

ORDINANCE NO. 23-20 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND,
CALIFORNIA, APPROVING THE DEVELOPMENT AGREEMENT BY AND AMONG
THE CITY OF RICHMOND AND WINEHAVEN LEGACY LLC FOR THE POINT
MOLATE MIXED-USE PROJECT SITE LOCATED AT 2100 STENMARK DRIVE
(PLN20-57)**

WHEREAS, the City of Richmond (City), a charter city, is the owner of approximately 412 gross acres of property commonly known as the Point Molate Site, located at 2100 Stenmark Drive (APN: 561-100-008) within the City, County of Contra Costa, State of California (hereinafter the "Site"), with approximately 136 acres of the Site being submerged in the San Francisco Bay, resulting in the upland acreage of the Site being approximately 276 acres;

WHEREAS, pursuant to Article II (Powers), Section 1 of the City Charter of the City, the City has the power to dispose of its real property;

WHEREAS, on March 19, 2019, Winehaven Legacy LLC (the "Developer") was selected through a competitive process by the City to enter into exclusive negotiations regarding the terms and conditions of a Disposition and Development Agreement pursuant to which the Developer will purchase developable areas of the upland acreage of the Site and develop the Site with Point Molate Mixed-Use Development ("Project"). Consistent therewith, the City and the Developer entered into an Exclusive Right to Negotiate Agreement Regarding Point Molate Mixed-Use Development, dated May 2, 2019 (as amended, the "ERN"), and the exclusive negotiations period under the ERN expires on September 30, 2020;

WHEREAS, on September 8, 2020, the City approved a Disposition and Development Agreement to transfer legal or equitable interest in certain real property consisting of approximately eighty-two (82) acres of the Site (the "Property") located in the City of Richmond to the Developer for the development of the Project;

WHEREAS, the City, a charter city, is authorized pursuant to its City Charter and self-rule powers and Richmond Municipal Code Sections 15.04.811.010, *et seq.* and Government Code Sections 65864 through 65869.5 to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property in order to establish certainty in the development process;

WHEREAS, the parties desire to enter into this Development Agreement relating to the Property in conformance with the provisions of the Government Code in order to achieve the development of private land uses, together with the provision of public services, public uses, and urban infrastructure all in the promotion of the health, safety, and general welfare of the City;

WHEREAS, because of the complexity, magnitude and long-range nature of the Project, it would be difficult for Developer to undertake the Project, and a sufficient degree of certainty in the land use regulatory process is desirable to justify the substantial financial investment associated with development of the Project. The phasing, timing, and development of the public infrastructure including, but not limited to, parks, trails and bike lanes, fire and police sub-station, transportation facilities, sewer and water facilities, other utilities, and open space maintenance necessitates a significant commitment of resources, planning, and effort by the Developer and the City in order for the public facilities financing to be successfully completed. Accordingly, in return for the participation and commitment to provide a pro rata share of public facilities and the significant contribution of private resources for public purposes and benefits, the City in return desires to make a commitment for certainty in the development process;

WHEREAS, Developer has applied for, and City has granted, the Project approvals to protect the interests of its citizens in the quality of their community and environment. City Resolution, adopted by the City Council on September 8, 2020 (Resolution No. 97-20), and City Ordinance approved by the City Council on September 15, 2020 (Ordinance No. 22-20 N.S.) describe the Project approvals that shall govern the development of the Property;

WHEREAS, as part of the Project approvals, City has undertaken, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter "CEQA"), the required analysis of the environmental effects that would be caused by the Project and has prepared a Subsequent Environmental Impact Report (SEIR) (State Clearinghouse No. 2019070447). The SEIR determined those feasible mitigation measures which will eliminate, or reduce to a less than significant level, or decrease the severity of the adverse environmental impacts of the Project. The environmental effects of the proposed development of the Property were analyzed by the SEIR certified by the City in connection with the Project. City also has adopted a mitigation monitoring and reporting program (the "MMRP") to ensure that those mitigation measures incorporated as part of, or imposed on, the Project are enforced and completed. Those mitigation measures for which Developer is responsible are incorporated into, and required by, the Project approvals. City has also adopted findings of fact and statements of overriding considerations for those adverse environmental impacts of the Project that may not or cannot be mitigated to an acceptable level;

WHEREAS, California Government Code Section 65866 requires that, unless otherwise provided by the development agreement, the rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of the execution of the agreement;

WHEREAS, on August 17 and August 20, 2020 the Planning Commission of the City, after giving notice pursuant to California Government Code Section 65090 *et seq.* and RMC Section 15.04.803.070, held a public hearing on the Development Agreement and voted 4-1 to adopt the Planning Commission Resolution No. 20-12 making certain findings and recommending approval of the Development Agreement to the City Council;

WHEREAS, the matter was set for the City Council public hearing on September 8, 2020, and the Council finds that the City has given the required notice of its intention to adopt this Development Agreement and has conducted public hearings thereon pursuant to Government Code Section 65867 and RMC Section 15.04.803.070;

WHEREAS, the testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same, the City Council has determined that the Project is a development for which this Development Agreement is appropriate; and

WHEREAS, as required by Government Code Section 65867.5, the Council determines that the provisions of this Development Agreement and its purposes are consistent with the goals, policies, standards, and land use designations specified in City's General Plan, as well as all other applicable policies and regulations of the City of Richmond.

NOW, THEREFORE, the City Council of the City of Richmond does ordain as follows:

SECTION I. The Council has reviewed and considered the Development Agreement and determines the facts stated above to be true.

SECTION II. The Council has reviewed the Development Agreement and finds that the content of Development Agreement to be complete pursuant to Government Code Sections 65865 through 65869.5 and Richmond Municipal Code Section 15.04.811.040(B).

SECTION III. The Council further finds that the following findings of fact support the approval of the Development Agreement, attached as **Exhibit A**, as required by RMC Section 15.04.811.060(A):

A. The City Council may not approve a proposed development agreement unless it finds that its provisions are consistent with the General Plan and any applicable specific plan. This requirement may be satisfied by a finding that the provisions of a proposed development agreement are consistent with the proposed General Plan, a General Plan amendment, or specific plan provisions to be adopted concurrently with the approval of the proposed development agreement.

Supporting Statement of Facts: Criterion Conditionally Satisfied. The Site is currently designated as a change area (San Pablo Peninsula Area (CA-13)), and anticipates “new uses, development and *redevelopment*” of the Site. Given the size of the Site, the redevelopment of the Site will take time, and the Development Agreement would enable build out of the Project over time, as provided for in the Disposition and Development Agreement.

The Project proposes to: (1) amend the Project Site’s land use designation from Open Space, Parks and Recreation, Business/Light Industrial, Medium-Density Residential, and Low-Density Residential to Open Space, Parks and Recreation, Medium-Intensity Mixed-Use (Gateway or Community Node), Medium Density Residential, and Low-Density Residential; (2) amend the text of the Medium-Intensity Mixed-Use (Gateway or Community Node), Medium Density Residential, and Low-Density Residential land use designations; (3) amend description of Change Area 13 in the General Plan; and (4) amend the Figures in the Land Use Element and General Plan Maps.

Consistent with the General Plan’s vision for CA-13, the Project would result in a mix of residential and commercial uses on the Site, including office and retail, the designation of the Project Site’s shoreline areas as Parks and Recreation, construction of an overlook park, and setting aside approximately 70 percent of the Project site as open space areas. The amendment would also allow for rehabilitation and reuse of all the contributing historic buildings in the Winehaven Historic District to establish a vibrant, mixed-use development and enhance public access through the District. The Project also encompasses completion of portions of the Bay Trail and addition of bicycle and pedestrian path. All of these elements for the Point Molate area are discussed in the General Plan.

The following list highlights a selection of the General Plan goals and policies that the Project supports or accomplishes:

- The Project would encourage the sensitive integration of built and natural environment to develop a high quality experience. (Goal LU 4).
- The Project would meet future housing needs within City limits through redevelopment of a brownfield site with mixed-use construction offering a range of housing types. (Goal LU6, Policy LU6.1).
- The Project would provide a high standard of design and planning, and construction of new facilities, infrastructure and services. By furthering the remediation of the Project Site and implementing several sustainability measures, the Project will promote a planning approach that supports a sustainable and healthy community, and reduces impacts on the environment. (Goal LU 6 & CN6).
- The Project achieves a higher standard for housing design, exceeds current green building standards, and pedestrian friendly design. (Policy LU 6.5 & Goal CF3).
- The Project has a planting and landscaping plan that is consistent with the San Francisco Bay Conservation and Development Commissions’ Landscape Guide for the San Francisco Bay. (Goal PR3).
- The Project encourages the creation of tourist-serving amenities in key areas such as Point Molate promotes economic development in the City while providing opportunities for interpretation, education and recreations. (Policy LU 3.3).
- The Project expands the City’s multi-modal circulation system by funding a portion of the Bay Trail, having complete streets, adding a bike lane on Stenmark between the freeway and the Project site, providing sidewalks along Stenmark, offering a commute shuttle, and providing water taxi service. (Goals CR 1, CR 2 & EC 2).
- The Project would fund the maintenance of its streets and circulation system and add safe routes for pedestrians and cyclists where none exist. (Goal CR 3).
- The Project would implement a transportation demand management program to reduce trips by 20 percent, include onsite stormwater capture and treatment facilities (LID features), and would include new, sustainable technology, including electric vehicle chargers and solar panels. (Goal CR 5).
- The Project would implement restoration efforts and manage invasive species on the Project Site by implementing a Vegetation Management Plan and Open Space Plan. (Goal CN 1.)

- The Project would conserve and retain approximately 70 percent of the Project Site as parks and open space, most of which would be natural open space with public trails, but also would enhance and enlarge the shoreline park. (Goal CN 2).
- The Project would create an appealing place to live and work with effective public safety, including constructing a new fire station and police substation. (Goal ED 1).
- The Project would provide numerous high-quality construction jobs that pay prevailing wage and would comply with the City’s First Hire policy. (Goals ED 2 & ED 3).
- The Project would promote sustainable development patterns by creating a mixed-use community, retrofitting existing buildings, constructing streetscape improvements, parks, and other critical services such as a shuttle to the BART station. (Goal EC 4).

Therefore, the mixed-use Project proposed would be consistent with the General Plan after the City Council’s approvals of these amendments. There is no specific plan applying to the Project Site.

SECTION IV. The Council approves the Development Agreement with the Developer in substantially the form presented to the Council, and authorizes the Community Development Director (“Director”), or designee, to make minor clarifying changes and edits to the Development Agreement and to execute the Development Agreement in the name of the City of Richmond and to sign all documents necessary and appropriate to carry out and implement the Development Agreement, and to administer, along with the City Manager as may be set forth in the Development Agreement, the City’s obligations, responsibilities, and duties to be performed under the Development Agreement. The City Clerk is directed to record the executed Development Agreement and this Ordinance with the County Recorder within ten days after the execution of the Development Agreement.

SECTION V. Any provisions of the Richmond Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION VI. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, the remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, paragraph, sentence, clause or phrase.

SECTION VII. This Ordinance becomes effective thirty (30) days after its final passage and adoption.

Exhibit A: Development Agreement

First introduced at a regular meeting of the City Council of the City of Richmond held on September 8, 2020, and finally passed and adopted at a regular meeting held on September 15, 2020, by the following vote:

- AYES: Councilmembers Choi, Johnson III, Vice Mayor Bates, and Mayor Butt.
- NOES: Councilmember Martinez and Willis.
- ABSTENTIONS: None.
- ABSENT: Councilmember Myrick.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:
TOM BUTT
Mayor

Approved as to form:
RACHEL SOMMOVILLA
City Attorney(Interim)

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of Ordinance No. 23-20 N.S., passed and adopted by the City Council of the City of Richmond at a regular meeting held on September 15, 2020.



Pamela Christian, City Clerk of the City of Richmond

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Richmond
450 Civic Plaza
Richmond, CA 94804
Attn: City Manager

FOR RECORDER'S USE ONLY

Record for the Benefit of
the City of Richmond
Pursuant to Government Code Section 6103

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

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF RICHMOND

AND

WINEHAVEN LEGACY LLC

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Development Agreement**” or this “**Agreement**”) is made and entered into as of _____, 2020 (“**Agreement Date**”) by and between the CITY OF RICHMOND, a municipal corporation organized and existing under the laws of the State of California (“**City**”), and WINEHAVEN LEGACY LLC, a Delaware limited liability company (“**Developer**”). City and Developer are referred to individually as “Party,” and collectively as the “Parties.”

RECITALS

This Agreement is entered upon the basis of the following facts, understandings and intentions of City and Developer.

A. The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development, and discourage investment in and commitment to comprehensive planning that would make maximum efficient utilization of resources at the least economic cost to the public.

B. In order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs and risk of development, the Legislature of the State of California enacted Section 65864 et seq. of the Government Code (the “**Development Agreement Legislation**”), which authorizes City and a developer having a legal or equitable interest in real property to enter into a binding development agreement, establishing certain development rights in the property.

