL.

6.1 In the event City exercises the option and acquires the Property, all construction by City on the Property shall be completed at no cost to Optionor and shall be performed in a manner reasonably tailored to minimize the disruption of the operation of neighboring properties. With respect to the City Hall improvements to be initially constructed by City on the Property if City exercises the Option, City agrees (i) prior to the award of any design contract for the proposed improvements, Optionor shall have thirty (30) days to review and comment on the proposed improvements and design plan, and (ii) after the design plans have been completed and prior to soliciting public bids for such improvements, Optionor shall have sixty (60) days to review and comment on City's designed improvements or any significant changes thereto. Upon receipt of Optionor's comments, City shall give reasonable consideration to any suggestions provided by Optionor regarding the proposed improvements; provided, however, City is not required under this Agreement to implement any suggestions made by Optionor. City and Optionor acknowledge that it is mutually beneficial for the City Hall building and the Parking Structure (as such term is used in the Development Agreement) to be compatible in design and functionality. It is recognized that the City Hall is a unique civic building which should have a distinctive architectural style and that the style of City Hall, while distinctive, should incorporate elements of the design vocabulary referenced in the North

Newport Center Development Plan (as such term is used in the Development Agreement), including the design regulations included therein. While the design the City selects need not resemble an office building and may be distinctive, City agrees that the City Hall shall not be constructed in a post modern "deconstructivist" style out of character with the existing architectural style of North Newport Center, and further that the plans shall call for no more than 1,000 square feet of "Floor Area" (as hereinafter defined) within the building improvements within the City Hall building for each 4.17 parking spaces within the Parking Structure that, per the Development Agreement, have been granted to the City by easement for use in connection with the City Hall improvements on the Property. For purposes of this Option Agreement, the term "Floor Area" shall mean "Net Floor Area" as defined in the City of Newport Beach Municipal Code in effect as of the date hereof.

6.2 The parties acknowledge that the form of Grant Deed attached as Exhibit "B" to the Purchase Agreement calls for Optionor to reserve certain rights in the Land for the location of "Conduit" (as such term is used in said Grant Deed) reasonably necessary for development and operation of the Parking Structure or any other improvements being developed pursuant to the Development Agreement. In order to identify the area within the Land, if any, within which such Conduit may be located (the "Conduit Area"), the parties agree as follows:

(a) The Conduit Area shall be located within 10 feet of the exterior boundaries of the portions of the Land immediately adjacent to any public or private street.

(b) As Optionor proceeds with the design and development of the Parking Structure pursuant to the Development Agreement and/or City proceeds with the design and development of the City Hall building and related improvements on the Land, Optionor and City each shall have the right, in accordance with this clause (b) and clause (c) below, to reduce the scope of the Conduit Area, with an eye toward both providing reasonable opportunity for the laying of Conduit reasonably necessary for the Parking Structure and minimizing any undue interference with the ultimate location of the City Hall improvements upon the Land. The ultimate location of the Conduit Area shall be within the area described in clause (a) above; provided, however, that the location of the Conduit Area may be reduced with the approval of both Optionor and City, which approval shall not be unreasonably withheld, conditioned, or delayed by either party. In proceeding with development of the Parking Structure and the City Hall improvements, the parties shall have the right to rely on the Conduit Area as so approved in writing by Optionor and City.

(c) In connection with Optionor's provision of comments to proposed plans for the City Hall improvements in accordance with Section 6.1 above, Optionor further shall identify any encroachments of the proposed City Hall improvements upon the Conduit that Optionor proposes to construct or install within the Conduit Area, and the parties shall cooperate to mutually identify a revised Conduit Area to the extent reasonably appropriate (and subject to the interests of Optionor and City described in clause (b) above).

(d) The Conduit Area determined pursuant to the foregoing shall be delineated with reasonable precision and described in Exhibit "4" to the form of Grant Deed to be delivered pursuant to the Escrow Instructions.

7. LIKE-KIND EXCHANGE.

Notwithstanding anything to the contrary in this Agreement, City acknowledges and agrees that Optionor shall have the right at Closing, in lieu of receiving the Purchase Price for the sale of the Property, to exchange the Property (the "Tax-Free Exchange") in a transaction intended to qualify as a tax-free exchange under Section 1031 of the Internal Revenue Code of 1986, as amended from time to time, and any regulations, rulings and guidance issued by the Internal Revenue Service (collectively, the "Code"). If Optionor elects to effect a Tax-Free Exchange pursuant to this Section, Optionor shall provide written notice to City prior to Closing, in which case Optionor shall enter into an exchange agreement and other exchange documents with a "qualified intermediary" (as defined in Treas. Reg. § 1.1031(k)-1(g)(4) of the Code) (the "Exchange Party"), pursuant to which Optionor shall assign all of its right, title and interest under this Agreement to the Exchange Party. City shall execute and deliver such documents as may be required to complete the transactions contemplated by the Tax-Free Exchange which are in form and substance reasonably acceptable to City, and otherwise cooperate with Optionor in all reasonable respects to effect the Tax-Free Exchange. City agrees that if Optionor elects to effect a Tax-Free Exchange pursuant to this Section, at Closing, City shall pay the Purchase Price to the Exchange Party and direct Escrow Agent to disburse the Purchase Price to the Exchange Party. Notwithstanding the foregoing, (i) the Tax-Free Exchange shall not diminish City's rights, nor increase City's liabilities or obligations, under this Agreement, nor delay the Closing; (ii) Optionor shall pay for all fees, costs and expenses in connection with the Tax-Free Exchange; (iii) the purchase and sale of the Property shall not be conditioned upon the consummation of the 1031 exchange; (iv) in no event shall Optionor be relieved from liability under the Agreement or the Escrow Instructions to be executed in connection herewith including, without limitation, with respect to representations and warranties of Optionor to City under this Agreement and its exhibits (to the extent the same by their terms survive the Closing); (v) the consummation of the 1031 exchanges shall be at no liability, risk, fee or expense to the City; and (vi) the Optionor shall protect, indemnify, defend and hold City free and harmless from all losses, costs, claims, liabilities, lawsuits, demands and damages, including any attorneys' fees and expenses, incurred as a consequence of effecting the transaction through the Tax-Free Exchange (rather than through the direct sale of the Property by Optionor to City).

8. MISCELLANEOUS.

8.1 Attorney's Fees. If either party commences an action against the other to enforce any of the terms of this Agreement or because of the breach by either party of any of the terms of this Agreement, the losing party shall pay to the prevailing party its expert witness fees and its reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, including appeal of and/or enforcement of a judgment.

8.2 Notices. All notices required to be delivered under this Agreement to the other party must be in writing and shall be effective (i) when personally delivered by the other party or messenger or courier thereof; (ii) three (3) business days after deposit in the United

States mail, registered or certified; (iii) twenty-four (24) hours after deposit before the daily deadline time with a reputable overnight courier or service; or (iv) upon receipt of a telecopy or fax transmission, provided a hard copy of such transmission shall be thereafter delivered in one of the methods described in the foregoing (i) through (iii); in each case postage fully prepaid and addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other parties hereto. Notices delivered after 5:00 PM on a business day shall not be deemed to have been delivered until the following business day. As used herein, business days shall exclude weekends and state and federal holidays. The parties' respective addresses for notices are as set forth below, (with such addresses subject to change from time to time if a notice of change of address is delivered in accordance with the notice provisions set forth herein:

To Optionor: The Irvine Company LLC
550 Newport Center Drive
Newport Beach, CA 92660-0015
Attn: General Counsel
Facsimile: (949) 760-0896

Copy to: Latham & Watkins LLP
600 West Broadway, Suite 1800
San Diego, CA 92101-3375
Attn: Christopher W. Garrett
Facsimile: (619) 696-7419

To City: City of Newport Beach
3300 Newport Boulevard
Post Office Box 1768
Newport Beach, CA 92663-3884
Attn: City Manager
Facsimile: (949) 644-3020

Copy to: City of Newport Beach
3300 Newport Boulevard
Post Office Box 1768
Newport Beach, CA 92663-3884
Attn: City Attorney
Facsimile: (949) 644-3139

8.3 Assignment. Neither party shall, whether voluntarily, involuntarily, or by operation of law, assign all or any part of this Agreement or any rights hereunder without the other party's written approval, which approval may be withheld in the other party's sole and absolute discretion; except that (a) Optionor may proceed with the Tax-Free Exchange in accordance with Section 7 hereof, and (b) City may assign its rights to another governmental entity controlled by City and solely for financing purposes (including without limitation a public financing authority), provided that (i) the nominee is a tax-exempt entity and (ii) City shall continue to be liable for all obligations of City hereunder and under the Escrow Instructions. Also, City may specify a tax-exempt nominee controlled by City to whom title will be conveyed

on the Closing Date if the Option is exercised. In connection with any assignment, any assignee shall execute all documents reasonably necessary to assume all of the obligations imposed under this Agreement as if the assignee were the original party to this Agreement.

8.4 Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Agreement.

8.5 Binding on Heirs. Subject to the limitations set forth in Section 8.3 above, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

8.6 Entire Agreement. With the exception of the Zoning Implementation and Public Benefit Agreement, and the Escrow Instructions if the Option is exercised by City, this Agreement contains the entire agreement of the parties hereto with respect to the matters covered hereby, and all negotiations and agreements, statements or promises between the parties hereto or their agents with respect to this transaction are merged in this Agreement, which alone expresses the parties' rights and obligations. No other prior agreements or understandings not contained or incorporated herein shall be binding or valid against either of the parties hereto.

8.7 Modification. Any amendments or modifications to this Agreement must be in writing and executed by both parties to this Agreement.

8.8 Waivers. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions thereof.

8.9 Interpretation; Governing Law; Forum. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Title and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. This Agreement shall be construed in accordance with the internal laws of the State of California in effect at the time of the execution of this Agreement without regard to conflict of law principles. Venue and jurisdiction of any action arising out of this Agreement shall exclusively be in any state or federal court sitting in the County of Orange, State of California.

8.10 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.11 Authority to Execute. Each individual executing this Agreement on behalf of a party hereto warrants that (i) such party is duly organized and existing, (ii) he or she is duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

8.12 Execution in Counterpart. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Option Agreement as of the day and year first above written.