C. Pursuant to Government Code Section 65865, City has adopted rules and regulations establishing procedures and requirements for consideration of development agreements, which procedures and requirements are contained in the City of Richmond Municipal Code (“**RMC**”) section 15.04.811 et seq. (the “**City Development Agreement Regulations**”). This Development Agreement has been processed in accordance with the City Development Agreement Regulations.

D. The City is the owner of approximately 412 gross acres of property commonly known as the Point Molate Site, located within the City of Richmond, County of Contra Costa, State of California, and more particularly described and depicted in Exhibit A (the “**Site**”). As part of the Point Molate Reuse Plan adopted by the City Council in 1997 (“**Reuse Plan**”) and proposed Disposition and Development Agreement, the City is to convey a portion of the Site to Developer for the development of the Point Molate Mixed-Use Project. Developer has a legal or equitable interest in that portion of the Site consisting of approximately eighty-two (82) acres as depicted and identified on the attached Exhibit B as Parcels 1 through 44, inclusive (the “**Property**”). The precise boundaries of the vesting tentative tract map attached as Exhibit B and the Property to be conveyed by the City to Developer are subject to revision prior to the Closing Date to reflect minor adjustments as may be conditioned by the City.

E. Developer intends to develop an environmentally suitable mixed-use project as described in Exhibit C attached hereto (“**Project**”), including any program for development that

conforms with the Point Molate Planned Area District (“**PM-PAD**”), comprising the Zoning and the Point Molate Master Planned Area Plan (found in the Point Molate Design Guidelines), and falls within the mix and envelope of land uses evaluated in the Point Molate Mixed-Use Project Subsequent Environmental Impact Report, State Clearinghouse No. 2019070447 (the “**SEIR**”) and the “Development Capacity” set forth in Section 1.020 of the PM-PAD.

F. The complexity, magnitude and long-range nature of the Project would be difficult for Developer to undertake if City had not determined, through this Development Agreement, to inject a sufficient degree of certainty in the land use regulatory process to justify the substantial financial investment associated with development of the Project. As a result of the execution of this Development Agreement, both Parties can be assured that the Project can proceed without disruption caused by a change in City planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing and proceeding with construction of the Project. Furthermore, while City may approve other projects after the Agreement Date that place a burden on City’s infrastructure, it is the intent and agreement of the Parties that Developer’s right to build and occupy the Project, as set forth in the Project Approvals (as defined in Section 1.4), shall not be diminished as a result of such other projects and that Developer’s cost to develop the Project shall not be increased as a result of such other projects.

G. City is desirous of advancing the socioeconomic interests of City and its residents by promoting the productive use of property and encouraging quality development and economic growth, thereby enhancing employment opportunities for residents and expanding City’s property tax base. City is also desirous of gaining the Public Benefits (as defined in Section 2.1) of the Project, which are in addition to those dedications, conditions and exactions required by laws or regulations and as set forth in this Development Agreement, and which advance the planning objectives of, and provide benefits to, City.

H. City has determined that by entering into this Development Agreement: (1) City will ensure the productive use of property and foster orderly growth and quality development in City; (2) development will proceed in accordance with the goals and policies set forth in the City of Richmond General Plan 2030 (the “**General Plan**”) and will implement City’s stated General Plan policies; (3) City will receive increased property tax and sales tax revenues; (4) City will benefit from increased employment opportunities for residents of City created by the Project; and (5) City will receive Public Benefits (as defined in Section 2.1) provided by the Project for the residents of City.

I. Developer has applied for, and City has granted, the Project Approvals (as defined in Section 1.4) to protect the interests of its citizens in the quality of their community and environment. As part of the Project Approvals, City has undertaken, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter “**CEQA**”), the required analysis of the environmental effects that would be caused by the Project and has prepared a Subsequent Environmental Impact Report (SEIR) (State Clearinghouse No. 2019070447). The SEIR determined those feasible mitigation measures which will eliminate, or reduce to a less than significant level, or decrease the severity of the adverse environmental impacts of the Project. The environmental effects of the proposed development of the Property were analyzed by the SEIR (as defined in Section 1.4.1) certified by the City in connection with the Project. City also has adopted a mitigation monitoring and reporting program (the “**MMRP**”)

to ensure that those mitigation measures incorporated as part of, or imposed on, the Project are enforced and completed. Those mitigation measures for which Developer is responsible are incorporated into, and required by, the Project Approvals. City has also adopted findings of fact and statements of overriding considerations for those adverse environmental impacts of the Project that may not or cannot be mitigated to an acceptable level.

J. In addition to the Project Approvals, the Project may require various additional land use and construction approvals, termed Subsequent Approvals (as defined in Section 1.4.9), in connection with development of the Project.

K. City has given the required notice of its intention to adopt this Development Agreement and has conducted public hearings thereon pursuant to Government Code Section 65867. As required by Government Code Section 65867.5, City has found that the provisions of this Development Agreement and its purposes are consistent with the goals, policies, standards and land use designations specified in City's General Plan.

L. On _____, 2020, the City of Richmond Planning Commission ("**Planning Commission**"), the initial hearing body for purposes of development agreement review, recommended approval of this Development Agreement pursuant to Resolution No. _____. On _____, 2020, the City of Richmond City Council ("**City Council**") held a duly noticed public hearing on this Development Agreement pursuant to the requirements of the Development Agreement Legislation and the City Development Agreement Regulations and other relevant portions of the RMC. After due review of and report on Developer's application for this Agreement by City staff, consideration of the Planning Commission's recommendations thereon, all other evidence heard and submitted at such public hearing, all other matters considered by the Planning Commission, and the matters to be considered pursuant to the Development Agreement Legislation and the City Development Agreement Regulations in enacting a development agreement and other relevant provisions of the RMC, the City Council: (1) considered and relied upon the certified SEIR and determined that consideration of this Agreement complies with CEQA based on the SEIR; and (2) introduced Ordinance No. _____ approving this Agreement, finding and determining in connection therewith that this Agreement is consistent with the goals, objectives, policies, land uses and programs specified in the General Plan, as amended by the General Plan Amendments (as defined in Section 1.4.2), and adopted Ordinance No. _____ approving this Development Agreement and authorizing its execution.

M. For the reasons recited herein, City and Developer have determined that the Project is a development for which this Development Agreement is appropriate. This Development Agreement will eliminate or reduce uncertainty regarding Project Approvals (including the Subsequent Approvals), thereby encouraging planning for, investment in and commitment to use and development of the Property. Continued use and development of the Property will in turn provide substantial housing, employment, and property and sales tax benefits as well as other public benefits to City, thereby achieving the goals and purposes for which the Development Agreement Legislation was enacted.

N. The City and Developer agree that it may be beneficial to enter into additional agreements or to amend this Development Agreement with respect to the implementation of the individual or separate components of the Project when more information concerning the details of

each component is available, and this Agreement should expressly allow for such contemplated additional agreements or amendments.

O. This Development Agreement does not limit the City's obligation to comply with CEQA before taking any discretionary action regarding the Project, or the Developer's obligation to comply with Applicable Rules in connection with the development of the Project.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, City and Developer agree as follows:

Article 1
GENERAL PROVISIONS

1.1 Parties.

1.1.1 City. City is a California municipal corporation, with offices located at 450 Civic Center Plaza Richmond, CA 94804. "City," as used in this Development Agreement, shall include City and any assignee of or successor to its rights, powers and responsibilities.

1.1.2 Developer. Developer is a Delaware limited liability company, with offices located at 2392 Morse Avenue, Irvine, CA 92614. "Developer," as used in this Development Agreement, shall include any permitted assignee or successor-in-interest as herein provided.

1.2 Property Subject to this Development Agreement. The City is to convey the Property to Developer, which comprises that portion of the Site intended for development of the Project. The Property, as depicted and identified as Parcels 1 through 44 on Exhibit B, shall be subject to this Development Agreement, subject to Section 1.2.2 below.

1.2.2 Mapping Adjustment. The Parties acknowledge and agree that Exhibit B is provided for reference purposes, and that the Parties intend for Exhibit B to be replaced by a metes and bounds and/or recorded final subdivision map legal description of the Property. Upon completion of such metes and bounds and/or recorded final subdivision map legal description of the Property, the Parties shall execute and record an Administrative Amendment of this Agreement in accordance with Section 6.4.2 solely to replace Exhibit B to describe the Property by such metes and bounds and/or recorded final subdivision map legal description.

1.3 Term.

1.3.1 Effective Date. This Development Agreement shall become effective upon the effectiveness of the ordinance approving this Agreement (the "**Effective Date**"). Notwithstanding the foregoing or any provision of this Development Agreement to the contrary, (a) Developer's obligations under this Development Agreement shall not take effect unless and until the Close of Escrow under Section 4.3.2 of the Disposition and Development Agreement occurs and Developer takes title to the Property, and (b) if after all appeals or time to appeal have been exhausted, a court of competent jurisdiction enters a final judgment or issuance of a final order directed to the City to set aside, withdraw, or abrogate the approval of the City Council of this Agreement, then this Agreement shall be deemed to have no force or effect upon either Party.

1.3.2 Term of the Agreement. The term (“**Term**”) of this Development Agreement shall commence upon the Effective Date and shall continue in full force and effect for a period of fifteen (15) years unless extended or earlier terminated as provided in this Agreement subject to Force Majeure Delay. The Term has been established by the Parties as a reasonable estimate of the time required to develop the Project and obtain the Public Benefits of the Project. The Term shall automatically be extended for one (1) period of five (5) years provided there is no Developer Event of Default at the time of the extension and conditioned on Developer’s Completion of Construction of the First Site Improvement Phase (including the First Phase Master Infrastructure and First Phase Master Developer Amenities) within ten (10) years of the Effective Date subject to Force Majeure Delay. To the extent not eligible for the automatic 5-year extension, Developer may request an extension through the regular amendment process in Section 6.2 of this Agreement. Following the expiration of the Term, this Agreement shall be deemed terminated and of no further force or effect; provided, however, such termination shall not affect any right, duty or expiration date arising from City approvals, including, without limitation, the Project Approvals and any reimbursement agreement(s) entered into pursuant to the terms of this Agreement. This Agreement shall terminate with respect to any for-sale or for-rent residential lot, for-sale or for-rent residential condominium unit, for-sale or for-rent commercial lot, and for-sale or for-rent commercial condominium unit, and such lot or unit shall be released and no longer be subject to this Agreement, without the execution or recordation of any further document, when a certificate of occupancy has been issued for the building(s) on the lot or condominiums.

1.4 Project Approvals. Developer has applied for and obtained various environmental and land use approvals and entitlements related to the development of the Project, as described below. For purposes of this Development Agreement, the term “**Project Approvals**” shall mean all of the approvals, plans and agreements described in this Section 1.4.

1.4.1 SEIR. The Subsequent Environmental Impact Report (State Clearinghouse No. 2019070447), Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program (“**MMRP**”), which were prepared pursuant to CEQA, were recommended for certification by the Planning Commission on _____, 2020, by Resolution No. _____, and certified with findings by the City Council on _____, 2020, by Resolution No. _____ (certifying SEIR) and Resolution No. _____ (adopting findings) (the “**SEIR**”).

1.4.2 General Plan Amendments. On _____, 2020, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Resolution No. _____, approved amendments to the City General Plan (the “**General Plan Amendments**”), that amend the General Plan land use designations on the Property from Business/Light Industrial, Low-Density Residential, Medium Density Residential, Parks and Recreation, and Open Space to Low-Density Residential, Medium Intensity Mixed Use (Community Nodes and Gateways), Parks and Recreation, and Open Space; amends the text describing the Low-Density Residential and Medium Intensity Mixed Use (Community Nodes and Gateways) land use designations; amends the text describing Change Area (CA) 13; and amends the General Plan maps to conform the maps to the text amendments.

1.4.3 Disposition and Development Agreement. On _____, 2020, after a duly noticed public hearing, the City Council, by Resolution No. _____, approved the Disposition and Development Agreement for the Project (“**Disposition and Development Agreement**”).

1.4.4 Planned Area District. On _____, 2020, following Design Review Board review and recommendation of the Point Molate Planned Area District Plan (“**PAD Plan**”), which is Section 2 of the Design Guidelines, and the Design Guidelines, and following Planning Commission review and recommendation of the Planned Area District (“**PAD**”), which consists of Site-specific zoning (including an -H overlay for the Winehaven Historic District) and the Design Guidelines, and after a duly noticed public hearing, the City Council, by Ordinance No. _____, approved the PAD, including the Site-specific zoning (collectively, the “**Zoning Ordinance Amendments**”).

1.4.5 Vesting Tentative Tract Map. On _____, 2020, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Resolution No. _____, approved a large lot Vesting Tentative Tract Map (the “**VTM**”) for the Property.