“OPTIONOR”

THE IRVINE COMPANY LLC, a Delaware limited liability company

By: Richard I. Gilchrist

Its: President, Investment Properties Group

By: Daniel Young

Its: Executive Vice President

“CITY”

CITY OF NEWPORT BEACH,
a California municipal corporation

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT "1-A" TO OPTION AGREEMENT

LEGAL LOT INCLUDED WITHIN PARCEL

The real property described as A.P.N. 442-081-06

EXHIBIT "1-B" TO OPTION AGREEMENT

EXISTING ADJACENT PARCEL

The real property described as A.P.N. 442-081-08

EXHIBIT "2" TO OPTION AGREEMENT

SITE MAP

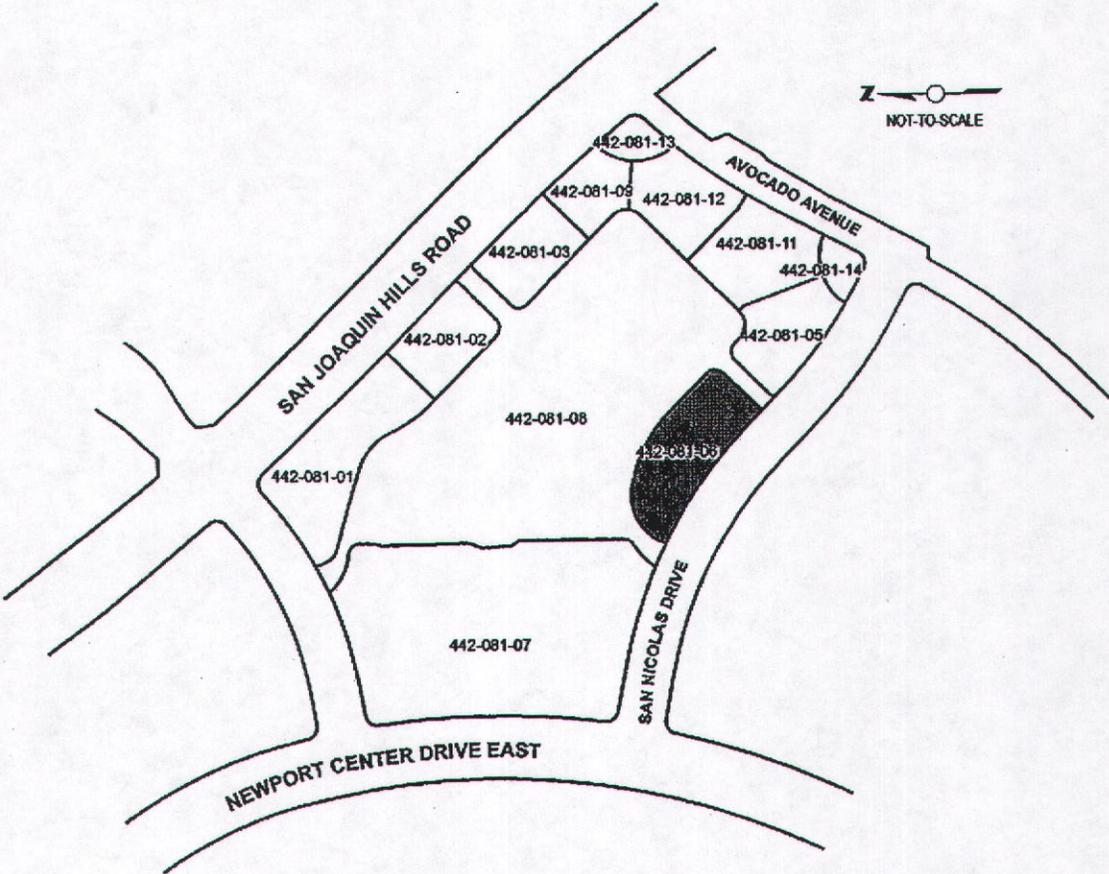


EXHIBIT "3" TO OPTION AGREEMENT

MEMORANDUM OF OPTION AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Newport Beach
3300 Newport Boulevard
Post Office Box 1768
Newport Beach, CA 92663-3884
Attn: City Clerk

(Space Above For Recorder's Use)

Exempt from the payment of a recording fee pursuant to
Government Code Sections 6103 and 27383.

MEMORANDUM OF OPTION AGREEMENT

By this MEMORANDUM OF OPTION AGREEMENT ("Memorandum") entered into as of the ____ day of _____, 2008, THE IRVINE COMPANY LLC, a Delaware limited liability company ("Optionor"), and CITY OF NEWPORT BEACH, a California municipal corporation ("City"), the parties hereby agree as follows:

1. Optionor has granted to City an option (the "Option") to acquire, that real property located in the City of Newport Beach, County of Orange, State of California, more particularly described in the legal description attached hereto as Exhibit "A" ("Property"), in accordance with and subject to the terms and conditions set forth in that certain unrecorded Option Agreement dated December ____, 2007 ("Option Agreement"). The Option Agreement has an "Effective Date" of _____. The terms and provisions of the Option Agreement are incorporated herein by this reference as if fully set forth below. Capitalized terms utilized in this Memorandum which are not expressly defined herein shall have the meaning given to them in the Option Agreement.

2. The Option to purchase shall terminate, to the extent not exercised, on the date set forth in the aforesaid Option Agreement and shall otherwise be subject to the terms and conditions contained therein. In any event, this Memorandum shall terminate no later than forty-eight (48) months after the Effective Date.

3. This Memorandum is intended only to memorialize the existence of the Option Agreement and does not constitute an amendment or modification thereof. In the event of any inconsistency between this Memorandum and the terms and conditions set forth in the Option Agreement, the Option Agreement shall prevail and control.

[signature page follows]

IN WITNESS WHEREOF, Optionor and City have entered into this Agreement as of the date set forth above.

"OPTIONOR"

**THE IRVINE COMPANY LLC, a Delaware
limited liability company**

By: _____

Its: _____

By: _____

Its: _____

"CITY"

**CITY OF NEWPORT BEACH,
a California municipal corporation**

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

State of California
County of Orange

On _____ before me,
_____, 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)

State of California
County of Orange

On _____ before me,
_____, 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)

State of California
County of Orange

On _____ before me,
_____, 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" TO MEMORANDUM

LEGAL DESCRIPTION OF PROPERTY

That certain real property located in the City of Newport Beach, County of Orange, State of California, described as follows:

[to be inserted]

EXHIBIT "4" TO OPTION AGREEMENT

DISCLOSURE RE: NEARBY PROPERTIES WITH POTENTIAL CONTAMINATION HISTORIES

In the area of the Land, Optionor is aware of certain sites that may have experienced a hazardous substance contamination problem. These sites are identified and discussed below. Optionor's awareness of these sites is based either on a current or prior ownership of the property, or because the condition was otherwise brought to Optionor's attention, but Optionor makes no representation or warranty as to the accuracy of the information within this Exhibit. Further, while Optionor is providing this information as a courtesy to City, this information should not be viewed as an exhaustive listing of environmentally contaminated properties within the vicinity of the Land, or of the nature or extent of any such contamination.

It is recommended that City satisfy itself as to the effect of the sites described herein (or any other sites) on the condition of the Land.

Bayside Cleaners

1056 S. Bayside Drive, Newport Beach, CA

During a preliminary investigation, low concentrations of the dry cleaning solvent PCE was detected in site soils. Orange County Health Care Agency has issued a "No Further Action" letter with Regional Water Quality Control Board concurrence.

Chevron Service Station

Jamboree/ San Joaquin Hills Roads, Newport Beach, CA

Chevron experienced a petroleum product release from their underground fuel storage tank system resulting in contamination of site soils and groundwater. Site investigations and some remedial work have been conducted. Additional information concerning the status of this site can be obtained from regulatory agencies.

Former Texaco Service Station

Jamboree/San Joaquin Hills Road, Newport Beach, CA

Texaco experienced a petroleum product release from their underground fuel storage tank system resulting in contamination of site soils and groundwater. Texaco has conducted site investigations, and groundwater monitoring under regulatory agency oversight. Shell Oil is currently operating the station. Additional information concerning the status of this site can be obtained from regulatory agencies.

Former Mobil Service Station

Jamboree/Pacific Coast Highway, Newport Beach, CA

Mobil experienced a petroleum product release from their underground fuel storage tank system resulting in contamination of site soils and groundwater. The station was demolished in March

1988, and subsequent remedial activities conducted. Mobil has received site closure from the Orange County Health Care Agency and Regional Water Quality Control Board.

Former Shell Service Station

Jamboree/Pacific Coast Highway, Newport Beach, CA

Shell experienced a petroleum product release from their underground fuel storage tank system resulting in contamination of site soils and groundwater. The station was demolished in July 1984, and Shell has conducted site investigations, and groundwater monitoring under regulatory agency oversight is continuing.

Newport Center Cleaners

521 Newport Center Drive, CA.

During a preliminary investigation, low concentrations of the dry cleaning solvent PCE was detected in site soils. Orange County Health Care Agency has issued a "No Further Action" letter with Regional Water Quality Control Board concurrence.

The Island Hotel (formerly Four Seasons Hotel)

690 Newport Center Drive, Newport Beach, CA

Four Seasons experienced a petroleum product release from their underground fuel storage tank. Site soils have been remediated; however, groundwater monitoring is being conducted under Orange County Health Care Agency oversight.

Newport Auto Center

445 East Coast Highway, Newport Beach, CA

Newport Auto Center experienced a petroleum product release from their underground fuel storage tank system resulting in contamination of site soils and groundwater. The underground tanks have been removed, and subsequent remedial activities conducted. Quarterly monitoring and reporting to regulatory agencies is continuing pending site closure.

EXHIBIT "5" TO OPTION AGREEMENT

LIST OF AGREEMENTS

NONE

EXHIBIT "6" TO OPTION AGREEMENT
AGREEMENT FOR PURCHASE AND SALE
OF REAL PROPERTY AND ESCROW INSTRUCTIONS

Escrow No. _____

Date of Opening of Escrow: _____
To: First American Title Company ("Escrow Holder")
2 First American Way
Santa Ana, CA 92707
Attention: _____, Escrow Officer
Telephone: _____

This AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS ("Agreement") is made this ____ day of _____, ____ by and between THE IRVINE COMPANY LLC, a Delaware limited liability company ("Seller"), and CITY OF NEWPORT BEACH, a California municipal corporation ("Buyer").