1.4.6 Historic Conservation Plan and -H Overlay. On _____, 2020, following Historic Preservation Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Resolution No. _____, approved the Point Molate Historic Conservation Plan, which is Chapter 4 of the Design Guidelines, and the -H overlay for the Winehaven Historic District.

1.4.7 Use Permit. On _____, 2020, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Resolution No. _____, approved a Use Permit to allow construction of the Shoreline Park and Bay Trail extension.

1.4.8 Development Agreement. On _____, 2020, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Ordinance No. _____, approved this Development Agreement and authorized its execution.

1.4.9 Subsequent Approvals. To develop the Project as contemplated in this Development Agreement, the Project will require land use approvals, entitlements, development permits, and use and/or construction approvals other than those listed in Sections 1.4.1 through 1.4.8 above, which may include, without limitation: development plans, conditional use permits, tentative and final subdivision maps, street abandonments, design review approvals, certificates of appropriateness, demolition permits, improvement agreements, infrastructure agreements, grading permits, Building Permits, right-of-way permits, site plans, sewer and water connection permits, certificates of occupancy, parcel maps, encroachment permits, certificates of occupancy, and amendments thereto and to the Project Approvals (collectively, “**Subsequent Approvals**”). At such time as any Subsequent Approval applicable to the Property is approved by the City, then such Subsequent Approval shall become subject to all the terms and conditions of this Development Agreement applicable to Project Approvals and shall be treated as a “Project Approval” under this Development Agreement.

1.4.10 Other Agency Approvals. In addition to the Project Approvals and the Subsequent Approvals, to develop the Project as contemplated in this Development Agreement, the Project will also require certain discretionary approvals from federal, state, and regional governmental entities (the “**Other Agency Approvals**”). These Other Agency Approvals may

include, without limitation, approvals from the BCDC, California State Water Resources Control Board, California State Lands Commission, California Toll Bridge Authority, California State Historic Preservation Office, California Department of Fish and Wildlife, California Department of Transportation, California Department of Toxic Substances Control (“DTSC”), Regional Water Quality Control Board (“RWQCB”), U.S. Army Corps of Engineers, United States Coast Guard, U.S. Fish & Wildlife Service, and U.S. National Marine Fisheries Service (the foregoing and such other federal, state or regional agencies that may require review of or permits for the Project being defined, collectively, as the “Other Agencies”).

1.4.11 Mitigation Monitoring and Reporting Program. Developer shall comply with all mitigation measures contained in the MMRP imposed as applicable to each Project component, except for any mitigation measures that are the responsibility of a different party or entity. Without limiting the foregoing, Developer shall be responsible for the completion of the mitigation measures in the MMRP applicable to the Developer’s construction of the Project. The Parties expressly acknowledge that the SEIR and the associated MMRP are intended to be used in connection with each of the Subsequent Approvals to the extent appropriate and permitted under CEQA. Nothing in this Agreement shall limit the ability of the City to impose conditions on any new, discretionary permit resulting from Material Changes as such conditions are determined by the City to be necessary to mitigate significant environmental impacts identified through the CEQA process and associated with the Material Changes or otherwise to address significant environmental impacts as defined by CEQA created by an approval or permit; provided, however, any such conditions must be in accordance with CEQA. As used herein, “Material Changes” means the circumstances described in subparts (a), (b), and (c) of Public Resources Code Section 21166.

1.5 Definitions. The capitalized terms used in this Development Agreement shall have the meanings set forth in Appendix I attached hereto.

Article 2 PUBLIC BENEFITS

2.1 Public Benefits. In consideration of, and in reliance on, City agreeing to the provisions of this Development Agreement, Developer will provide the public benefits (“Public Benefits”) described herein, which are over and above those dedications, conditions, and exactions required by laws or regulations. The Public Benefits include without limitation:

2.1.1 Disposition and Development Agreement Obligations. The following obligations as set forth in the Disposition and Development Agreement, all within the time periods set forth in the Schedule of Performance attached to the Disposition and Development Agreement:

2.1.1.1 **Master Infrastructure**, as defined in Appendix I, as contemplated in Sections 5.1 and 5.5.6 and elsewhere in the Disposition and Development Agreement, which includes, among other things:

(a) **Police and Fire Station**, as defined in Appendix I, which Police and Fire Station is to be completed prior to the issuance of the first certificate of occupancy issued in connection with any portion of the Project; provided, however, (a) certificates

of occupancy may be issued for model homes prior to the completion of the Police and Fire Station in accordance with Section 4.4 of this Agreement provided that in no event shall a member of the homebuying public be able to occupy a model home until construction of the Police and Fire Station is complete, and (b) the issuance of a temporary (as opposed to final) Certificate of Occupancy (“TCO”) for the Historic Core if a TCO is needed for the Historic Core to be deemed “placed in service” for purposes of Section 47(b) of the IRC, so long as no portion of the Historic Core is occupied or used by persons or businesses until Completion of the Police and Fire Station occurs.

(b) **Offsite Improvements**, as defined in Appendix I, as contemplated in Sections 5.1 and 5.5.6 and elsewhere in the Disposition and Development Agreement.

2.1.1.2 **Master Developer Amenities**, as defined in Appendix I, as contemplated in Sections 5.1 and 5.5.6 and elsewhere in the Disposition and Development Agreement.

2.1.1.3 **Historic Core Access Work**, as defined in Appendix I, as contemplated in Section 1.1., Sections 5.1 and 5.5.6 and elsewhere in the Disposition and Development Agreement.

2.1.1.4 **Affordable Onsite Units**, as defined in Appendix I, which shall total no less than sixty-seven (67) Residential Units (the “**Required Onsite Affordable Units**”). All of the Required Onsite Affordable Units shall be completed as part of the Vertical Phases to be constructed within the First Site Improvement Phase, and at least 25% of the Required Onsite Affordable Units will be for sale units and will be interspersed with market rate housing (and not in a separate building), as contemplated in Section 1.1. and Section 5.5.5 and elsewhere in the Disposition and Development Agreement.

2.1.1.5 **On-going Remediation**, as defined in Appendix I, as contemplated in Section 4.10.6 and elsewhere in the Disposition and Development Agreement.

2.1.1.6 **Operation and maintenance** of: (a) the Master Infrastructure, including without limitation the Project’s internal streets, (b) the Master Developer Amenities, and (c) the Offsite Improvements pursuant to a Project O&M Plan, as contemplated in in Sections 4.6.2.8 and 5.5.8 of the Disposition and Development Agreement.

2.1.1.7 Formation of a master association for all residential and commercial owners (the “**Master HOA**”) to own (as applicable), perform and fund the ongoing management, accounting, operation, insurance, maintenance, repair and replacement of any and all private roadways, landscaping, recreation and open space, and other common areas and facilities within the Project, including common area as defined in the Davis Stirling Act (collectively, “**Project Common Area**”), as contemplated in Sections 6.3.2.1 and 6.4.1.2 of the Disposition and Development Agreement.

2.1.1.8 **Weatherization of Historic Resources**, as contemplated in Section 2.12 of the Disposition and Development Agreement.

2.1.1.9 Provision of pre-Closing security services, as contemplated in Section 2.13 of the Disposition and Development Agreement.

2.1.1.10 **Payment of Prevailing/Living Wage**, as contemplated in Section 5.5.10.1 of the Disposition and Development Agreement Developer and each of its contractors and subcontractors are required to pay prevailing wages and living wages in the construction of the Project as those wages are determined pursuant to Labor Code Sections 1720 *et seq.* and implementing regulations of the Department of Industrial Relations and the City of Richmond's Living Wage Ordinance (RMC Chapter 2.60), respectively.

2.1.2 Community Facilities District. As contemplated in Section 4.5 of this Agreement and 4.6.2.8 of the Disposition and Development Agreement the City shall cooperate with the Developer to establish one or more CFDs pursuant to the Mello Roos Act and as permitted by State law to finance construction, development, and operation of the Master Infrastructure, Offsite Improvements and Master Developer Amenities in connection with the Project and the development of the Property, pursuant to the terms of this Agreement and the Disposition and Development Agreement.

2.1.3 Construction of the Bay Trail.

2.1.3.1 On-Site Portion. The on-site portion of the Bay Trail extends approximately 1.5 miles through the Property along the shoreline, including a vista overlook. As contemplated in Sections 5.1 and 5.5.6 and elsewhere in the Disposition and Development Agreement, the Developer shall be responsible for the construction of the on-site portion of the Bay Trail in substantial conformance with the current configuration and sixty-five (65) percent design drawings, which construction is currently estimated to cost Three Million and Two Hundred Thousand Dollars (\$3,200,000). Developer shall not be obligated to contribute to or incur any marginal increases in costs attributed to later upgrades in the design that may be imposed by the City. The obligation to construct and pay for the on-site portion of the Bay Trail shall remain even if grant funds are ultimately secured by the City and made available to the Developer. Accordingly, to the extent grant funds are secured and made available to the Developer to pay all or a portion of the cost of constructing the on-site portion of the Bay Trail, Developer shall contribute an amount equal to such grant funds to other on-site or immediate off-site improvements as the City may designate in its discretion so long as the other improvements provide public benefits to the Project or its future occupants. Notwithstanding the foregoing, at any time prior to Developer's Commencement of Construction of the on-site portion of the Bay Trail the City may decide in its sole discretion to construct the on-site portion of the Bay Trail itself, in which case the entire cost of such construction (without offset for any grant funds) will be reimbursed to the City by Developer and/or contributed to other off-site and/or on-site improvements, as the City may designate in its sole discretion. If the City so elects to construct the on-site portion of the Bay Trail, the City shall provide Developer with sixty (60) days' notice of that election and the Developer's financial contribution shall not exceed Three Million Dollars (\$3,000,000); payment of the Developer's financial contribution shall be due prior to the City's issuance of certificates of occupancy for the first saleable residential units in the initial phase of development.

2.1.3.2 Off-Site Portion. Developer shall construct the off-site portion of the Bay Trail, extending from Interstate 580 to the Property, including staging areas and related

access improvements at the Bay Trail/580 interchange. However, Developer's obligation to construct the off-site portion of the Bay Trail shall be limited to the maximum in-kind contribution of up to Seven Hundred and Fifty Thousand Dollars (\$750,000) (the "**Bay Trail Funding Contribution**"). The balance of the funding is expected to be provided by the East Bay Regional Park District, grant funding, or other funding sources. The Parties understand and acknowledge that the East Bay Regional Park District has already applied for and received grant funding for a majority of the costs of constructing the off-site portion of the Bay Trail, and any such grant funds actually received are expected to be made available towards the cost of constructing the off-site portion of the Bay Trail. Cost savings in Developer's construction or grant funding received in excess of funds needed to construct the balance of the off-site portion of the Bay Trail may offset or reduce the amount of Developer's Bay Trail Funding Contribution. Notwithstanding the foregoing, at any time prior to the Developer's Commencement of Construction of the off-site portion of the Bay Trail, the City in its sole discretion may elect that either the City or East Bay Regional Park District construct the off-site portion of the Bay Trail, in which case the Bay Trail Funding Contribution will be paid to the City or at City's discretion to East Bay Regional Park District or another third party by Developer as a contribution to the cost of the off-site portion of the Bay Trail. If the City so elects to construct the off-site portion of the Bay Trail, the City shall provide Developer with sixty (60) days' notice of that election. Payment of the Developer's financial contribution under such election shall be due prior to the City's issuance of the one hundredth (100th) Building Permit for a residential unit in the Project.

2.1.4 Removal of Remnant Piping on Fire Roads. Developer shall remove all above-ground remnant piping on fire roads in hillside areas.

2.1.5 Storm Water Facilities and Maintenance. Developer shall design, construct, and maintain the improvements to the drainage and treatment of storm water in the area with the final design, details, and management to be reviewed and approved by the City Engineer in accordance with City and industry standards. These storm water improvements must treat at the minimum volume of storm water runoff that is acceptable to the City Engineer. Developer's obligation to design and construct storm water facilities pursuant to this Section 2.1.5 shall be fully creditable toward the storm drainage fee that is otherwise payable in connection with the construction of the Project as set forth in Section 3.6.3 and **Exhibit D** of this Agreement.

2.2 Site Improvements. Developer shall be responsible for the design, engineering, and construction of the Site Improvements in accordance with Sections 2.5.1 and 5.2 of the Disposition and Development Agreement (except that Developer shall not be responsible for the design engineering, and construction of the Bay Trail extension, which is being undertaken by other public agencies; provided that Developer shall be responsible for the Bay Trail Funding Obligation, as described in Section 2.1.3 above). All Site Improvements shall be designed and constructed in accordance with City-Wide standards. The Site Phasing Plan will provide for the Site Improvements to be phased proportionately with vertical development phases. Developer shall maintain and be liable for all such Site Improvements until formally accepted by City, or when finally accepted by another authority if another authority has jurisdiction over the Site Improvements, and/or when finally accepted by a public utility if a public utility has jurisdiction over the Site Improvements.