RECITALS:

A. Seller is the owner of that certain real property comprised of approximately 54,000 square feet of land area, located in the City of Newport Beach, County of Orange, State of California, more particularly described in Exhibit "A" attached hereto ("Property").

B. Seller and Buyer previously executed that certain Option Agreement dated December ____, 2007. All of the terms, conditions, provisions and covenants of the Option Agreement are incorporated in this Agreement by reference as though written out at length herein and the Option Agreement and this Agreement shall be deemed to constitute a single instrument or document. Capitalized terms used herein and not otherwise defined shall have the same meaning as set forth in the Option Agreement.

C. By its execution of this Agreement, Buyer has exercised its option to purchase the Property.

NOW, THEREFORE, the parties hereto agree as follows:

1. Purchase and Sale of Property. Subject to all of the terms, conditions, and provisions of this Agreement, and for the consideration herein set forth, Seller agrees to convey the Property to Buyer and Buyer agrees to purchase the Property from Seller.

2. Purchase Price.

2.1 Amount of Purchase Price. The purchase price which Seller agrees to accept and Buyer agrees to pay for the Property is _____, and shall not be subject to any escalation or increase for any reason. The Purchase Price is all-inclusive of Seller's interest in the Property and the rights and obligations which exist or may arise out of the acquisition of the Property, as more fully explained in Section 6 of this Agreement.

2.2 Payment of Purchase Price. On the Closing Date, Buyer shall deposit with Escrow Holder in "good funds" payable to Seller a sum equal to the Purchase Price. The term "good funds" shall mean a wire transfer of funds, cashier's or certified check drawn on or issued by the offices of a financial institution located in the State of California, or cash.

3. Escrow

3.1 Opening of Escrow; Closing Date. Pursuant to Section 1.5 of the Option Agreement, the Escrow shall be deemed opened on the date that Buyer executed and delivered this Agreement to Seller and that date shall be inserted on the first page of this Agreement as the date of the Opening of Escrow. Escrow shall close on or before the date that is thirty (30) days after the Opening of Escrow ("Closing Date"). The terms the "Close of Escrow," and/or the "Closing" as used herein shall mean the date Seller's Grant Deed is filed for record by the Escrow Holder in the Office of the County Recorder of Orange County, California.

3.2 Escrow Instructions. This Agreement, together with any standard instructions of Escrow Holder, shall constitute the joint escrow instructions of Seller and Buyer to Escrow Holder as well as an agreement between Seller and Buyer. In the event of any conflict between the provisions of this Agreement and Escrow Holder's standard instructions, this Agreement shall prevail.

3.3. Deliveries by Seller. On or before 1:00 p.m. on the business day preceding the Closing Date, Seller shall will deposit with Escrow Holder the following: (a) an executed and acknowledged grant deed conveying fee title to the Property to Buyer in the form attached hereto as Exhibit "B" ("Grant Deed"); (b) a certificate of non-foreign status and California Franchise Tax Board Form 597, each executed by Seller and prepared by Escrow Holder; and (c) such funds and other items and instruments, executed and acknowledged if appropriate, as may be reasonably necessary in order for the Escrow Holder to comply with this Agreement.

3.4 Deliveries by Buyer. On or before 1:00 p.m. on the business day preceding the Closing Date, Buyer shall deposit with Escrow Holder the following: (a) a Preliminary Change of Ownership Statement completed in the manner required in Orange County; and (b) all additional funds and/or documents, executed and acknowledged (if appropriate) which are reasonably necessary to comply with the terms of this Agreement, other than the Purchase Price. On the Closing Date and provided Escrow Holder has received all closing documents and is in a position to close the Escrow, Buyer shall deliver the Purchase Price to Escrow Holder.

3.5 Closing, Recording and Disbursements. On the Closing Date, and provided all of the conditions to closing set forth in Sections 4.1 and 4.2 of this Agreement have been satisfied or waived in writing by the appropriate party, Escrow Holder shall take the following actions:

(a) Recording. Escrow Holder shall cause the Grant Deed to be recorded in the Official Records of Orange County, California.

(b) *Disbursement of Purchase Price.* Escrow Holder shall disburse the Purchase Price to Seller after deducting therefrom the escrow and closing costs and prorations chargeable to Seller under Sections 3.7 and 3.8 of this Agreement.

(c) *Title Policy.* Escrow Holder shall deliver to Buyer the Title Policy referred to in Section 4.2(b) of this Agreement.

(d) *Delivery of Documents.* Escrow Holder shall deliver to the parties conformed copies of the Grant Deed and any other documents (or copies thereof) deposited by the parties with Escrow Holder pursuant to this Agreement. The original of the Grant Deed shall be returned to Buyer after recordation.

3.6 Possession. Seller shall deliver the Property to Buyer at the Close of Escrow, free and clear of all tenancies, lessees, occupants, licensees, and all possessory rights of any kind or nature.

3.7 Payment of Costs. The premium for the Title Policy attributable to CLTA standard owners coverage shall be paid by Seller. Buyer shall pay for any additional title coverage requested by Buyer, including the difference between a CLTA standard owner's policy and an ALTA extended owner's policy, and any endorsements required by Buyer. Seller shall pay all documentary transfer taxes payable in connection with the recordation of the Grant Deed. The escrow fee of Escrow Holder shall be shared equally by Seller and Buyer; provided, however, if the Close of Escrow has not occurred by the Closing Date by reason of a default hereunder, the defaulting party shall bear all Escrow cancellation charges. All other costs and expenses of Escrow not specifically allocated in this Agreement shall be allocated between Buyer and Seller in accordance with customary practice in the county in which the Property is located.

3.8 Real Property Taxes. Buyer is a public entity and is not required to pay property taxes. Seller shall cause all property taxes and assessments as of Closing to be paid when due. Seller may apply for a refund for any portion of taxes and assessments paid by Seller and allocated to any period after the Closing Date, in accordance with the applicable provisions of the Revenue and Taxation Code.

3.9 IRS Reporting Responsibilities. Any returns, statements or reports required to be filed under Section 6045(e) of the Internal Revenue Code of 1986 (or any similar reports required by state or local law) relating to the Property shall be filed by Escrow Holder. In no event shall this Agreement be construed so as to require that such returns, reports or statements be filed by Seller or Seller's counsel or Buyer or Buyer's counsel. Escrow Holder shall provide evidence to Seller and Buyer of its compliance with the provisions of this Section 3.9.

4. Conditions Precedent to Close of Escrow.

4.1 Conditions to Seller's Obligations. Seller's obligations to convey the Property and close the Escrow shall be subject to the satisfaction or written waiver by Seller of each of the following conditions precedent:

(a) Escrow Holder holds and will deliver to Seller the instruments and funds accruing to Seller pursuant to this Agreement; and

(b) Buyer is not in default of any term or condition of this Agreement and the Development Agreement shall continue to be in full force and effect.

4.2 Conditions to Buyer's Obligations. Buyer's obligation to purchase the Property and close the Escrow shall be subject to the satisfaction or written waiver by Buyer of each of the following conditions precedent:

(a) Escrow Holder holds and will deliver to Buyer the instruments and funds, if any, accruing to Buyer pursuant to this Agreement;

(b) First American Title Insurance Company is irrevocably committed to issue to Buyer a CLTA standard, or at Buyer's election, an ALTA extended coverage owner's policy of insurance, with liability in the amount of the Purchase Price, showing fee title to the Property vested in Buyer, subject only to the Approved Title Exceptions referred to in Section 3.2 of the Option Agreement ("Title Policy"); and

(c) all representations and warranties made by Seller in this Agreement and the Option Agreement are true and correct as of the Closing as though made at that time, and Seller is not in default of any term or condition of this Agreement or the Option Agreement.

(d) Buyer shall have approved, subject to acquisition of the Property, the award of a construction contract for construction of the City Hall of the City of Newport Beach.

4.3 Satisfaction of Conditions. Where satisfaction of any of the foregoing conditions requires action by Seller or Buyer, each party shall use its diligent efforts, in good faith, and at its own cost, to satisfy such condition.

4.4 Termination. In the event each of the conditions set forth in Section 4.1 is not fulfilled on the Closing Date or waived by Seller, Seller may, at its election, terminate this Agreement and the Escrow opened hereunder. In the event that the conditions set forth in Section 4.2 are not fulfilled on the Closing Date or waived by Buyer, Buyer may, at its election, terminate this Agreement and the Escrow opened hereunder. Notwithstanding the foregoing, if Escrow is not in a position to close due to a party's failure to deposit into Escrow any documents or funds required to close Escrow, the non-defaulting party shall have the right to terminate this Agreement without first having given the defaulting party notice of the default and seven (7) days to cure the default, with the understanding that it is the parties' desire that this Agreement not terminate as a result of a technicality such as a party's inadvertent failure to timely make a deposit into Escrow. In the event this Agreement is terminated, all documents delivered by Seller to Buyer or Escrow Holder shall be returned immediately to Seller and all documents and funds delivered by Buyer to Seller or Escrow Holder shall be returned immediately to Buyer. Nothing in this Section 4.4 shall be construed as releasing any party from liability for any default of its obligations hereunder or breach of its representations and warranties under this Agreement or the Option Agreement occurring prior to the termination of this Agreement and/or the Escrow.

5. Property Purchased "AS-IS"; Release.

Buyer acknowledges that the provisions of the Option Agreement have provided Buyer with ample and adequate opportunity to review, enter, inspect and assess the Property and the Property Documents, and all aspects thereof, including without limitation the Property's physical characteristics and conditions, the nature and extent of any environmental contamination within the Property (and of any steps to remediate the same), the condition of the soils within the Property, the geological condition of the Property and the relative seismic risks pertaining to the Property, the availability or adequacy of access to the Property, the nature of any other properties surrounding or within the vicinity of the Property, and all other matters related or relevant to the Property, the acquisition thereof or the development thereof. Buyer hereby further confirms and acknowledges that, except for Seller's express representations and warranties set forth in this Agreement or the Option Agreement, upon the Close of Escrow Buyer shall be deemed to have waived any and all objections to any of the foregoing matters and to have accepted the Property in its then present "AS-IS," "WHERE-IS," "WITH ALL FAULTS" condition and without any other oral or written representations or warranties of Optionor of any nature whatsoever; provided, however, that nothing in this Section 5 is intended to limit or restrict Seller's representations and warranties set forth in Section 4.1 of the Option Agreement or Buyer's right to rely upon the same and its remedies for Seller's breach thereof for the period of time set forth in Section 4.2 of the Option Agreement. Further, Seller shall have no liability whatsoever to Buyer with respect to a breach of any of the representations and warranties set forth in this Agreement or the Option Agreement if Buyer obtains knowledge of a fact or circumstance the existence of which would constitute a breach of Seller's representations and warranties hereunder prior to the Closing Date and Buyer proceeds to Closing, in which event each representation or warranty shall be deemed automatically amended to conform with the knowledge of Buyer as of the Closing Date, and Seller shall have no liability whatsoever for such previously inaccurate representation or warranty. For the purposes hereof, Buyer shall be deemed to have knowledge of any fact or circumstance set forth in any environmental assessment, soils, geological, physical condition or other report received by Buyer prior to Closing, and the representations and warranties herein contained shall be deemed automatically modified to the extent information contained in any environmental assessment, soils, geological, physical condition or other report received by Buyer prior to Closing is inconsistent with the matters covered herein.

Buyer, on behalf of itself and its agents, successors, assigns, and all entities related to any of the foregoing, and on behalf of all persons claiming any interest in the Property or this Agreement, and as owner, principal, director, partner, shareholder, agent, or representative of any business, enterprise, or venture, expressly waive any and all rights under Section 1542 of the Civil Code of the State of California, or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "Similar Provision"). Thus, Buyer and each of them, and any business, enterprise, or venture in which it is involved, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner claims released hereunder. Section 1542 provides as follows:

**"A GENERAL RELEASE DOES NOT EXTEND TO
CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR**

SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM, MUST HAVE MATERIALLY, AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Buyer's Initials: _____

6. Relocation; Release. Seller acknowledges and agrees that a portion of the Purchase Price represents Buyer's payment to Seller for Seller's relocation from the Property. Buyer's payment to Seller of said amount shall constitute full and complete satisfaction of any obligation Buyer may have for providing relocation assistance to Seller and paying its relocation costs required to comply with all applicable federal, state and local laws, rules and regulations arising out of, based upon, or relating to, relocation assistance or benefits owing under Government Code § 7260 *et seq.*, Title 25 of the California Code of Regulations, Section 6000 *et seq.*, or under any other federal, state or local relocation statutes, regulations or guidelines, including but not limited to, any such regulations or guidelines of Buyer.

Seller, for itself and for its agents, successors, assigns, and all entities related to any of the foregoing, and on behalf of all persons claiming any interest in the Property or this Agreement fully releases, acquits and discharges the Buyer and its officers, officials, members, directors, employees, attorneys, accountants, other professionals, insurers, and agents, and all entities, boards, commissions, and bodies related to any of them (all of the foregoing, collectively, the "Released Parties"), from all rights, claims, demands, actions or causes of action that Seller, or any of them, has or may have against the Released Parties arising out of or related to Buyer's acquisition of the Property or the displacement of Seller from the Property, including, but not limited to all of Seller's property rights and interests in the Property, and including but not limited to relocation benefits and assistance, all leasehold interests and rights of tenancy or occupancy, all improvements, all improvements pertaining to the realty, furniture, fixture, and equipment, business goodwill, lost income (past or future), failure to locate a suitable replacement location, lost rental income or sublease or license income, severance damages, pre-condemnation damages, if any, economic or consequential damages, professional consultant fees, attorney's fees and costs, expert witness fees and costs, interest, all other costs, and any and all compensable interests, and/or damages, and/or claims, of any kind and nature, claimed or to be claimed, suffered or to be suffered, by Seller, and any of them, by reason of Buyer's acquisition of the Property or Seller's displacement from the Property.

Seller, on behalf of itself and its agents, successors, assigns, and all entities related to any of the foregoing, and on behalf of all persons claiming any interest in the Property or this Agreement, and as owner, principal, director, partner, shareholder, agent, or representative of any business, enterprise, or venture, expressly waive any and all rights under Section 1542 of the Civil Code of the State of California, or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "Similar Provision"). Thus, Seller and each of them, and any business, enterprise, or venture in which it is involved, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner claims released hereunder. Section 1542 provides as follows:

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

Seller's Initials: _____

In the event any occupants or lessees of the Property shall be entitled to relocation assistance, Seller shall have the sole and exclusive responsibility for providing relocation assistance and paying all relocation costs required to comply with all applicable federal and state laws, rules, and regulations. Seller shall indemnify, defend, and hold Buyer and the Buyer harmless from and against any claims, liabilities, damages, or losses made against it by tenants or occupants of the Property, including without limitation claims for relocation assistance and inverse condemnation.

7. Miscellaneous.

7.1 Attorney's Fees. If either party commences an action against the other to enforce any of the terms of this Agreement or because of the breach by either party of any of the terms of this Agreement, the losing party shall pay to the prevailing party its expert witness fees and its reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, including appeal of and/or enforcement of a judgment.

7.2 Notices. All notices required to be delivered under this Agreement to the other party must be in writing and shall be effective (i) when personally delivered by the other party or messenger or courier thereof; (ii) three (3) business days after deposit in the United States mail, registered or certified; (iii) twenty-four (24) hours after deposit before the daily deadline time with a reputable overnight courier or service; or (iv) upon receipt of a telecopy or fax transmission, provided a hard copy of such transmission shall be thereafter delivered in one of the methods described in the foregoing (i) through (iii); in each case postage fully prepaid and addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other parties hereto. Notices delivered after 5:00 PM on a business day shall not be deemed to have been delivered until the following business day. As used herein, business days shall exclude weekends and state and federal holidays. The parties' respective addresses for notices are as set forth below, (with such addresses subject to change from time to time if a notice of change of address is delivered in accordance with the notice provisions set forth herein:

To Seller:

The Irvine Company LLC
550 Newport Center Drive
Newport Beach, CA 92660-0015
Attn: General Counsel
Facsimile: (949) 760-0896

Copy to: Latham & Watkins LLP
600 West Broadway, Suite 1800
San Diego, CA 92101-3375
Attn: Christopher W. Garrett
Facsimile: (619) 696-7419

To Buyer: City of Newport Beach
3300 Newport Boulevard
Post Office Box 1768
Newport Beach, CA 92663-3884
Attn: City Manager
Facsimile: (949) 644-3020

Copy to: City of Newport Beach
3300 Newport Boulevard
Post Office Box 1768
Newport Beach, CA 92663-3884
Attn: City Attorney
Facsimile: (949) 644-3139

7.3 Assignment. Neither party shall, whether voluntarily, involuntarily, or by operation of law, assign all or any part of this Agreement or any rights hereunder without the other party's written approval, which approval may be withheld in the other party's sole and absolute discretion, except that (a) Seller may proceed with the Tax-Free Exchange in accordance with Section 7 of the Option Agreement, and (b) Buyer may assign its rights to another governmental entity controlled by Buyer and solely for financing purposes (including without limitation a public financing authority), provided that (i) the nominee is a tax-exempt entity and (ii) Buyer shall continue to be liable for all obligations of Buyer hereunder and under the Option Agreement. Also, Buyer may specify a tax-exempt nominee controlled by Buyer to whom title will be conveyed on the Closing Date. In connection with any assignment, any assignee shall execute all documents reasonably necessary to assume all of the obligations imposed under this Agreement as if the assignee were the original party to this Agreement.

7.4 Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Agreement.

7.5 Binding on Heirs. Subject to the limitations set forth in Section 7.3 above, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

7.6 Entire Agreement. With the exception of the Development Agreement any written implementation agreements that may have been entered into by and between Seller and Buyer pursuant to Section 4.8.2 of the Development Agreement, and the Option Agreement, this Agreement contains the entire agreement of the parties hereto with respect to the matters covered hereby, and all negotiations and agreements, statements or promises between the parties hereto or their agents with respect to this transaction are merged in this Agreement, which alone

expresses the parties' rights and obligations. No other prior agreements or understandings not contained or incorporated herein shall be binding or valid against either of the parties hereto.

7.7 Modification. Any amendments or modifications to this Agreement must be in writing and executed by both parties to this Agreement.

7.8 Waivers. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions thereof

7.9 Interpretation; Governing Law; Forum. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Title and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. This Agreement shall be construed in accordance with the internal laws of the State of California in effect at the time of the execution of this Agreement without regard to conflict of law principles. Venue and jurisdiction of any action arising out of this Agreement shall exclusively be in any state or federal court sitting in the County of Orange, State of California.

7.10 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

7.11 No Merger. Subject to Section 4.2 of the Option Agreement, the provisions of these Escrow Instructions and the Option Agreement shall survive the Close of Escrow and shall not be merged with the Grant Deed.

7.12 Broker Commissions. Seller and Buyer each represent and warrant to the other that it has not engaged any broker or finder in this transaction and that no broker or finder is entitled to any commission or finder's fee in connection with this transaction as a result of its actions or agreement, and Seller and Buyer shall indemnify, defend and hold harmless each other from any claim to any such commission or fee resulting from any action or agreement of or by the indemnifying party.

7.13 Authority to Execute. Each individual executing this Agreement on behalf of a party hereto warrants that (i) such party is duly organized and existing, (ii) he or she is duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

7.14 Execution in Counterpart. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Purchase and Sale of Real Property and Escrow Instructions as of the date first above written.

“SELLER”

THE IRVINE COMPANY LLC, a Delaware limited liability company

By: _____

Its: _____

By: _____

Its: _____

“BUYER”

CITY OF NEWPORT BEACH, a California municipal corporation

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A" TO ESCROW INSTRUCTIONS

LEGAL DESCRIPTION OF PROPERTY

That certain real property located in the City of Newport Beach, County of Orange, State of California, described as follows:

[to be inserted]

EXHIBIT "B" TO ESCROW INSTRUCTIONS

GRANT DEED

City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663
Attn: City Clerk

(Space Above For Recorder's Use)

The undersigned grantor(s) declare(s) that this transaction is exempt from the payment of a documentary transfer tax pursuant to Revenue and Taxation Code Section 11922.

This document is being recorded for the benefit of the City of Newport Beach and is exempt from payment of a recordation fee pursuant to Government Code Sections 6103 and 27383.