2.3 Occupancy Contingent on Construction of Police and Fire Station. Developer acknowledges that the City shall not grant a certificate of occupancy for any building constructed on the Property prior to the completion of the Police and Fire Station as set forth in Section 1.1 of the Disposition and Development Agreement.

2.4 Processing During Third Party Litigation. The filing of any third-party lawsuit(s) against the City or Developer relating to this Agreement, any Project Approval or Subsequent Approval, or to other development issues affecting the Property shall not delay or stop the City from processing, issuing, and/or approving Subsequent Approvals, unless the third party obtains a court order preventing the activity.

Article 3

DEVELOPMENT OF THE PROPERTY

3.1 Project Development. Developer shall have a vested right to develop the Project on the Property, in accordance with the Vested Elements (defined in Section 3.2).

3.2 Vested Elements. The permitted uses of the Property, the maximum density and/or number of residential units and commercial development, the intensity of use, the maximum height and size of the proposed buildings, provisions for reservation or dedication of land for public purposes, the conditions, terms, restrictions, and requirements for subsequent discretionary actions, the provisions for Site Improvements and financing of Site Improvements, and the other terms and conditions of development applicable to the Property are as set forth in:

- The General Plan of City on the Agreement Date, including the General Plan Amendments (“Applicable General Plan”);
- The Zoning Ordinance of City on the Agreement Date, including the Zoning Ordinance Amendments (“Applicable Zoning Ordinance”);
- Other rules, regulations, ordinances and policies of City applicable to development of the Property on the Agreement Date (collectively, together with the Applicable General Plan and the Applicable Zoning Ordinance, the “Applicable Rules”); and
- The Project Approvals (including the Design Guidelines), as they may be amended from time to time with Developer’s consent (such consent to be granted at the sole discretion of Developer) and City’s approval of the amendment in accordance with Section 6.4.2 of this Agreement,

are hereby vested in Developer, subject to, and as provided in, the provisions of this Development Agreement (the “**Vested Elements**”). City hereby agrees to be bound with respect to the Vested Elements, including the PAD’s development capacity as defined in **Exhibit C** and **Exhibit E** (e.g. including for example the PAD’s development capacity, which permits 1,260 new residential units plus a mix of uses in rehabilitated historic buildings and 250,000 square feet of new construction in the Winehaven Historic District) and subject to Developer’s compliance with the terms and conditions of this Development Agreement. The intent of this Section 3.2 is to cause all development rights which may be required to develop the Project in accordance with the Project

Approvals to be deemed to be “vested rights” as that term is defined under California law applicable to the development of land or property and the right of a public entity to regulate or control such development of land or property, including, without limitation, vested rights in and to Building Permits and Certificates of Occupancy.

3.3 Development Construction Completion.

3.3.1 Timing of Development; Pardee Finding. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over the parties’ agreement, it is the Parties’ intent to cure that deficiency by acknowledging and providing that, subject to the phasing requirements set forth in Schedule of Performance and Site Phasing Plan of the Disposition and Development Agreement, Developer shall have the right (without the obligation and subject to the provisions of this Development Agreement), to develop the Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. As set forth in the Disposition and Development Agreement, the City Manager may at his or her discretion agree on behalf of the City to any modification of the Schedule of Performance or Site Phasing Plan proposed by Developer. No such modifications of the Schedule of Performance shall require any amendment of this Agreement.

3.3.2 Moratorium. No City-imposed moratorium or other limitation (whether relating to the rate, timing or sequencing of the development or construction of all or any part of the Property, whether imposed by ordinance, initiative, resolution, policy, order or otherwise, and whether enacted by the City Council, an agency of City, the electorate, or otherwise) affecting parcel or subdivision maps (whether tentative, vesting tentative or final), Building Permits, Site Improvement Permits, Certificates of Occupancy, or other entitlements to use or service (including, without limitation, water and sewer) approved, issued or granted within City, or portions of City, shall apply to the Property to the extent such moratorium or other limitation is in conflict with this Agreement; provided, however, the provisions of this Section shall not affect City’s compliance with moratoria or other limitations, including but not limited to limitations due to pandemics, mandated by other governmental agencies or court-imposed moratoria or other limitations imposed by State or Federal Law, subject to Section 3.4.3 hereof.

3.4 Effect of Project Approvals and Applicable Rules; Future Rules.

3.4.1 Governing Rules. Except as otherwise explicitly provided in this Development Agreement, development of the Property shall be subject to (a) the Project Approvals, and (b) the Applicable Rules.

3.4.2 Changes in Applicable Rules; Future Rules.

3.4.2.1 To the extent any changes in the Applicable Rules, or any provisions of future General Plans, Specific Plans, Zoning Ordinances or other rules, regulations, ordinances or policies (whether adopted by means of ordinance, initiative, referenda, resolution, policy, order, moratorium, or other means, adopted by the City Council, Planning Commission, or any other board, commission, agency, committee, or department of City, or any officer or

employee thereof, or by the electorate) of City (collectively, “**Future Rules**”) are not in conflict with the Vested Elements, such Future Rules shall be applicable to the Project. For purposes of this Section 3.4.2.1, the word “conflict” means Future Rules that would (i) alter the Vested Elements, or (ii) frustrate in a more than insignificant way the intent or purpose of the Vested Elements in relation to the Project, or (iii) materially increase the cost of performance of, or preclude compliance with, any provision of the Vested Elements, or (iv) delay in a more than insignificant way development of the Project, or (v) limit or restrict the availability of public utilities, services, infrastructure of facilities (for example, but not by way of limitation, water rights, water connection or sewage capacity rights, sewer connections, etc.) to the Project, or (vi) impose limits or controls in the rate, timing, phasing or sequencing of development of the Project, or (vii) increase the permitted “Impact Fees” on the Agreement Date as set forth in **Exhibit D** or add new Impact Fees, in each case with respect to any “First Phase Vertical Improvements”, or increase the permitted “Impact Fees” on the Agreement Date as set forth in **Exhibit D** or add new Impact Fees, in each case before the “Impact Fee Re-Assessment Date” with respect to any “Later Phase Vertical Improvements” (as such terms are defined in Section 3.6.3), or (viii) limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations included in the Project Approvals; or (ix) apply to the Project any Future Rules otherwise allowed by this Agreement that is not uniformly applied on a City-wide basis to all substantially similar types of development projects and project sites; or (x) require the issuance of additional permits or approvals by the City other than those required by Applicable Rules; (xi) establish, enact, increase, or impose against the Project or Property any fees, taxes (including without limitation general, special and excise taxes), assessments, liens or other monetary obligations (including generating demolition permit fees, encroachment permit and grading permit fees) other than those specifically permitted by this Agreement (including increases to Impact Fees after the Impact Fee Re-Assessment Date that are applicable to Later Phase Vertical Improvements, but not First Phase Vertical Improvements) or other impact fees assessed by entities other than the City or other connection fees imposed by third party utilities; (xii) impose against the Project any condition, dedication or other exaction not specifically authorized by Applicable Rules; or (xiii) limit the processing or procuring of applications and approvals of Subsequent Approvals.

3.4.2.2 To the extent that Future Rules conflict with the Vested Elements, they shall not apply to the Project and the Vested Elements shall apply to the Project, except as provided in this Section 3.4.2.2. A Future Rule that conflicts with the Vested Elements shall nonetheless apply to the Property if, and only if (i) consented to in writing by Developer; (ii) it is determined by City and evidenced through findings adopted by the City Council that the change or provision is reasonably required in order to prevent a condition dangerous to the public health or safety as set forth in 3.4.4 below; (iii) required by changes in State or Federal law as set forth in Section 3.4.3 below; (iv) it consists of changes in, or new fees permitted by, Section 3.6; (v) it consists of revisions to, or new Building Regulations (as defined in Section 3.4.2.4 below) to the extent permitted by Section 3.4.2.4 below; or (vi) it is otherwise expressly permitted by this Development Agreement.

3.4.2.3 Prior to the Effective Date, the Parties shall have prepared two (2) sets of the Project Approvals and Applicable Rules, one (1) set for City and one (1) set for Developer, contained in **Exhibit E**, attached hereto. If it becomes necessary in the future to refer to any of the Project Approvals or Applicable Rules, the contents of these sets are presumed for

all purposes of this Development Agreement, absent clear clerical error or similar mistake, to constitute the Project Approvals and Applicable Rules.

3.4.2.4 “**Building Regulations**” consist of the International Building Code as modified by the California Building Code and the City Building Code and any ordinances which interpret these codes where such ordinances establish construction standards that are intended to be applied ministerially to the construction of improvements on private property and public infrastructure. Building Regulations applicable to building and construction throughout the City at the time Developer applies for the applicable permits for construction of any portion of the Project shall be applicable to the building and construction authorized by such permit. Notwithstanding any provision of this Agreement to the contrary, development of the Project shall be subject to changes in Building Regulations which may occur from time to time; provided, however, that the City cannot impose standards or requirement on Developer that the City would not apply to itself if the improvement was to be constructed by the City on its own.

3.4.3 Changes in State or Federal Laws. In accordance with Government Code Section 65869.5, in the event that state or federal laws or regulations enacted after the Effective Date (“**State or Federal Law**”) prevent or preclude compliance with one or more provisions of this Agreement, the Parties shall meet in good faith for a period not exceeding sixty (60) days (unless such period is extended by mutual written consent of the Parties) to determine the feasibility of any modification or suspension of this Agreement that may be necessary to comply with such State or Federal Law, to determine the effect such modification or suspension would have on the purposes and intent of this Agreement and the Vested Elements, and to prepare such modification. Following the meeting between the Parties, the provisions of this Development Agreement may, to the extent feasible, and upon mutual agreement of the Parties, be modified or suspended, but only to the minimum extent necessary to comply with such State or Federal Law. In such an event, this Development Agreement together with any required modifications shall continue in full force and effect. In the event that the State or Federal Law operates to frustrate irremediably and materially the vesting of development rights to the Project as set forth in this Agreement, Developer may terminate this Agreement. In addition, Developer shall have the right to challenge (by any method, including litigation) the State or Federal Law preventing compliance with, or performance of, the terms of this Development Agreement and, in the event that such challenge is successful, this Development Agreement shall remain unmodified and in full force and effect, unless the Parties mutually agree otherwise, except that if the Term of this Development Agreement would otherwise terminate during the period of any such challenge and Developer has not commenced with the development of the Project in accordance with this Development Agreement as a result of such challenge, the Term shall be extended for the period of any such challenge.

3.4.4 Health and Safety Exception. Notwithstanding any provision in this Agreement to the contrary, the City shall at all times retain its authority to take any action that is necessary to protect persons or property from dangerous or hazardous conditions which create a threat to the public health or safety, including the authority to condition or deny an approval or to adopt a new law applicable to the Project so long as such condition or denial or new law (i) is limited solely to addressing a specific and identifiable issue in each case required to protect the physical health and safety of the public, and (ii) is based on findings by the City Council specifically identifying the dangerous or hazardous conditions requiring such condition or denial

or change in law, why there are no feasible alternatives to the imposition of such condition or denial or changes in the law, and how such condition or denial or new law would alleviate the dangerous or hazardous condition.

3.4.5 Conflicts. In the event of an irreconcilable conflict between the provisions of the Project Approvals (on the one hand) and the Applicable Rules (on the other hand), the provisions of the Project Approvals shall apply. In the event of a conflict between the Project Approvals (on the one hand) and this Development Agreement (on the other hand), the provisions of this Development Agreement shall control. In the event of a conflict between this Development Agreement (on the one hand) and the Disposition and Development Agreement (on the other hand), the provisions of the Disposition and Development Agreement shall control.

3.5 Processing Subsequent Approvals.

3.5.1 Processing of Subsequent Approvals. City will accept, make completeness determinations, and process, promptly and diligently, to completion all applications for Subsequent Approvals for the Project, in accordance with the terms of this Development Agreement, the Disposition and Development Agreement, and standard procedures contained in RMC including, but not limited to, the following:

3.5.1.1 the processing of applications for and issuance of all discretionary approvals requiring the exercise of judgment and deliberation by City, including without limitation, the Subsequent Approvals;

3.5.1.2 the holding of any required public hearings; and

3.5.1.3 the processing of applications for and issuing of all ministerial approvals requiring the determination of conformance with the Applicable Rules, including, without limitation, site plans, development plans, land use plans, grading plans, improvement plans, building plans and specifications, and ministerial issuance of one or more final maps, zoning clearances, demolition permits, grading permits, improvement permits, wall permits, Building Permits, lot line adjustments, encroachment permits, sign permits, certificates of use and occupancy and approvals and entitlements and related matters as may be necessary for the completion of the development of the Property (“**Ministerial Approvals**”).