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, THE IRVINE COMPANY LLC, a Delaware limited liability company, successor-in-interest to The Irvine Company, a Michigan corporation ("Grantor"), hereby grants to CITY OF NEWPORT BEACH, a California municipal corporation ("City"), that certain real property located in the City of Newport Beach, County of Orange, State of California, described in the legal description attached hereto as Exhibit "1" and incorporated herein by this reference (the "Burdened Property"), subject to all exceptions of record and to the following rights reserved to the Grantor for the benefit of the owner (the "Benefited Party") of fee title to the real property described in Exhibit "2" (the "Benefited Property") presently owned by Grantor:

1. Reservation of Oil, Mineral, and Water Rights. Benefited Party, its successors and assigns, shall have the right to the following, together with the right to grant and transfer or a portion of the same:

1.1 Any and all oil, oil rights, minerals, mineral rights, natural gas rights, and other hydrocarbons by whatsoever name known, geothermal steam, and all products derived from any of the foregoing, that may be within or under the Burdened Property, together with the perpetual right of drilling, mining, exploring and operating therefor and storing in and removing the same from the Burdened Property or any other land, including the right to whipstock or directionally drill and mine from lands other than those conveyed hereby, oil or gas wells, tunnels and shafts into, through or across the subsurface of the Burdened Property, and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines; without, however, the right to drill, mine, store, explore and operate through or enter upon the surface or the upper 500 feet of the subsurface of the Burdened Property.

1.2 Any and all water, rights or interests therein, no matter how acquired by Grantor, and owned or used by Grantor in connection with or with respect to the Burdened Property, together with the right and power to explore, drill, redrill, remove and store the same from the Burdened Property or to divert or otherwise utilize such water, rights or interests on any other property owned or leased by Grantor, whether such water rights shall be riparian, overlying, appropriative, percolating, littoral, prescriptive, adjudicated, statutory or contractual; but without, however, any right to enter upon the surface of the Burdened Property in the exercise of such rights.

2. Reservation of Right to Run Conduit. The Benefited Party shall have a non-exclusive easement on, over, under or across the portion of the Burdened Property described in Exhibit "4," which area shall in no event be wider than ten (10) feet from the exterior boundaries of the portions of the Burdened Property immediately adjacent to any public or private street (the "Conduit Area"), for the installation, emplacement, operation and maintenance of underground electric, gas, telephone, cable television, water, sanitary sewer lines, drainage facilities or any other similar underground conduits or utility improvements (collectively, "Conduit"). Any such conduits shall be constructed or installed at a depth below the finish surface grade of the land and subject to such engineering standards that will reasonably ensure the following: (i) City and/or the owner of the Burdened Property (if different from City) will be able to construct, install, and maintain parking areas and/or driveways for the passage of vehicles over and across the Conduit Area; (ii) City and/or the owner of the Burdened Property will be able to construct, install, and maintain landscaping (including plant materials other than deep-rooted trees and irrigation equipment) and hardscape (including without limitation plazas, sidewalks, retaining walls, planters, benches, signs, light standards, meter boxes, and similar improvements) that do not exceed forty-two inches (42") in height above the finish surface grade of the land; and (iii) the Benefited Party will be able to perform required maintenance, repair, and replacement of Conduit to the maximum extent practicable without excavations within the Conduit Area. The Benefited Party further shall have the right to enter such portion of the Burdened Property for purposes of establishing, maintaining, repairing and removing any such Conduits; provided that (i) except in the event of an emergency, the Benefited Party shall notify City in writing a reasonable time prior to entering onto the Conduit Area for such purpose concerning the Benefited Party's intention to perform such work, the nature of the work to be performed, the estimated time period during which the work will be performed, and in the event of an emergency the Benefited Party shall provide such written notice as soon as practicable; (ii) the Benefited Party shall indemnify, defend, and hold harmless City, the owner of the Burdened Property (if other than City), and the Burdened Property from and against any and all claims, liabilities, and losses for personal injury or death, property damage, and economic loss arising out of the Benefited Party's exercise of its rights under this Section 2; (iii) all such work shall be performed by the Benefited Party in a good and workmanlike manner in compliance with all applicable laws and subject to appropriate safety standards for the benefit of the persons employed to perform the work and all persons using the Burdened Property, including members of the general public; (iv) the Benefited Party shall minimize to the greatest extent practicable any interference with City's development and use of the Burdened Property and, not by way of limitation of the foregoing, shall ensure that adequate pedestrian and vehicular access is maintained at all times; (v) the Benefited Party shall promptly repair and restore any damage to the Burdened Property as nearly as practicable to the condition existing immediately prior to the Benefited Party's entry, including without limitation backfilling all trenches with compacted fill

to engineering standards, replacement of landscaping with healthy landscaping of similar size and maturity to any landscaping that is destroyed, and repair and replacement of all permitted improvements within the Conduit Area; and (vi) the Benefited Party shall promptly pay or reimburse City for all other costs actually and reasonably incurred by City resulting from the Benefited Party's establishing, maintaining, repairing, replacing, and removing any such Conduit. City and the owner of the Burdened Property (if other than City) shall not use the Burdened Property in any manner that shall unduly burden utilization of the foregoing easement rights by the Benefited Party.

3. Initial City Hall Improvements. During the first 25 years immediately following the recordation of this Deed, the Burdened Property shall not be improved except in accordance with the provisions of this Section 3:

3.1 City Right to Construct Initial City Hall. City shall have the right to construct or cause to be constructed a City Hall facility upon the Burdened Property. In this regard, the parties acknowledge that: (i) the conceptual design plans for the initial City Hall facility are described in Exhibit "3" attached hereto, and said plans have been reviewed by Benefited Party prior to recordation of this Deed; and (ii) City shall construct or cause to be constructed the initial City Hall facility in a manner substantially consistent with said plans; provided, however, that the City shall have the right in its sole discretion to alter such plans and the City Hall facility so long as the resulting City Hall facility (a) shall be compatible in design and functionality with the parking structure improvements (the "Parking Structure") constructed or to be constructed upon the real property described in Exhibit "5" attached hereto (the "Parking Structure Property") in accordance with the terms of that certain Zoning Implementation and Public Benefit Agreement between Grantor and City dated December 18, 2007 (the "Development Agreement"), (b) shall incorporate elements of design vocabulary referenced in the "North Newport Center Design Regulations" (as hereinafter defined) (it being recognized by Benefited Party, however, that subject to the provisions of this paragraph the City Hall facility may be a unique civic building with a distinctive architectural style), (c) shall not be constructed in a post-modern "deconstructivist" style that is out of character with the existing architectural style of "North Newport Center," and (d) shall consist of no more than 1,000 square feet of "Floor Area" (as hereinafter defined) within the City Hall building improvements for each 4.17 parking spaces within the Parking Structure that have been granted to the City, by easement and pursuant to the Development Agreement, for use in connection with the Burdened Property. For purposes of this Deed, the term "North Newport Center" means portions of Newport Center Block 500, portions of Newport Center Block 600, portions of San Joaquin Plaza, and Fashion Island; the term "North Newport Center Design Regulations" means the North Newport Center Planned Community Development Plan approved by the City Council of the City of Newport Beach by adoption of ordinance on or about December 18, 2007; and the term "Floor Area" shall mean "Net Floor Area" as defined in the City of Newport Beach Municipal Code in effect as of the date of the recordation of this Deed.

3.2 Outside Date to Commence Construction. Subject to an extension of time for the period of any force majeure delay, if City fails to commence construction of a City Hall facility meeting the requirements of Sections 3.1 of this Deed (the "Initial City Hall") or cause such construction to commence within 24 months after the date of recordation of this Deed, then the Benefited Party shall have the right, for a period of sixty (60) days following the

end of said 24 month period, to provide notice (a "Commencement Failure Purchase Notice") to City of its intent to purchase the Burdened Property. If the Benefited Party timely delivers such a Commencement Failure Purchase Notice pursuant to the foregoing (or if the Benefited Party delivers a Commencement Failure Purchase Notice pursuant to Section 5.4) and construction of the Initial City Hall is not commenced within sixty (60) days after the date City receives such notice, then:

(a) City shall cause the owner of the Burdened Property to sell and convey fee title to the Burdened Property to the Benefited Party (or its designee) on a closing date that is selected by the Benefited Party and that is no earlier than ninety (90) days and no later than one hundred fifty (150) days after delivery of such notice;

(b) The purchase price payable by Benefited Party to the owner of fee title to the Burdened Property for the purchase of the Burdened Property pursuant to this Section shall be an amount equal to the cash purchase price paid by City in acquiring the Burdened Property pursuant to that certain Agreement for Purchase and Sale of Real Property and Escrow Instructions dated _____ by and between Grantor and the City (the "Purchase Agreement"); and

(c) At the closing of the transfer contemplated by this Section, City shall cause fee title to the Burdened Property to be transferred to the Benefited Party (or its designee) subject only to those exceptions existing as of the date of City's acquisition of the Burdened Property pursuant to the Purchase Agreement, and any further exceptions approved in writing by the Benefited Party subsequent to the date of such acquisition. The physical condition of the Burdened Property shall be substantially the same as when Grantor conveyed title to the Burdened Property pursuant to the Purchase Agreement and otherwise in a strictly "as-is" condition, and neither City nor the owner of the Burdened Property (if other than City) shall be responsible for making any representations or warranties with respect thereto. The Benefited Party shall pay for documentary stamp taxes for recording the deed and for the premium for any title insurance requested by the Benefited Party. All other costs or expenses shall be allocated between the transferor and the transferee in the manner customary in Orange County, California.