3.5.2. Scope of Review of Subsequent Approvals. City will use its reasonable best efforts to anticipate and communicate to Developer issues and concerns that may arise in connection with any application prior to the application submittal if possible and as early as feasible in the permit process. Developer will use its reasonable best efforts to keep City informed of development applications as they mature, and anticipate and communicate issues of mutual concern prior to submittal of permit applications. By approving the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its authority in considering any application for a discretionary Subsequent Approval to change the policy decisions reflected by the Project Approvals or otherwise to prevent or delay development of the Project as set forth in the Project Approvals. Instead, the Subsequent Approvals shall be deemed to be tools to implement those final policy decisions. Except as otherwise expressly provided herein, City not impose

requirements or conditions upon Project development and construction that are inconsistent with the Project Approvals and the terms and conditions of this Agreement. Further, except as expressly provided herein, City shall not exercise discretion in determining whether or how to grant Subsequent Approvals in a manner that would prevent development of the Project for the uses and to the maximum intensity of development set forth in the Project Approvals. Notwithstanding the foregoing, this Agreement shall not prevent the City, in acting on Subsequent Approvals, from applying land use regulations which do not conflict with the Vested Elements and the intent of this Agreement.

3.6 Development Fees, Exactions; and Conditions.

3.6.1 General. All fees, exactions, dedications, reservations or other impositions to which the Project would be subject, but for this Development Agreement, are referred to in this Development Agreement either as “Processing Fees,” (as defined in Section 3.6.2) or “Impact Fees” (as defined in Section 3.6.3).

3.6.2 Processing Fees. “**Processing Fees**” mean fees charged on a citywide basis to cover the cost of City review of applications for any permit or other review by City departments. Applications for Subsequent Approvals for the Project shall be charged Processing Fees to allow City to recover its actual and reasonable costs of processing Developer’s Subsequent Approvals with respect to the Project.

3.6.3 Impact Fees. “**Impact Fees**” means monetary fees, contributions, exactions, dedications, reservations, or impositions, other than taxes or assessments, whether established for or imposed upon the Project individually or as part of a class of projects, that are imposed by City on the Project in connection with any Project Approval for any purpose, including, without limitation, defraying all or a portion of the cost of public services and/or facilities construction, improvement, operation and maintenance attributable to the burden created by the Project. Any fee, exaction or imposition imposed by City on the Project which is not a Processing Fee or a Mitigation Measure is an Impact Fee. Impact Fees do not include fees that the City collects on behalf of other entities such as school fees or regional transportation impact fees. No Impact Fees shall be applicable to any Vertical Phase or Vertical Improvement within the First Site Improvement Phase of the Project (the “**First Phase Vertical Improvements**”), except as provided in this Development Agreement. Furthermore, no Impact Fees shall be applicable to any Vertical Phase or Vertical Improvement outside of the First Site Improvement Phase of the Project (the “**Later Phase Vertical Improvements**”) except as provided in this Development Agreement until the date that is seven (7) years after the Commencement of Construction of the First Site Improvement Phase (such date, the “**Impact Fee Re-Assessment Date**”) subject to any Force Majeure Delay. From and after the Impact Fee Re-Assessment Date, City shall have the ability to re-assess the Impact Fees applicable to the construction of Later Phase Vertical Improvements (but not the First Phase Vertical Improvements) and to apply the then current generally applicable, City-wide fee rates to the construction of Later Phase Vertical Improvements (but not the First Phase Vertical Improvements). City understands that the foregoing long-term assurances by City concerning Impact Fees were a material consideration for Developer agreeing to develop the Project, to pay the Impact Fees set forth in **Exhibit D** of this Development Agreement and to provide the Public Benefits described in this Development Agreement. Impact Fees shall not include Processing Fees, Mitigation Measures, taxes or special assessments, or fees, taxes,

assessments impositions imposed by Other Agencies, all of which shall be due and payable by Developer as and when due in accordance with Applicable Law.

3.6.3.1 Only the specific Impact Fees listed in **Exhibit D** shall apply to the Project, except as otherwise explicitly permitted by this Section 3.6.3. No change to an Impact Fee in **Exhibit D** (other than by the ECI adjustment, if any, permitted in **Exhibit D** using the specific index identified herein) resulting in an increase in dollar amounts charged to the Project that is adopted after the Agreement Date shall apply to the Project, except that after the Impact Fee Re-Assessment Date, City may apply such changes to an Impact Fee to Later Phase Vertical Improvements (but not the First Phase Vertical Improvements). If, after the Agreement Date, City decreases the rate of any of its Impact Fees existing as of the Agreement Date, Developer shall pay the reduced Impact Fee in effect at the time of payment. No Impact Fee other than those listed in **Exhibit D** may be imposed on the First Phase Vertical Improvements during the Term of this Agreement, and no Impact Fee other than those listed in **Exhibit D** may be imposed on the Later Phase Vertical Improvements prior to the Impact Fee Re-Assessment Date. Developer shall receive the benefit of any fee credits that are in effect as of the Effective Date and the amount of Impact Fees that are payable by Developer hereunder shall be reduced by the amount of such credits. Developer shall receive full credit for all existing uses of the Property.

3.6.3.2 City agrees to exclude Developer from any and all collection agreements regarding fees, including, but not limited to, development impact fees, which other public agencies request the City to impose at City's discretion on the Project or the Property after the Agreement Date through the Term of this Agreement with respect to the First Phase Vertical Improvements and through the Impact Fee Re-Assessment Date with respect to the Later Phase Vertical Improvements.

3.6.3.3 Unless otherwise provided herein, City and Developer will cooperate to ensure that the phasing of pertinent assessments, fees, special taxes, dedications, or other similar levies coincides with and does not precede the actual construction of each increment of the Project, so that only currently developing properties within the Property are subject to such assessments, fees, special taxes, dedications, or other similar levies. This timing may be accomplished through a number of mechanisms including, among others, the phasing of assessment districts and the use of benefit districts in conjunction with assessment districts, thereby spreading the timing of the imposition of relevant levies.

3.6.4 **Impact Fee Credits.** Developer shall receive credits against its Impact Fee obligations that would otherwise be payable or apply in connection with the development and construction of the Project ("**Fee Credits**") in accordance with the provisions of the City's Public Facilities Impact Fee Credits Policy ("**Fee Credits Policy**") and this Agreement. In the event of any conflict between the Fee Credits Policy and this Agreement, the terms and provisions of this Agreement shall control. To the extent the Fee Credits Policy requires that the issuance of any Fee Credits be approved in advance by the City Council, this Agreement shall constitute and serve as the City Council's approval of the Fee Credits for the Project. Developer shall have the right to assign and transfer Fee Credits set forth in Sections 3.6.4.1, 3.6.4.2, 3.6.4.3, 3.6.4.4, and 3.6.4.5, below to successor owners of all or any portion of the Property, including any Merchant Builders.

3.6.4.1 Parks and Open Space Credit. Developer shall not be obligated to pay the “Park/Open Space” component of the Public Facilities Impact Fee or pay fees or dedicate land pursuant to the City’s Quimby Act Ordinance that would be otherwise payable and/or applicable in connection with the construction and development of the Project because such obligation has been satisfied by Developer’s commitment to construct the Shoreline Park, the trails and trail facilities in the hillside open space areas, and to construct and/or contribute funds toward the Bay Trail extension pursuant to this Agreement and the Disposition and Development Agreement (collectively, the “**Project Parks and Open Space**”). City and Developer agree that the cost of constructing the Project Parks and Open Space significantly exceeds the “Park/Open Space” component of the Public Facilities Impact Fee and the fees/land dedication requirement under the City’s Quimby Act Ordinance that would otherwise be payable and/or apply in connection with the construction and development of the Project. Notwithstanding the foregoing, Developer’s construction of the Project Parks and Open Space is one of the Public Benefits that Developer is providing pursuant to this Development Agreement, and Developer shall not be entitled to reimbursement for the amount by which the cost of constructing the Project Parks and Open Space exceeds the “Park/Open Space” component of the Public Facilities Impact Fee and the fees/land dedication requirement of the City’s Quimby Act Ordinance that would otherwise be payable and/or apply in connection with the construction and development of the Project.

3.6.4.2 Police and Fire Station Credit. Developer shall not be obligated to pay the “Police Facilities” and “Fire Facilities” components of the Public Facilities Impact Fee that would be otherwise payable in connection with the construction and development of the Project because such obligation has been satisfied by Developer’s commitment to construct and dedicate the Police and Fire Station for the City. City and Developer agree that the cost of constructing the Police and Fire Station significantly exceeds the “Police Facilities” and “Fire Facilities” component of the Public Facilities Impact Fee that would otherwise be payable in connection with the construction and development of the Project. Notwithstanding the foregoing, the construction of the Police and Fire Station for the City is one of the Public Benefits that Developer is providing pursuant to this Development Agreement, and Developer shall not be entitled to reimbursement for the amount by which the cost of constructing the Police and Fire Station exceeds the “Police Facilities” and “Fire Facilities” component of the Public Facilities Impact Fee that would otherwise be payable in connection with the construction and development of the Project.

3.6.4.3 Sewer Fees, Storm Drain Fee and Traffic Fee Credit. Developer shall be entitled to receive Fee Credits for its obligation to pay the “Sewer”, “Storm Drain”, and “Traffic” components of the Public Facilities Impact Fee based upon Developer’s obligation to construct the sewer, storm drain, and traffic improvements included in the Master Infrastructure and Offsite Improvements (the “**Sewer Improvements**”, the “**Storm Drain Improvements**”, the “**Traffic Improvements**”). City shall award Developer Fee Credits for the Sewer Improvements, Storm Drain Improvements, and/or Traffic Improvements upon City’s receipt of satisfactory documentation of any of the following: (i) the improvement is completed, (ii) land has been conveyed to and accepted by the City, (iii) funds for the improvement are in escrow, (iv) a construction contract for the improvement has been executed, or (v) a performance bond approved by the City Attorney has been posted to ensure completion. The City shall issue to Developer a written Fee Credit confirmation letter (the “**Credit Confirmation Letter**”), which shall specify the dollar value of the applicable Fee Credits. The dollar value of Fee Credits will increase

pursuant to any ECI Adjustment on a quarterly basis. City shall maintain records of all Fee Credits included in Developer's Credit Confirmation Letter(s). Each time an applicable Impact Fee is due, City shall determine if Developer has applicable Fee Credits available, and if so, City shall apply the Fee Credits against the Impact Fees due. If and to the extent applicable Fee Credits are exhausted, Impact Fees shall be calculated in accordance with Section 3.6.3 and **Exhibit D**.

3.6.4.4 Sewer Capacity Credit. Developer shall receive a credit for sewer capacity fees and/or charges that are payable in connection with the construction and development of the Project based on the existing capacity serving the Property as of the Agreement Date.

3.6.4.5 Inclusionary Housing Requirement Credit. Pursuant to Section 1.1 of the Disposition and Development Agreement, Developer is obligated to construct sixty-seven (67) Required Affordable Onsite Units. Developer's obligation to construct the Required Onsite Affordable Units shall be credited against the inclusionary housing obligations that apply to the Project pursuant to the City's Inclusionary Housing Ordinance.

3.6.5 Conditions of Subsequent Approvals.

3.6.5.1 In connection with any Subsequent Approvals, including any "B" subdivision maps of the planning areas of the Project, City shall have the right to impose reasonable conditions including, without limitation, normal and customary dedications for rights of way or easements for public access, utilities, water, sewers, and drainage necessary for the Project; provided, however, such conditions and dedications shall not be inconsistent with the Applicable Rules or Project Approvals, nor inconsistent with the development of the Project as contemplated by this Agreement. Developer may protest any conditions, dedications or fees while continuing to develop the Property; such a protest by Developer shall not delay or stop the issuance of Building Permits, Site Improvement Permits, or Certificates of Occupancy.

3.6.5.2 No conditions imposed on Subsequent Approvals shall require dedications or reservations for, or construction or funding of, public infrastructure or public improvements beyond those already included in the large-lot subdivision VTM and the MMRP. In addition, any and all conditions imposed on Subsequent Approvals for the Project must comply with Sections 3.6.2 and 3.6.3 herein.

3.6.5.3 Upon Developer's request, City shall cooperate with Developer (a) to locate any new easements required for the Project so as to minimize interference with development of the Project, and (b) in Developer's efforts to relocate or remove easements to facilitate development of the Project.

3.6.6 Infrastructure Capacity. Subject to Developer's installation of infrastructure in accordance with the requirements of the Project Approvals, City shall undertake all reasonable efforts to reserve sufficient capacity in its infrastructure, services and utility systems, including, without limitation, traffic circulation, storm drainage, flood control, electric service, sewer collection, sewer treatment, sanitation service and, except for reasons beyond City's control, water supply, treatment, distribution and service, as and when necessary to serve the Project as it is developed.

3.7 Life of Project Approvals and Subdivision Maps.

3.7.1 Life of Subdivision Maps. The terms of the VTM, any later-submitted subdivision or parcel maps for the Property or any portion thereof, any amendment or reconfiguration thereto, or any subsequent tentative map or parcel map, shall be automatically extended such that such tentative or parcel maps remain in effect for a period of time coterminous with the term of this Development Agreement.