3.3 Outside Date to Complete Construction. Subject to an extension of time for the period of any force majeure delay, if City fails to complete construction of the Initial City Hall within 42 months after the date of recordation of this Deed, then the Benefited Party shall have the right, for a period of sixty (60) days following the end of such 42 month period, to provide notice (a "Completion Failure Purchase Notice") to City of its intent to purchase the Burdened Property. If the Benefited Party timely delivers such a Completion Failure Purchase Notice pursuant to the foregoing (or if the Benefited Party delivers a Completion Failure Purchase Notice pursuant to Section 5.5) and City or the owner of the Burdened Property (if other than City) either (i) does not complete construction of the Initial City Hall within sixty (60) days after the date City receives such notice or (ii) does not act within sixty (60) days after the date City receives such notice to continue construction of the Initial City Hall and thereafter proceed to completion of the Initial City Hall with commercially reasonable diligence, then:

(a) City shall cause the owner of the Burdened Property to sell and convey fee title to the Burdened Property to the Benefited Party (or its designee) on a closing date that is selected by the Benefited Party and that is no earlier than ninety (90) days and no later than one hundred fifty (150) days after delivery of such notice (or, if City continues construction of the Initial City Hall after receipt of such notice but City fails thereafter to proceed to completion of the Initial City Hall with commercially reasonable diligence, on a closing date that is selected by the Benefited Party and that is no earlier than ninety (90) days and no later than one hundred fifty (150) days after City fails to so proceed);

(b) The purchase price payable by Benefited Party to the owner of fee title to the Burdened Property for the purchase of the Burdened Property pursuant to this Section shall be the greater of the following:

(i) The lower of the amount set forth in clause (A) or (B) below:

(A) an amount equal to the fair market value of the Property at its highest and best use and without regard to the restrictions set forth in this Deed other than the restrictions set forth in 1, 2, and 6 through 19 ("Fair Market Value"). If within seventy-five (75) days after City's receipt of the Completion Failure Purchase Notice the Benefited Party and the City have not been able to agree on the Fair Market Value of the Burdened Property, then the Fair Market Value shall be determined in accordance with the following procedures (and the closing date for the conveyance of the Burdened Property shall be extended if and to the extent the Fair Market Value has not yet been established). Within one hundred five (105) days after City's receipt of the Completion Failure Purchase Notice, the City and the Benefited Party each shall procure an appraisal of the Burdened Property by a qualified independent Appraiser to determine the Fair Market Value of the Burdened Property. If the two appraisals differ by less than five (5%) percent of the lower of the two appraisals, the average of the two appraisals shall be deemed to be the Fair Market Value. If, however, the two appraisals differ by more than five (5%) percent of the lower of the two appraisals, then the two Appraisers shall immediately select a third Appraiser. If the two Appraisers are unable to agree within twenty (20) days on the selection of a third Appraiser, then either the City or the Benefited Party may petition the Superior Court of the County of Orange to appoint a third Appraiser willing to serve in accordance with the provisions of this Deed. The third Appraiser may establish procedures for the submission of additional information by the parties regarding the value of the Property. If within twenty (20) days after the appointment of the third Appraiser the Benefited Party and the City have not agreed on the Fair Market Value of the Burdened Property, then the third Appraiser shall select one of the previous two appraisals as the Fair Market Value of the Burdened Property based on the third Appraiser's judgment as to which of the two appraisals is the closest to the third Appraiser's opinion of Fair Market Value considering all of the facts and circumstances. The City and the Benefited Party shall bear the fees of the Appraiser each appoints.

The fees of the third Appraiser shall be paid as follows: (A) if the third Appraiser selected the appraisal of the Appraiser appointed by the Benefited Party, then City shall bear the fees of the third Appraiser; (B) if the third Appraiser selected the appraisal of the Appraiser appointed by City, then the Benefited Party shall bear the fees of the third Appraiser; (C) if City and the Benefited Party agree to a Fair Market Value after the appointment of the third Appraiser but before the third Appraiser selects an appraisal as the Fair Market Value of the Burdened Property, then the fees of the third Appraiser shall be born equally between City and the Benefited Party. As used herein, the term "Appraiser" means an appraiser who is a member of the American Institute of Real Estate Appraisers or an SREA member of the Society of Real Estate Appraisers (or in case such professional designations are modified or discontinued, the most nearly equivalent successor designation);

(B) the sum of (1) the cash purchase price paid by City in acquiring the Burdened Property pursuant to the Purchase Agreement, and (2) any additional direct costs incurred by the City in developing the Burdened Property, to the extent reasonably established by City. To the extent the parties disagree over the amount to be calculated pursuant to the immediately preceding sentence, then either City or the Benefited Party may ask the third Appraiser to determine the amount, in which case the third Appraiser shall establish procedures for the submission of evidence pertaining to this issue and shall reach a decision within ten (10) days after the determination of Fair Market Value in accordance with Section 3.3(b)(i); and

(ii) If the City has obtained the funds for the construction of the City Hall through the issuance of certificates of participation or another form of financing contemplated by Section 5.1 below, then the amount required to repay in full the outstanding indebtedness under such financing.

(c) At the closing of the transfer contemplated by this Section, City shall cause fee title to the Burdened Property to be transferred to the Benefited Party (or its designee) subject only to those exceptions existing as of the date of City's acquisition of the Burdened Property pursuant to the Purchase Agreement, and any further exceptions approved in writing by the Benefited Party subsequent to the date of such acquisition, as reasonably established by the City and otherwise in an as-is physical condition. The Benefited Party shall pay for documentary stamp taxes for recording the deed and for the premium for any title insurance requested by the Benefited Party. All other costs or expenses shall be allocated between the transferor and the transferee in the manner customary in Orange County, California.

3.4 Force Majeure Delay. As used in this Section 3, the phrase "force majeure delay" shall mean a delay in the diligent processing of the commencement or construction of the Initial City Hall, but only to the extent reasonably attributable to events outside City's reasonable control.

4. Restrictions on Use During First 25 Years. Subject to Section 5 below, until the twenty-fifth (25th) anniversary of the date that this Deed is recorded in the Official Records of the Orange County Recorder's office, City shall use the Burdened Property only for the following purposes:

4.1 Development of City Hall. Until such time as the Initial City Hall has been completed, City may use the Burdened Property only for purposes reasonably related to the development of the Initial City Hall.

4.2 City Hall Uses. From and after completion of the Initial City Hall, City may use the Burdened Property exclusively for the following purposes (collectively, the "City Hall Uses"):

(a) City may use the City Hall as the seat of government for the City of Newport Beach. In such event, the City Hall shall contain the chambers of the City Council and the offices of the Mayor, the City Council members and the City Manager.

(b) The City may use the Burdened Property for other uses which are reasonably ancillary to, and customary in connection with, the operation of a City Hall and are not unreasonably disruptive to the use of the Benefited Property. The foregoing shall not be construed as permitting use of any portion of the Burdened Property for sale of goods, food or beverages, other than the following: (i) sales of food and beverages to employees of City Hall and persons visiting City Hall for official City business, including without limitation sales transacted through vending machines located upon the Burdened Property, the use of which is ancillary to other City Hall Uses (excluding however retail establishments which market to the general public); (ii) sales by City or a City Affiliate of signs, shirts, or other merchandise related to the operations of the City, celebrating the unique identity of the City, or for a special event or fundraiser for a community or public purpose; and (iii) in connection with the staging of civic events at the City Hall, the sale by third parties of goods, food or beverages, but only if such sales are ancillary to the events and the purposes behind the events do not include a material objective of achieving such sales. Notwithstanding the foregoing, all sales activities pursuant to clauses (i)-(iii) of the preceding sentence shall be confined to an area or areas within the interior of the City Hall with a Floor Area no greater than 2,000 square feet.

(c) City from time to time may remodel, renovate or refurbish the City Hall improvements, provided that (i) before commencing any material acts of remodeling, renovation or refurbishment, City first shall provide plans for the proposed remodeling, renovation or refurbishment to the Benefited Party for review and comment (but not for approval); and (ii) notwithstanding clause (i) of this Section 4.2(c), City shall have the right in its sole discretion to approve the plans for the remodeling, renovation or refurbishment so long as the resulting City Hall improvements (A) shall continue to be compatible in design and functionality with the Parking Structure improvements constructed upon the Parking Structure Property, (B) shall continue to incorporate elements of design vocabulary referenced in the North Newport Center Design

Regulations (it being recognized by Benefited Party, however, that subject to the provisions of this paragraph the City Hall facility may be a unique civic building with a distinctive architectural style), (C) shall not be remodeled, renovated or refurbished in a post-modern "deconstructivist" style that is out of character with the existing architectural style of North Newport Center, and (D) shall consist of no more than 1,000 square feet of Floor Area within the building improvements within the City Hall building for each 4.17 parking spaces within the Parking Structure that have been granted to the City, by easement and pursuant to the Development Agreement, for use in connection with the Burdened Property.

4.3 Not An Operating Covenant. The parties acknowledge and agree that the provisions of this Section 4 shall constitute a use restriction and shall not be construed as an operating covenant.

5. Transfers. Notwithstanding any other provisions of this Deed to the contrary, City shall have the right to sell or lease its interests in the Burdened Property so long as such sale or lease complies with the following:

5.1 Financing. City may enter into leases, leasebacks, and any other financing arrangements for the purpose of covering the cost of acquiring the Property and developing the City Hall thereon, or for the purpose of refinancing any such financing, provided in each case that such transactions or arrangements (i) shall be consistent with such types of transactions undertaken by other municipalities in raising funds for construction of public improvements and public facilities, and (ii) shall not raise a material risk that City shall be deprived of its possessory rights to the Burdened Property. In this regard, the owner of the Benefited Property shall cooperate with City in furtherance of such financing arrangements and shall consider and adopt such changes to the provisions of this Deed as may be reasonably necessary and appropriate in order to facilitate such financing (e.g., inclusion of provisions calling for the Benefited Party, before exercising remedies as a consequence of a default or breach by City hereunder, to provide notice to the lender (or similar party under the financing) of such event, and further to provide said lender (or similar party) with an opportunity to cure, so long as such changes do not change in any material respect the rights or obligations of the Benefited Party with respect to the Burdened Property, the Benefited Property or this Deed.

5.2 Customary Easements. City may enter into easement agreements burdening the Burdened Property, to the extent reasonably necessary and appropriate for the provision of utilities in connection with the development of the site as a City Hall.

5.3 Affiliates. City may assign interests in the Burdened Property to entities controlled by City, including without limitation to a public financing authority ("Affiliates"), provided that no such Affiliates shall further sell, lease, assign, encumber or otherwise transfer such interests except in accordance with this Section 5.

5.4 Repurchase Right in the Event of Transfer Prior to Commencement of Initial City Hall. If, prior to commencement of construction of the Initial City Hall, City sells, leases, assigns, encumbers or otherwise transfers an interest in the Burdened

Property other than as permitted by Section 5.1, 5.2 or 5.3 of this Deed, then the Benefited Party shall have right to deliver a Commencement Failure Purchase Notice pursuant to Section 3.2.

5.5 Repurchase Rights in the Event of Transfer Prior to Completion of Initial City Hall. If, subsequent to commencement of construction of the Initial City Hall but prior to completion of construction of the Initial City Hall, City sells, leases, assigns, encumbers or otherwise transfers an interest in the Burdened Property other than as permitted by Section 5.1, 5.2 or 5.3 of this Deed, then the Benefited Party shall have the right to deliver a Completion Failure Purchase Notice pursuant to Section 3.3.