3.7.2 Life of Other Project Approvals. The term of all other Project Approvals shall be automatically extended such that these Project Approvals remain in effect for a period of time at least as long as the term of this Development Agreement.

3.7.3 Termination of Agreement. In the event that this Agreement is terminated prior to the expiration of the Term of the Agreement, the term of any subdivision or parcel map or any other Project Approval and the vesting period for any final subdivision map approved as a Project Approval shall be the term otherwise applicable to the approval, which shall commence to run on the date that the termination of this Agreement takes effect (including any extensions).

3.8 Further CEQA Environmental Review.

3.8.1 Reliance on the SEIR. The SEIR, which has been certified by City as being in compliance with CEQA, addresses the potential environmental impacts of the entire Project as it is described in the Project Approvals. Nothing in this Development Agreement shall be construed to require CEQA review of Ministerial Approvals. It is agreed that, in acting on any discretionary Subsequent Approvals for the Project, City will rely on the SEIR to satisfy the requirements of CEQA to the fullest extent permissible by CEQA and City will not require a new initial study, negative declaration or subsequent or supplemental SEIR unless required by CEQA and will not impose on the Project any mitigation measures or other conditions of approval other than those specifically imposed by the Project Approvals and the MMRP or specifically required by CEQA.

3.8.2 Subsequent CEQA Review. In the event that any additional CEQA documentation is legally required for any discretionary Subsequent Approval for the Project, the scope of such documentation shall be focused, to the extent possible consistent with CEQA, on the specific subject matter of the Subsequent Approval, and the City shall conduct such CEQA review as expeditiously as possible at Developer's sole cost and expense, including, without limitation, the payment of the applicable Processing Fee.

3.9 Written Verification of Sufficient Water Supply. Any and all tentative subdivision maps approved for the Project shall comply with Government Code Section 66473.7, if, and to the extent, required by Government Code Section 65867.5(c).

Article 4

ADDITIONAL RIGHTS AND OBLIGATIONS OF THE PARTIES;
ALLOCATIONS OF RIGHTS AND OBLIGATIONS OF THE PARTIES

4.1 Conveyance of Public Infrastructure. Upon completion of any and all public infrastructure to be completed by Developer, Developer shall offer for dedication to City from

time to time as such public infrastructure is completed, and City shall promptly accept from Developer the completed public infrastructure (and release to Developer any bonds or other security posted in connection with performance thereof in accordance with the terms of such bonds). Developer may offer dedication of public infrastructure in phases and the City shall not refuse to accept such phased dedications or refuse phased releases of bonds or other security so long as all other conditions for acceptance have been satisfied, and the public infrastructure will be maintained following acceptance in accordance with Section 5.5.8 of the Disposition and Development Agreement.

4.2 Assessment Financing. City agrees to cooperate with Developer in the formation of any assessment districts (including without limitation Mello Roos Districts and Landscaping and Lighting Districts), community facilities districts (“**CFD**”), Geologic Hazard Abatement Districts, tax exempt financing mechanisms (a “**Financing Mechanism**”) that Developer in its sole discretion may elect to initiate related to the Project as and when so requested by Developer, provided that no such Financing Mechanisms shall obligate the City’s general fund or negatively impact the City’s General Fund, and subject to the following general considerations:

4.2.1 General Parameters.

4.2.1.1 Upon written request of City, Developer will advance amounts necessary to pay all costs and expenses of City to evaluate and structure any Financing Mechanism, to the end that City will not be obligated to pay any costs related to the formation or implementation of any Financing Mechanism from its own general funds.

4.2.1.2 Any Financing Mechanism will provide for the reimbursement to Developer of any advances by Developer described in Section 4.2.1.1 above, and any other costs incurred by Developer that are related to the Financing Mechanism, such as the costs of legal counsel, special tax consultants, engineers, etc. Developer agrees to promptly submit to City a detailed accounting of all such other costs incurred by Developer at such time as Developer makes application for reimbursement.

4.2.1.3 City shall consult with Developer prior to engaging any consultant (including bond counsel, underwriters, appraisers, market absorption analysts, financial advisors, special tax consultants, assessment engineers and other consultants deemed necessary to accomplish any financing) and Developer shall be allowed an opportunity to provide input on each proposed consultant. City shall consider all of Developer’s comments on the proposed consultants in its hiring decisions, provided, however, that the Developer shall be entitled to reject, in its sole discretion, up to three consultants in total. If Developer rejects a consultant, City shall not engage that consultant and shall consult Developer with respect to another consultant.

4.2.2 Financing of Site Improvements.

4.2.2.1 Developer shall submit to City its phasing plan for any public facilities to be financed, including the priority and financing needs relative to the Site Improvements. City will use available proceeds of any public financing in accordance with such priorities, and as otherwise provided in this Agreement.

4.2.2.2 City and Developer will determine, following consultation by City staff with Developer, the means by which such improvements will be acquired by City.

4.2.2.3 In addition, any financing may include amounts necessary to discharge any assessment, special tax or other liens on the Property.

4.2.3 Financing Parameters.

4.2.3.1 Any public financing shall be secured solely by assessments or special taxes levied within the respective district, proceeds of the bonds issued that are placed in a bond fund, reserve fund or other such fund for the financing and investment earnings thereon. City's general fund shall not be pledged to the repayment of any public financing.

4.2.3.2 The payment of actual initial and annual administrative costs of City to be incurred in connection with any Financing Mechanism shall be adequately assured, through the inclusion in any assessment or special tax methodology of appropriate provision for such costs as estimated by City, to the end that City's general fund shall not be called upon to provide for initial or any annual administrative costs related to any Financing Mechanism.

4.3 Reimbursement. Nothing in this Agreement precludes City and Developer from entering into any reimbursement agreements for the portion (if any) of the cost of any dedications, public facilities and/or infrastructure that City may require as conditions of the Project Approvals to the extent that they are in excess of those reasonably necessary to mitigate the impacts of the Project.

4.4 Model Homes. Prior to recordation of any final map for a planning area and prior to the Completion of the Site Improvements (including but not limited to the Police and Fire Station), City agrees to issue building permits and occupancy certificates for the construction of model homes (and related model home complex structures) that will be used by Developer or any transferee of all or any portion of the Property (including any Merchant Builder) for the purpose of promoting sales of single family residential units within that planning area of the Project; provided, however, in no event shall Developer be permitted to sell or transfer any model home to a member of the homebuying public until a final map has been recorded creating a separate lot on which the model home, and in no event shall a member of the homebuying public be able to occupy a model home until construction of the Police and Fire Station is Complete.

4.5 Communities Facilities District(s). The Parties agree that the City shall cooperate with the Developer to establish one or more CFD's pursuant to the Mello-Roos Act and as permitted by State law to finance construction, development, and operation of the Master Infrastructure, Offsite Improvements, and Master Developer Amenities required in connection with the development and operation of the Project. At a minimum, each CFD shall be subject to the following terms:

4.5.1 The CFD will be structured in two improvement areas corresponding to the phasing of the Project.

4.5.2 The total effective tax rate for assessor's parcels within the CFD will not exceed two percent (2.0%) of the reasonably expected value of the parcel with planned vertical improvements determined at the time of approval of the CFD.

4.5.3 The CFD will include a component to fund certain maintenance requirements (the "**Services Tax**") and a component to fund certain infrastructure (the "**Improvements Tax**"). The Services Tax will have priority and be collected in perpetuity.

4.5.4 The Project infrastructure costs and impact fees for which Developer may be reimbursed from CFD proceeds includes those set forth on **Exhibit F** attached hereto.

4.5.5 Bond issuances will include a 10.0% reserve fund to cover potential shortfalls, as well as 110% debt service assessment to provide an additional security for repayment of the bonds. At Developer's election, the bonds may be issued under a "private placement" with a firm specializing in tax exempt bonds.

4.5.6 The Parties shall have the ability to create a construction or acquisition district for funding improvements. The construction district would allow the CFD to build the Police and Fire Station and other Project improvements directly out of bond proceeds.

4.5.7 If requested by Developer the Bond Term shall be 40 years.

4.5.8 Bond Term allowing for additional bond proceeds to fund additional infrastructure and/or agreed upon City needs shall not exceed 40 years.

4.5.9 Assessments will escalate at 2.0% annually.

4.5.10 If requested by Developer, City agrees to use best faith efforts to assist in obtaining a Joint Community Financing Agreement with the East Bay Municipal Utility District to allow for water improvements to be included in the CFD.

4.5.11 The CFD will include a provision allowing full and/or partial prepayment of the Improvement Tax at any time.

4.5.12 The CFD may fund infrastructure with surplus special taxes, if available, on pay-as-you-go basis.

Promptly following the Effective Date, City shall conduct proceedings to form the CFD consistent with State law. The Parties shall cooperate so that, to the extent possible, the associated public process and the resolution of intention to form the infrastructure component and services component shall be adopted by the City Council within six (6) months of the Effective Date.

Article 5 ANNUAL REVIEW

5.1 Procedure. The annual review required by Government Code Section 65865.1 and Section 15.04.811.080 of the RMC shall be conducted for the purposes and in the manner stated in those laws as further provided herein. As part of that review, Developer must demonstrate good

faith compliance with the provisions of the Development Agreement. If the City's Community Development Director ("**Director**"), on the basis of substantial evidence, finds good faith compliance by the Developer with the provisions of the Development Agreement, the Director will issue a finding of compliance, which will be in recordable form and may be recorded with the Contra Costa County Clerk-Recorder's Office, County Recorder Division, after the conclusion of the review. If the Director finds the applicant has not complied with the provisions of the Development Agreement, the Director may issue a finding of noncompliance that may be recorded by the City with the Contra Costa County Clerk-Recorder's Office, County Recorder Division, after it becomes final. The City must specify in writing to the Developer the respects in which the Developer has failed to comply, and must set forth terms of compliance and specify a reasonable time for the Developer to meet the terms of compliance. If Developer does not comply with any terms of compliance within the prescribed time limits, the Development Agreement will be subject to termination or modification pursuant to this article. The City and Developer agree that the annual review process shall review compliance by Developer and City with the obligations under this Development Agreement but shall not review compliance with other Project Approvals. Administrative costs for the annual review shall be borne by Developer.

5.2 Cure Period. If the Director finds that Developer is not in compliance pursuant to Section 15.04.811.080.B of the RMC, the Director shall grant a reasonable period of time for Developer to cure the alleged noncompliance. Unless alleged noncompliance is threatening immediate and irreparable injury to the City or concerns an immediate threat to public health and safety, the Director shall grant a cure period of at least sixty (60) days and shall extend the sixty (60) day period if Developer is proceeding in good faith to cure the noncompliance and additional time is reasonably needed.

5.3 Relationship to Default Provisions. The above procedures shall supplement and shall not replace that provision of Section 7.4 of this Development Agreement whereby either City or Developer may, at any time, assert matters which either Party believes have not been undertaken in accordance with this Development Agreement by delivering a written Notice of Default and following the procedures set forth in said Section 7.4.

Article 6 AMENDMENTS

6.1 Amendments to Development Agreement Legislation. This Development Agreement has been entered into in reliance upon the provisions of the Development Agreement Legislation as those provisions existed at the Agreement Date. No amendment or addition to those provisions or any other federal or state law and regulation that would materially adversely affect the interpretation or enforceability of this Development Agreement or would prevent or preclude compliance with one or more provisions of this Development Agreement shall be applicable to this Development Agreement unless such amendment or addition is specifically required by the change in law, or is mandated by a court of competent jurisdiction. In the event of the application of such a change in law, the Parties shall meet in good faith to determine the feasibility of any modification or suspension that may be necessary to comply with such new law or regulation and to determine the effect such modification or suspension would have on the purposes and intent of this Development Agreement and the Vested Elements. Following the meeting between the Parties, the provisions of this Development Agreement may, to the extent feasible, and upon

mutual agreement of the Parties, be modified or suspended but only to the minimum extent necessary to comply with such new law or regulation. If such amendment or change is permissive (as opposed to mandatory), this Development Agreement shall not be affected by same unless the Parties mutually agree in writing to amend this Development Agreement to permit such applicability. Developer and/or City shall have the right to challenge any new law or regulation preventing compliance with the terms of this Agreement, and in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect. The Term of this Agreement may be extended for the duration of the period during which such new law or regulation precludes compliance with the provisions of this Agreement.

6.2 Amendments to or Cancellation of Development Agreement. This Development Agreement may be amended from time to time or canceled in whole or in part by mutual consent of both Parties in writing in accordance with the provisions of the Development Agreement Legislation and the City Development Agreement Regulations. Review and approval of an amendment to this Development Agreement shall be strictly limited to consideration of only those provisions to be added or modified. No amendment, modification, waiver or change to this Development Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing that expressly refers to this Development Agreement and signed by the duly authorized representatives of both Parties. All amendments to this Development Agreement shall automatically become part of the Project Approvals.