5.6 Right to Transfer Subject to Right of First Offer. From and after completion of the Initial City Hall until the twenty-fifth (25th) anniversary of the recordation of this Deed, City (or the owner of the Burdened Property, if other than City) may sell or lease all of such owner's right, title, and interest in and to the Burdened Property in accordance with the provisions of this Section 5.6, provided that the proposed terms for the transaction do not call for City or any Affiliate of the City to receive any consideration as a consequence thereof other than cash or a combination of cash and deferred payments (including rent, if applicable), and provided further that before consummating any such transfer, City first shall cause the owner of fee title to the Burdened Property to provide to the Benefited Party a written summary of the price and other terms applicable to the proposed transaction (the "Offer Notice"). The Offer Notice shall also contain all relevant information in City's possession, if applicable, which would reasonably be relied upon in evaluating whether to acquire the applicable interest in the Burdened Property (including but not limited to any proposals or options for lease affecting the Burdened Property, a recent preliminary title report, a list of known litigation, notices, citations and other material matters affecting the Burdened Property, and the most recent environmental site assessment obtained by or in the possession of City, if any, concerning the Burdened Property). For a period of thirty (30) days following receipt of the Offer Notice, the Benefited Party shall have the right to elect to acquire the offered interest referred to in the Offer Notice on the proposed terms. Such election shall be made by the Benefited Party in its sole discretion and by delivery of written notice to such effect to City.

(a) If the Benefited Party timely elects to acquire the offered interest referred to in the Offer Notice following delivery of an Offer Notice, then City and the Benefited Party shall diligently pursue, in good faith, the negotiation, execution and consummation of the operative documents required to complete such transfer to the Benefited Party (or its designee) on a date selected by the Benefited Party that is no more than one hundred fifty (150) days after delivery to Benefited Party of the Offer Notice.

(b) If the Benefited Party does not timely elect to acquire the offered interest referred to in the Offer Notice following delivery of an Offer Notice, then City shall have the right, for a period of one hundred fifty (150) days after the lapse of the Benefited Party's right to elect to acquire the offered interest in the Burdened Property pursuant to the Offer Notice, to consummate a sale or lease of the offered interest to a third party on terms which are no less favorable to City (directly or indirectly) than the terms described in the Offer Notice.

(i) If such sale is not timely consummated in such manner, then City shall not effect any transfer of an interest in the Burdened Property without first providing the Benefited Party with another Offer Notice pursuant to this Section 5.6 and once again affording the Benefited Party an opportunity to elect to acquire the offered interest in the Burdened Property in accordance with this Section 5.6.

(ii) Conversely, if such transfer is timely consummated through recordation of a conveyancing deed or similar applicable document in accordance with the requirements of this Deed, then: (A) the Benefited Party's right to purchase the Burdened Property in accordance with this Section 5.6 shall lapse and be of no further force or effect; (B) the provisions in Sections 3, 4 and 5 of this Deed thereafter shall have no further force or effect, and (C) the owner of the Burdened Property shall not have any further obligation to comply with the provisions of such Sections.

5.7 Restriction on Other Transfers. Except as expressly permitted by this Section 5, from the date this Deed is recorded until the twenty-fifth (25th) anniversary of said date, City shall not sell, lease or otherwise encumber or transfer any interests in the Burdened Property, or provide any other person or entity with any possessory interest in the Burdened Property except as expressly authorized herein.

6. After First 25 Years. From and after the twenty-fifth (25th) anniversary of the date this Deed is recorded (or, if sooner, following a transfer of the Burdened Property pursuant to Section 5.6 to a party other than the Benefited Party or its designee), the owner of fee title to the Burdened Property shall have the right to use and improve the Burdened Property in such manner as such owner shall determine in its sole discretion, provided that:

6.1 said owner shall continue to comply with the provisions of Sections 1, 2, and 6 through 19 of this Deed;

6.2 before commencing any material construction to change the nature of the improvements on the Burdened Property, the owner of fee title to the Burdened Property first shall provide plans for the proposed changes to the Benefited Party for review and comment (but not for approval); and

6.3 notwithstanding Section 6.2, the owner of fee title to the Burdened Property shall have the right in its sole discretion to approve the plans for such changes so long as the resulting improvements on the Burdened Property (i) shall continue to be compatible in design and functionality with the Parking Structure improvements constructed upon the Parking Structure Property, (ii) shall continue to incorporate elements of design vocabulary referenced in the North Newport Center Design Regulations (it being recognized by Benefited Party, however, that subject to the provisions of this paragraph the improvements on the Burdened Property may have a distinctive architectural style), (iii) shall not be remodeled, renovated or refurbished in a post-modern "deconstructivist" style that is out of character with the existing architectural style of North Newport Center, and (iv) shall include total Floor Area that is no greater than the greater of (i) the previously existing Floor Area of the improvements on the Burdened Property and (ii) 72,000 square feet.

7. Attorney's Fees. If either party commences an action against the other to enforce any of the terms of this Deed or because of the breach by either party of any of the terms of this Deed, the losing party shall pay to the prevailing party its expert witness fees and its reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, including appeal of and/or enforcement of a judgment.

8. Notices. All notices required to be delivered under this Deed to the other party must be in writing and shall be effective (i) when personally delivered by the other party or messenger or courier thereof; (ii) three (3) business days after deposit in the United States mail, registered or certified; (iii) twenty-four (24) hours after deposit before the daily deadline time with a reputable overnight courier or service; or (iv) upon receipt of a telecopy or fax transmission, provided a hard copy of such transmission shall be thereafter delivered in one of the methods described in the foregoing (i) through (iii); in each case postage fully prepaid and addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other parties hereto. Notices delivered after 5:00 PM on a business day shall not be deemed to have been delivered until the following business day. As used herein, business days shall exclude weekends and state and federal holidays. The parties' respective addresses for notices are as set forth below, (with such addresses subject to change from time to time if a notice of change of address is delivered in accordance with the notice provisions set forth herein, in which case the parties upon request of either party shall execute and record an amendment to this Deed evidencing said change of address):

To Benefited Party: The Irvine Company LLC
550 Newport Center Drive
Newport Beach, CA 92660-0015
Attn: General Counsel

Copy to: The Irvine Company LLC
550 Newport Center Drive
Newport Beach, CA 92660-0015
Attn: Chief Operations Officer

To City: City of Newport Beach
3300 Newport Boulevard
Post Office Box 1768
Newport Beach, CA 92663-3884
Attn: City Manager

Copy to: City of Newport Beach
3300 Newport Boulevard
Post Office Box 1768
Newport Beach, CA 92663-3884
Attn: City Attorney

9. Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Deed.

10. Entire Agreement. This Deed contains the entire agreement of the parties hereto with respect to the matters covered hereby. No other prior agreements or understandings not contained or incorporated herein shall be binding or valid against either of the parties hereto with respect to the subject matter set forth herein.

11. Modification. Any amendments or modifications to this Deed must be in writing and executed by both City and Benefited Party.

12. Waivers. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under the provisions of this Deed shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions thereof.

13. Estoppel Certificates. The owner of the Benefited Property and the owner of the Burdened Property each shall have the right from time to time to request and receive an estoppel certificate from the other certifying as to (i) the extent to which this Deed continues in full force and effect, (ii) whether there have been any amendments to this Deed, and identifying the documentation evidencing such amendments, if any, (iii) whether either such owner is in default in the performance of its obligations hereunder, and the nature of any such default, and (iv) such other factual matters as a third party reasonably may desire comfort in connection with a transaction with the owner of the Burdened Property or the owner of the Benefited Property or concerning the Burdened Property or the Benefited Property. Further, should the owner of the Benefited Property encumber its interests in favor of a lender, the owner of the Burdened Property shall agree to reasonable notice and cure rights in favor of such lender.

14. No Third Party Beneficiaries. There are no third party beneficiaries to the covenants, restrictions and other provisions of this Deed.

15. Interpretation; Governing Law; Forum. This Deed shall be construed according to its fair meaning and as if prepared by both parties hereto. Title and captions are for convenience only and shall not constitute a portion of this Deed. As used in this Deed, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. This Deed shall be construed in accordance with the internal laws of the State of California in effect at the time of the execution of this Deed without regard to conflict of law principles. Venue and jurisdiction of any action arising out of this Deed shall exclusively be in any state or federal court sitting in the County of Orange, State of California.

16. Severability. If any term, provision, condition or covenant of this Deed or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Deed shall be valid and enforceable to the fullest extent permitted by law.

17. Authority to Execute. Each individual executing this Deed on behalf of a party hereto warrants that (i) such party is duly organized and existing, (ii) he or she is duly authorized to execute and deliver this Deed on behalf of said party, (iii) by so executing this Deed, such party is formally bound to the provisions of this Deed, and (iv) the entering into this Deed does not violate any provision of any other agreement to which said party is bound.

18. Execution in Counterpart. This Deed may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

19. Runs With the Land. In accepting this Deed, City hereby agrees to all of the rights and obligations described above in this Deed. The terms and conditions of this Deed shall create equitable servitudes upon the Burdened Property; shall bind the owners of the Burdened Property (and each person or entity having any interest therein); and shall inure to the benefit of the owner of the Benefited Property. The benefits provided to Grantor (and any Benefited Party) under this Deed shall run with ownership of the Benefited Property. In the event of a breach by City in the performance of its obligations hereunder, the Benefited Party shall be entitled to all rights and remedies permitted under applicable law.

Dated _____, _____

THE IRVINE COMPANY LLC, a Delaware
limited liability company

By: _____
Its: _____

By: _____
Its: _____

State of California
County of Orange

On _____ before me,
_____, 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)

State of California
County of Orange

On _____ before me,
_____, 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)

CERTIFICATE OF ACCEPTANCE

This to certify that the interest in real property conveyed by the foregoing Grant Deed, from The Irvine Company LLC to the City of Newport Beach, is hereby accepted by the undersigned officer of the City of Newport Beach, on behalf of the City of Newport Beach, pursuant to authority conferred by Ordinance No. 2007-21 of the City Council of the City of Newport Beach adopted on December 18, 2007, and the City of Newport Beach consents to (a) all rights reserved to the Benefited Party as described in said Deed and (b) the recordation of said Deed by its undersigned duly authorized officer.