6.3 Operating Memoranda. The provisions of this Development Agreement require a close degree of cooperation between City and Developer and development of the Property and Project hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of City and Developer. If and when, from time to time, during the term of this Development Agreement, City and Developer agree that such clarifications are necessary or appropriate, City and Developer shall effectuate such clarifications through operating memoranda approved in writing by City and Developer, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by City and Developer. No such operating memoranda shall constitute an amendment to this Development Agreement requiring public notice or hearing. The City Manager shall make the determination on behalf of City whether a requested clarification may be effectuated pursuant to this Section 6.3 or whether the requested clarification is of such a character to constitute an amendment hereof pursuant to Section 6.2 above. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of City.

6.4 Amendments to Project Approvals. Notwithstanding any other provision of this Development Agreement, Developer may seek and City may review and grant amendments or modifications to the Project Approvals (including the Subsequent Approvals) subject to the following (except that the procedures for amendment of this Development Agreement are set forth in Section 6.2 herein).

6.4.1 Amendments to Project Approvals. Project Approvals (except for this Development Agreement, the amendment process for which is set forth in Section 6.2) may be amended or modified from time to time, but only at the written request of Developer (at the City's discretion, subject to the terms of this Agreement) or with the written consent of Developer (at its sole discretion) and in accordance with Section 3.4 and RMC section 15.04.803.120(A). All

amendments to the Project Approvals shall automatically become part of the Project Approvals. The permitted uses of the Property, the maximum density and/or number of residential units and commercial development, the intensity of use, the maximum height and size of the proposed buildings, provisions for reservation or dedication of land for public purposes, the conditions, terms, restrictions and requirements for subsequent discretionary actions, the provisions for Site Improvements and financing of Site Improvements, and the other terms and conditions of development as set forth in all such amendments shall be automatically vested pursuant to this Development Agreement, without requiring an amendment to this Development Agreement. Amendments to the Project Approvals shall be governed by the Project Approvals and the Applicable Rules, subject to Section 3.4. The City shall not request, process or consent to any amendment to the Project Approvals that would affect the Property or the Project without Developer's prior written consent.

6.4.2 Administrative Amendments. Upon the request of Developer for an amendment or modification of any Project Approval, the Director or his/her designee shall determine: (a) whether the requested amendment or modification is minor when considered in light of the Project as a whole in accordance with RMC section 15.04.803.120(A); and (b) whether the requested amendment or modification substantially conforms with the material terms of this Development Agreement and the Applicable Rules. If the Director or his/her designee finds that the requested amendment or modification is both minor and substantially conforms with the material terms of this Development Agreement and the Applicable Rules, the amendment or modification shall be determined to be an "**Administrative Amendment**," and the Director or his/her designee may approve the Administrative Amendment, without public notice or a public hearing. Any request of Developer for an amendment or modification to a Project Approval that is determined not to be an Administrative Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Rules and this Agreement.

Article 7

DEFAULT, REMEDIES AND TERMINATION

7.1 Events of Default. Subject to any extensions of time by mutual consent of the Parties in writing, and subject to the provisions of Section 11.2 hereof regarding permitted delays and a Mortgagee's right to cure pursuant to Section 10.3 hereof, any failure by either Party to perform any material term or provision of this Development Agreement (not including any failure by Developer to perform any term or provision of any other Project Approvals) shall constitute an "**Event of Default**," (i) if such defaulting Party does not cure such failure within sixty (60) days (such sixty (60) day period is not in addition to any sixty (60) day cure period under Section 5.2, if Section 5.2 is applicable) following written notice of default from the other Party, where such failure is of a nature that can be cured within such sixty (60) day period, or (ii) if such failure is not of a nature which can be cured within such sixty (60) day period, the defaulting Party does not within such sixty (60) day period commence efforts to cure such failure, or thereafter does not within a reasonable time prosecute to completion such failure. Any notice of default given hereunder shall specify in detail the nature of the failures in performance that the noticing Party claims constitutes the Event of Default, all facts constituting substantial evidence of such failure, and the manner in which such failure may be satisfactorily cured in accordance with the terms and conditions of this Development Agreement. During the time periods herein specified for cure of a failure of performance, the Party charged therewith shall not be considered to be in default for

purposes of (a) termination of this Development Agreement, (b) institution of legal proceedings with respect thereto, or (c) issuance of any approval with respect to the Project. The waiver by either Party of any default under this Development Agreement shall not operate as a waiver of any subsequent breach of the same or any other provision of this Development Agreement.

7.2 Meet and Confer. During the time periods specified in Section 7.1 for cure of a failure of performance, the Parties shall meet and confer in a timely and responsive manner, to attempt to resolve any matters prior to litigation or other action being taken, including without limitation any action in law or equity; provided, however, nothing herein shall be construed to extend the time period for this meet and confer obligation beyond the sixty (60)-day cure period referred to in Section 7.1 (even if the sixty (60)-day cure period itself is extended pursuant to Section 7.1(ii)) unless the Parties agree otherwise in writing.

7.3 Remedies and Termination. If, after notice and expiration of the cure periods and procedures set forth in Sections 7.1 and 7.2, the alleged Event of Default is not cured, the non-defaulting Party, at its option, may institute legal proceedings pursuant to Section (7.4) of this Development Agreement and/or terminate this Development Agreement pursuant to Section 7.7 herein. In the event that this Development Agreement is terminated pursuant to Section 7.7 herein and litigation is instituted that results in a final decision that such termination was improper, then this Development Agreement shall immediately be reinstated as though it had never been terminated.

7.4 Legal Action by Parties.

7.4.1 Remedies. Either Party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto or to obtain any remedies consistent with the purpose of this Development Agreement. All remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy. Without limiting the foregoing, Developer reserves the right to challenge in court any Future Rules that would conflict with the Vested Elements or the Subsequent Approvals for the Project or reduce the development rights provided by the Project Approvals.

7.4.2 No Damages. In no event shall either Party, or its boards, commissions, officers, agents or employees, be liable in damages for any default under this Development Agreement, it being expressly understood and agreed that the sole legal remedy available to either Party for a breach or violation of this Development Agreement by the other Party shall be an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Development Agreement by the other Party, or to terminate this Development Agreement. This limitation on damages shall not preclude actions by a Party to enforce payments of monies or the performance of obligations requiring an obligation of money from the other Party under the terms of this Development Agreement including, but not limited to obligations to pay attorneys' fees and obligations to advance monies or reimburse monies. In connection with the foregoing provisions, each Party acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of such Party's choice in connection with,

the rights and remedies of such Party hereunder and the waivers herein contained, and after such advice and consultation has presently and actually intended, with full knowledge of such Party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified solely on the remedies provided for herein with respect to any breach of this Development Agreement by the other Party.

7.5 Effects of Litigation. In the event that litigation is timely instituted, and a final judgment is obtained, which invalidates in its entirety this Development Agreement, then Developer shall have no obligations whatsoever under this Development Agreement. In the event that any payment(s) have been made by or on behalf of Developer to City pursuant to the obligations contained in Section 3.6, City shall give to Developer a refund of the monies remaining in any segregated City account into which such payment(s) were deposited, if any, along with interest which has accrued, if any. To the extent the payment(s) made by or on behalf of Developer were not deposited, or no longer are, in the segregated City account, City shall give Developer a credit for the amount of said payment(s) as determined pursuant to this Section 7.5, along with interest, if any, that has accrued, which credit may be applied by Developer to any costs or fees imposed by City on Developer in connection with construction or development within or outside the Property. Developer shall be entitled to use all or any portion of the credit at its own discretion until such time as the credit has been depleted. Any credits due to Developer pursuant to this Section 7.5 may, at Developer's own discretion, be transferred by Developer to a third party for application by said third party to any costs or fees imposed by City on the third party in connection with construction or the development of property within City, whether or not related to the Project. In the event that Developer has already developed or is developing a portion of the Project at the time of any invalidation of the Development Agreement, then any such refund or credit shall be limited to the amount paid by Developer that exceeds, on a pro rata basis, the proportion and uses of the Property retained by Developer to the entire Property. This Section 7.5 shall survive the termination or expiration of this Development Agreement.

7.6 Termination.

7.6.1 Expiration of Term. Except as otherwise provided in this Development Agreement, this Development Agreement shall be deemed terminated and of no further effect upon the expiration of the Term of this Development Agreement as set forth in Section 1.3.

7.6.2 Survival of Obligations. Upon the termination or expiration of this Development Agreement as provided herein, neither Party shall have any further right or obligation with respect to the Property under this Development Agreement except with respect to any obligation that is specifically set forth as surviving the termination or expiration of this Development Agreement. The termination or expiration of this Development Agreement shall not affect the validity of the Project Approvals (other than this Development Agreement) for the Project.

7.6.3 Termination by City. Notwithstanding any other provision of this Development Agreement, City shall not have the right to terminate this Development Agreement with respect to all or any portion of the Property before the expiration of its Term unless City complies with all termination procedures set forth in the Development Agreement Legislation and

there is an alleged Event of Default by Developer and such Event of Default is not cured pursuant to Article 5 herein or this Article 7 and Developer has first been afforded an opportunity to be heard regarding the alleged default before the City Council and this Development Agreement is terminated only with respect to that portion of the Property to which the default applies.

7.7 Actions During Cure Period. City will continue to process in good faith development applications during any cure period following delivery of a notice of breach of this Agreement to Developer; provided, City need not approve any such application or issue any permit for the Project if the City Manager determines that it relates to an alleged breach by Developer regarding failure to timely make any payment owed by Developer under this Agreement. If there is a dispute regarding the existence of a breach of this Agreement, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter and pending its resolution or termination of this Agreement as provided herein.

Article 8 COOPERATION AND IMPLEMENTATION

8.1 Further Assurances. Each of the Parties agrees to execute and deliver all further documents and to take all further actions reasonably necessary or appropriate to effectuate the purposes and intent of this Agreement.

8.3 Regulation by Other Public Agencies. Other public agencies not within the control of City may possess authority to regulate aspects of the development of the Property separately from or jointly with City, and this Development Agreement does not limit the authority of such other public agencies. Nevertheless, City shall be bound by, and shall abide by, its covenants and obligations under this Development Agreement in all respects when dealing with any such agency regarding the Property. In the event any state or federal resources agency (e.g., California Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Regional Water Quality Control Board/State Water Resources Control Board, Bay Conservation and Development Commission, Bay Area Air Quality Management District), in connection with its final issuance of a permit or certification for all or a portion of the Project, imposes requirements that require modifications to the Project, then the Parties will work together in good faith to incorporate such changes into the Project; provided, however, that if Developer appeals or challenges any such permit requirements, then the Parties may defer such changes until the completion of such appeal or challenge.

8.4 Other Governmental Permits and Approvals; Grants. Developer shall apply in a timely manner in accordance with Developer's construction schedule for the permits and approvals from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. Developer shall comply with all such permits, requirements and approvals. Subject to Developer's compliance with this Agreement, the City shall help facilitate and cooperate with Developer, within the City's reasonable authority and at Developer's cost, in seeking any Other Agency Approvals and any grants for the Project for which Developer applies.

8.5 Defense and Cooperation in the Event of Legal Challenge.

8.5.1 The filing of any third-party lawsuit(s) against City or Developer relating to this Agreement, the Project Approvals or other development issues affecting the Property shall not delay or stop the development, processing or construction of the Project or approval of any Subsequent Approvals, unless the third party obtains a court order preventing the activity. City shall not stipulate to or cooperate in the issuance of any such order.

8.5.2 In the event of any administrative, legal or equitable action instituted by a third party challenging the validity of any provision of this Development Agreement, the procedures leading to its adoption, or the Project Approvals for the Project, Developer and City each shall have the right, in its sole discretion, to elect whether or not to defend such action, to select its own counsel (and pay for such counsel at its own expense), and to control its participation and conduct in the litigation in all respects permitted by law. If both Parties elect to defend, the Parties hereby agree to affirmatively cooperate in defending said action and to execute a joint defense and confidentiality agreement in order to share and protect information, under the joint defense privilege recognized under Applicable Law. As part of the cooperation in defending an action, City and Developer shall coordinate their defense in order to make the most efficient use of legal counsel and to share and protect information. Developer and City shall each have sole discretion to terminate its defense at any time. The City shall not settle any third-party litigation of Project Approvals without Developer's consent, which consent shall not be unreasonably withheld, conditioned or delayed.

8.6 Indemnification. Developer shall indemnify, defend and hold harmless the City, and any community facilities districts organized by the City, and their elected officials, officers, serving as City officials, agents, and employees (“**Indemnified Parties**”) from any Claims brought against the Indemnified Parties to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to CEQA, and/or any mitigation monitoring program, or brought against the Indemnified Parties due to acts or omissions in any way connected to the processing of entitlements for the Project and this Agreement, but excluding any approvals governed by Government Code Section 66474.9 or any action filed by Developer pursuant to Government Code Section 66020 or otherwise brought by the Developer. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by Developer or the City. If Developer is required to defend the City as set forth above, the City shall be entitled to select legal counsel to defend the City that is reasonably acceptable to the Developer. In the event of a court order issued as a result of a successful legal challenge, City shall, to the extent permitted by law or court order, in good faith seek to comply with the court order in such a manner as will maintain the integrity of the Project Approvals and avoid or minimize to the greatest extent possible (i) any impact to the development of the Project as provided for in, and contemplated by, the Vested Elements, or (ii) any conflict with the Vested Elements or frustration of the intent or purpose of the Vested Elements.