CITY OF NEWPORT BEACH, a California
municipal corporation

By: _____

Dated: _____

ATTEST:

City Clerk

State of California
County of Orange

On _____ before me,
_____, 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 "1" TO GRANT DEED

LEGAL DESCRIPTION OF BURDENED PROPERTY

That certain real property located in the City of Newport Beach, County of Orange, State of California legally described as follows:

[to be inserted]

EXHIBIT "2" TO GRANT DEED

LEGAL DESCRIPTION OF BENEFITED PROPERTY

That certain real property located in the City of Newport Beach, County of Orange, State of California legally described as follows:

[See next page]

LEGAL DESCRIPTION OF "BENEFITED PROPERTY"

I. 500 AND 550 NEWPORT CENTER DRIVE

Parcel A:

Beginning at the easterly terminus of that certain course in the northerly right of way line of San Nicholas Drive shown as south 80 degrees, 14 minutes, 38 seconds east 91.45 feet on Map of tract 6015 filed in Book 239, page 28 through 41 of miscellaneous Maps, in the Office of said County recorder; thence along the right of way lines of said San Nicholas Drive, Newport Center Drive East and Santa Rosa Drive as shown on said Map. The following courses and distances, north 80 degrees, 14 minutes, 38 seconds west 91.45 feet to the beginning of a curve concave northeasterly having a radius of 25.00 feet, northwesterly 38.16 feet along said curve through an angle of 87 degrees, 26 minutes, 49 seconds to the beginning of a reverse curve concave westerly having a radius of 1670.00 feet; northerly 472.13 feet along said curve through an angle of 16 degrees, 11 minutes, 54 seconds to the beginning of a reverse curve concave southeasterly having a radius of 25.00 feet; northeasterly 38.16 feet along said curve through an angle of 87 degrees, 26 minutes, 49 seconds north 78 degrees, 27 minutes, 06 seconds east 69.97 feet to the beginning of a curve concave northwesterly having a radius of 825.50 feet, northeasterly 195.27 feet along said curve through an angle of 13 degree, 33 minutes, 11 seconds to a point of non-tangent curve concave southwesterly having a radius of 25.00 feet, a radial to said point bears north 35 degrees, 38 minutes, 46 seconds east; thence southeasterly 4.81 feet along said curve through an angle of 11 degrees, 01 minutes, 42 seconds to the beginning of a reverse curve concave northeasterly having a radius of 161.00 feet; thence southeasterly 91.20 feet along said curve through an angle of 32 degrees, 27 minutes, 16 seconds to the beginning of a reverse curve concave southwesterly having a radius of 25.00 feet; thence southerly 32.67 feet along said curve through an angle of 74 degrees, 53 minutes, 02 seconds; thence south 0 degrees, 53 minutes, 46 seconds east 25.50 feet to the beginning of a curve concave northwesterly having a radius of 2.00 feet; thence southwesterly 3.14 feet along said curve through an angle of 90 degrees, 00 minutes, 00 seconds to the beginning of a reverse curve concave southeasterly having a radius of 2.00 feet; thence southwesterly 3.14 feet along said curve through an angle of 90 degrees, 00 minutes, 00 seconds; thence south 0 degrees, 53 minutes, 46 seconds east 179.75 feet to the beginning of a curve concave northwesterly having a radius to 10.00 feet; thence southwesterly 6.59 feet along said curve through an angle of 37 degrees, 45 minutes, 40 seconds; thence south 36 degrees, 51 minutes, 54 seconds west 9.49 feet to the beginning of a curve concave southeasterly having a radius of 10.00 feet; thence southerly 6.59 feet along said curve through an angle of 37 degrees, 45 minutes, 40 seconds; thence south 0 degrees, 53 minutes, 46 seconds east 31.50 feet to "Point A" hereinafter referred to; thence continuing south 0 degrees, 53 minutes, 46 seconds east 31.50 to the beginning of a curve concave northeasterly having a radius of 10.00 feet; thence southeasterly 6.59 feet along said curve through an angle of 37 degrees, 45 minutes, 40 seconds; thence south 38 degrees, 39 minutes, 26 seconds east 9.49 feet to the beginning of a curve concave southwesterly having a radius of 10.00 feet; thence southerly 6.59 feet along said curve through an angle of 37 degrees, 45 minutes, 40 seconds; thence south 0 degrees, 53 minutes, 46 seconds east 212.75 feet to the beginning of a curve concave northwesterly having a radius of 25.00 feet; thence southwesterly 24.40 feet along said curve through an angle of 55 degrees, 55 minutes, 53 seconds to the beginning of a reverse concave southeasterly having a radius of

147.00 feet; thence southwesterly 66.40 feet along said curve through an angle of 25 degrees, 52 minutes, 43 seconds to the beginning of a reverse curve concave northwesterly having a radius of 25.00 feet; thence southwesterly 9.78 feet along said curve through an angle of 22 degrees, 24 minutes, 25 seconds to a point on a non-tangent curve concave southerly having a radius of 950.50 feet and the northerly right of way line of said San Nicholas Drive, a radial to said point bears north 22 degrees, 12 minutes, 47 seconds east; thence westerly 206.65 feet along said curve through an angle of 12 degrees, 27 minutes, 25 seconds to the point of beginning.

II. FASHION ISLAND

Parcel A:

Parcels 1 through 9, inclusive, in the City of Newport Beach, County of Orange, State of California, as shown on Parcel Map No. 86-399 as per Map filed in Book 221, pages 30 through 36, inclusive, of Parcel Maps, in the Office of the County Recorder of said County.

Parcel B:

Lots 13 through 17, inclusive, Lots Q, R, S, U, R-1, R-2, and R-3 of Tract No. 6015, in the City of Newport Beach, County of Orange, State of California, as per Map recorded in Book 239, pages 28 through 41, inclusive, of Miscellaneous Maps, in the Office of the County Recorder of said County.

Parcel C:

Parcel 1, in the City of Newport Beach, County of Orange, State of California, as shown on a Parcel Map filed in Book 67, pages 2 and 3 of Parcel Maps, in the Office of the County Recorder of said County.

Parcel D:

Parcel 1, in the City of Newport Beach, County of Orange, State of California, as shown on a Parcel Map filed in Book 75, page 48 of Parcel Maps, in the Office of the County Recorder of said County.

Parcel E:

Parcel 4 of Parcel Maps, as shown on a Map filed in Book 67, pages 2 and 3 of Parcel Maps and Lot W of Tract No. 6015, as per Map recorded in Book 239, pages 28 through 41, inclusive, of Miscellaneous Maps, all in the City of Newport Beach, County of Orange, State of California, in the Office of the County Recorder of said County, lying within the land described as Parcels 1 and 2 of that certain Lot Line Adjustment N.B.L.L.A. 87-3, recorded November 13, 1987, as instrument No. 87-640346, Official Records of said County.

EXHIBIT "3" TO GRANT DEED

CONCEPTUAL DESIGN PLANS FOR INITIAL CITY HALL FACILITY

[to be inserted]

EXHIBIT "4" TO GRANT DEED

CONDUIT AREA

[to be inserted]

EXHIBIT "5" TO GRANT DEED
PARKING STRUCTURE PROPERTY

[to be inserted]

EXHIBIT G:

DEPICTION OF LOWER CASTAWAYS SITE

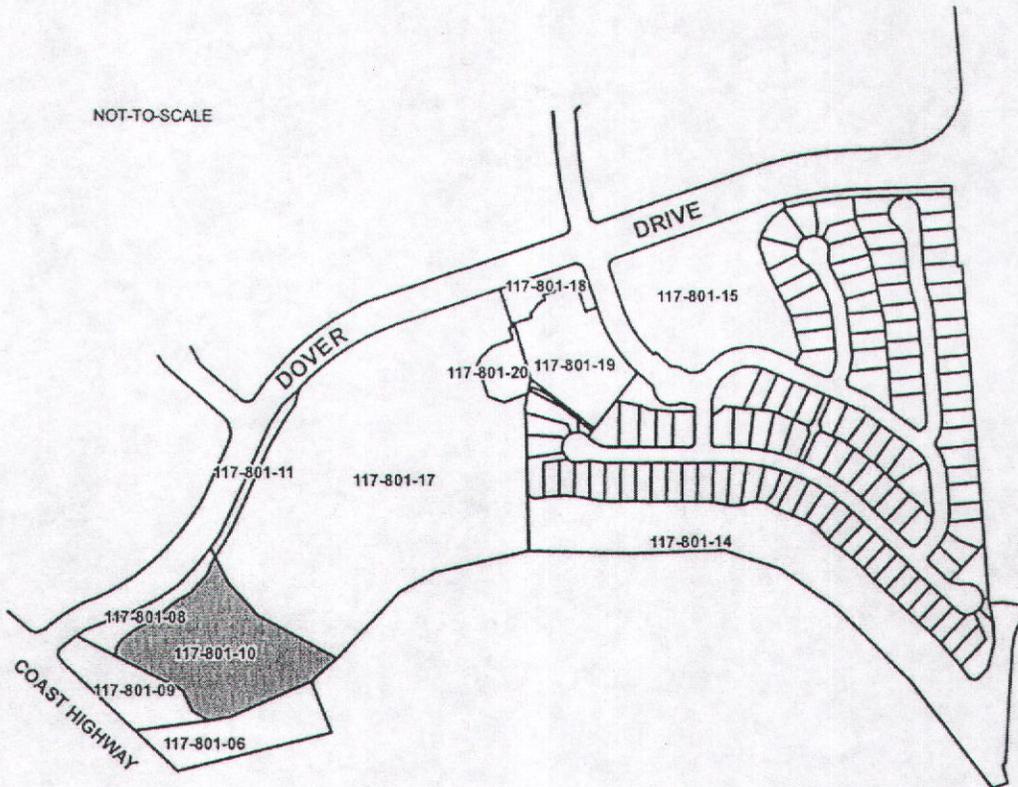


EXHIBIT H:

EXISTING DEVELOPMENT ON PROPERTY

As of Date of Approval of the City of Newport Beach General Plan 2006 Update
(July 25, 2006)

<i>Sub-Area</i>	<i>Existing Development</i>
Block 500	285,142 square feet of office and commercial development
Block 600	952,673 square feet of office and commercial development 295 hotel rooms
San Joaquin Plaza	330,989 square feet of office and commercial development
Fashion Island	1,331,268 square feet of regional retail development 1700 theater seats ¹

¹ Within an area of 27,000 square feet