Article 9
TRANSFERS AND ASSIGNMENTS

9.1 Right to Assign. Developer shall have the right to sell, assign or transfer (“**Transfer**”) in whole or in part its rights, duties and obligations under this Development Agreement, to any person or entity at any time during the Term of this Development Agreement without the consent of City; provided, however, in no event shall the rights, duties and obligations conferred upon Developer pursuant to this Development Agreement be at any time so Transferred except through a transfer of all or a portion of the Property. In the event of a transfer of a portion of the Property, Developer shall have the right to Transfer its rights, duties and obligations under this Development Agreement that are applicable to the transferred portion, and to retain all rights, duties and obligations applicable to the retained portions of the Property.

9.2 Release upon Transfer. Upon the Transfer of Developer’s rights and interests under this Development Agreement pursuant to Section 9.1, Developer shall automatically be released from its obligations and liabilities under this Development Agreement with respect to that portion of the Property transferred, and any subsequent default or breach with respect to the Transferred rights and/or obligations shall not constitute a default or breach with respect to the retained rights and/or obligations under this Development Agreement, provided that (i) Developer has provided to City written notice of such Transfer, and (ii) the transferee executes and delivers to City a written agreement in which (a) the name and address of the transferee is set forth and (b) the transferee expressly and unconditionally assumes all of the obligations of Developer under this Development Agreement with respect to that portion of the Property transferred. Upon any transfer of any portion of the Property and the express assumption of Developer’s obligations under this Agreement by such transferee, City agrees to look solely to the transferee for compliance by such transferee with the provisions of this Agreement as such provisions relate to the portion of the Property acquired by such transferee. A default by any transferee shall only affect that portion of the Property owned by such transferee and shall not cancel or diminish in any way Developer’s rights hereunder with respect to any portion of the Property not owned by such transferee. The transferor and the transferee shall each be solely responsible for the reporting and annual review requirements relating to the portion of the Property owned by such transferor/transferee, and any amendment to this Agreement between City and a transferor or a transferee shall only affect the portion of the Property owned by such transferor or transferee. Failure to deliver a written assumption agreement hereunder shall not affect the running of any covenants herein with the land, as provided in Section 9.3 below, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Development Agreement.

9.3 Covenants Run with the Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Development Agreement shall be binding upon the Parties and their respective successors (by merger, reorganization, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all of the persons or entities acquiring the Property or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Development Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to Applicable Law, including but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from

doing, some act on the Property hereunder (i) is for the benefit of such Property and is a burden upon such Property, (ii) runs with such Property, (iii) is binding upon each Party and each successive owner during its ownership of such Property or any portion thereof, and (iv) each person or entity having any interest therein derived in any manner through any owner of such Property, or any portion thereof, and shall benefit the Property hereunder, and each other person or entity succeeding to an interest in such Property.

Article 10

MORTGAGEE PROTECTION; CERTAIN RIGHTS OF CURE

10.1 Mortgagee Protection. This Agreement shall not prevent or limit Developer in any manner, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property ("**Mortgage**"). This Development Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Development Agreement, including the lien of any Mortgage. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Development Agreement shall be binding upon and effective against and inure to the benefit of any person or entity, including any deed of trust beneficiary or mortgagee ("**Mortgagee**") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

10.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 10.1 above, no Mortgagee (including a Mortgagee who obtains title to Developer's interest in the Property or the Project or any portion thereof as a result of foreclosure proceedings or transfer in lieu of foreclosure) shall in any way be obligated by the provisions of this Agreement to construct or complete the Project, unless the Mortgagee expressly assumes such obligation by written notice to the City or by written agreement with the City. Nothing in this Agreement shall be deemed to construe, permit or authorize any such Mortgagee to devote the Property or the Project or any portion thereof to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Development Agreement, or by the Project Approvals and Applicable Rules, and only to the extent Mortgagee complies with the terms of this Agreement and executes and delivers to the City, in a form and with terms reasonably acceptable to the City, an assumption agreement of Developer's obligations hereunder.

10.3 Notice of Default to Mortgagee; Right of Mortgagee to Cure. If City receives a notice from a Mortgagee requesting a copy of any Notice of Default given to Developer hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has committed a default, and if City makes a determination of noncompliance hereunder, City shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service thereof on Developer. If Developer does not cure or remedy the Default within the applicable cure period set forth in this Agreement, then City shall provide notice of such ("**Developer Non Cure Notice**") to each Mortgagee who has previously made a written request to the City therefore. Each such Mortgagee shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy or commence to cure or remedy any

such default within (a) fifteen (15) days (with respect to monetary defaults only) after receipt of the Developer Non Cure Notice, (b) sixty (60) (with respect to non-monetary defaults), after receipt of the Developer Non Cure Notice or such reasonable period of time beyond sixty (60) days, if such non-monetary default is not susceptible to being cured within such sixty (60) days, and to add the cost thereof to the debt and lien of its Mortgage. In case of a default which is not susceptible of being cured by such Mortgagee (such as a bankruptcy of Developer), such Event of Default does not have to be cured. If a Mortgagee is required to obtain possession of the Property (or a portion thereof) in order to cure or remedy any claimed Event of Default, the time to cure shall be tolled so long as the Mortgagee is attempting in good faith to obtain possession, including by appointment of a receiver or foreclosure, and the Mortgagee shall be deemed to have timely cured or remedied the claimed Event of Default, provided the Mortgagee commences the proceedings necessary to obtain possession within sixty (60) days after receipt of Developer Non Cure Notice, diligently pursues such proceedings to completion, and after obtaining possession diligently completes such cure or remedy.

Article 11 MISCELLANEOUS PROVISIONS

11.1 Limitation on Liability. Notwithstanding anything to the contrary contained in this Development Agreement, in no event shall: (a) any partner, officer, director, member, shareholder, employee, affiliate, manager, representative, or agent of Developer or any general partner of Developer or its general partners be personally liable for any breach of this Development Agreement by Developer, or for any amount which may become due to City under the terms of this Development Agreement; or (b) any member, officer, agent or employee of City be personally liable for any breach of this Development Agreement by City or for any amount which may become due to Developer under the terms of this Development Agreement.

11.2 Force Majeure. Subject to the limitations set forth below, performance by any Party shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; pandemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; development or building moratorium; litigation (including suits filed by third parties concerning or arising out of this Agreement or challenging any of the Project Approvals); weather or soils conditions which, in the reasonable written opinion of the Prime Contractor (or, if there is no Prime Contractor, in the written opinion of a general contractor proposed by Developer and acceptable to City, both parties acting reasonably), have caused or will necessitate delays; inability to secure necessary labor, materials or tools; acts of the other Party; acts or failure to act of any public or governmental agency or entity (other than any acts or failure to act of the City that do not constitute a City Event of Default, except as hereafter provided) despite the diligent and good faith efforts of the Party claiming the delay; or any other causes (other than Developer's inability to obtain financing for the Project, unless caused solely by extraordinary, generally applicable market conditions that result from some other event of force majeure listed above) beyond the control or without the fault of the Party claiming an extension of time to perform and that (other than in connection with epidemics and pandemics) first arise after the Effective Date (each a "**Force Majeure Delay**"). An extension of time hereunder for any Force Majeure Delay shall be for the period of the Force Majeure Delay and will be deemed granted if notice by the Party claiming such extension is sent to the other Party within ninety (90) days from the date the Party

seeking the extension first discovers or receives notice of the delay or default which is reasonably likely to result from the occurrence of the cause of such Force Majeure Delay and such extension of time is not rejected in writing by the other Party, as not complying with the provisions of this Section 11.2, within fifteen (15) days of receipt of the notice claiming a Force Majeure Delay. All dates and timeframes for performance under this Agreement shall be subject to Force Majeure Delay.

11.3 Notices, Demands and Communications Between the Parties. Any notice, demand or other communication required to be given by Developer or the City under or pursuant to this Agreement shall be in writing and shall be sufficiently given if (a) addressed as set forth below and (b) delivered in one of the following ways, and shall be deemed to have been delivered or received (i) three (3) days after the date when deposited in the United States registered or certified mail, return receipt requested, with postage prepaid (except in the event of a postal disruption, by strike or otherwise, in the United States), (ii) when personally delivered, (iii) when sent by facsimile or electronic (email) transmission, provided receipt was promptly confirmed in writing by another means of notice allowed in this Section 11.3 within one (1) business day, or (iv) one business day after the date deposited with a nationally recognized courier service (e.g., Federal Express) for next day delivery. The current principal office addresses, email addresses and facsimile numbers of the City and Developer are as follows:

the City: City of Richmond
 450 Civic Plaza
 Richmond, CA 94804
 Attention: City Manager
 Telephone: (510) 620-6512
 Facsimile: (510) 620-6542
 Email: City_Manager@ci.richmond.ca.us

AND

 City Attorney's Office
 City of Richmond
 450 Civic Center Plaza
 Richmond, CA 94804
 Attention: City Attorney
 Telephone: (510) 620-6509
 Facsimile: (510) 620-6518
 Email: City_Attorney@ci.richmond.ca.us

Developer: Winehaven Legacy LLC
c/o Argent Management LLC
2392 Morse Avenue
Irvine, CA 92614
Attention: Marc Magstadt
Telephone: (949) 777-4002
Facsimile: (949) 777-4050
Email: mmagstadt@argentmanagementllc.com

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by notice as provided in this Section 11.3.

If failure to respond to a specified notice, request, demand or other communication within a specified period would result in a deemed approval, a conclusive presumption, a prohibition against further action or protest, or other adverse result specifically provided under this Agreement, the notice, request, demand or other communication shall state clearly and unambiguously on the first page, with reference to the applicable provisions of this Agreement, that failure to respond in a timely manner could have a specified adverse result.

11.4 Project as a Private Undertaking; No Joint Venture or Partnership. Nothing in this Agreement, in any actions or negotiations leading to this Agreement, in any acts or omissions under this Agreement, or otherwise is intended to or does establish the City and Developer as partners, co-venturers, or principal and agent with one another. Accordingly, except as expressly set forth herein, the City shall have no rights, powers, duties or obligations with respect to the construction, development, operation, maintenance, management, marketing or sales of the Project. Developer shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City from and against any Claims made against the City arising from a claimed relationship of partnership or joint venture between the City and Developer with respect to the construction, development, operation, maintenance or management of the Project.

11.5 Severability. If any terms, provision, condition or covenant of this Development Agreement or its application to any party or circumstance shall be held, to any extent, invalid or unenforceable by the remainder of this Development Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is invalid or enforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

11.6 Section Headings. Article and Section headings in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of any provision of this Agreement. As used herein: (a) the singular shall include the plural (and vice versa) and the masculine or neuter gender shall include the feminine gender (and vice versa) where the context so requires; (b) locative adverbs such as “herein,” “hereto,” “hereof,” and “hereunder” shall refer to this Agreement in its entirety and not to any specific section or paragraph; (c) the terms “include,” “including,” and similar terms shall be construed as though followed immediately by the phrase “but not limited to;” (d) “shall” and “must” are mandatory and “may” is permissive; and (e) “or” is not necessarily exclusive. The Parties have jointly participated in the negotiation

and drafting of this Agreement, and this Agreement shall be construed fairly and equally as to the Parties, without regard to any rules of construction relating to the Party who drafted a particular provision of this Agreement.

11.7 Construction of Agreement. Each Party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

11.8 Entire Agreement. Except as expressly set forth herein, this Agreement, including all recitals and exhibits hereto, constitutes the entire understanding and agreement of the Parties with respect to the subject matter of this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. The Parties shall be entitled to rely upon facsimile copies or electronic copies of the Parties' signatures to this Agreement and any instrument executed in connection herewith. Notwithstanding the foregoing, promptly after sending a facsimile or electronic copy of its signature hereon, each Party shall promptly provide the others with an executed original counterpart, although the failure to provide such counterpart shall not limit the effectiveness of this Agreement.

11.9 Exhibits and Appendices. The exhibits and appendices are as follows:

- Exhibit A Legal Description of the Point Molate Site
- Exhibit B Vesting Tentative Tract Map of the Property
- Exhibit C Project Description
- Exhibit D Impact Fees
- Exhibit E Project Approvals and Applicable Rules
- Exhibit F Eligible Reimbursable Infrastructure Costs and Fees
- Appendix 1 Definitions

11.10 Estoppel Certificates. Either Party may, at any time during the Term of this Development Agreement, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (i) this Development Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Development Agreement has not been amended or modified either orally or in writing, or if amended; identifying the amendments, (iii) the requesting Party is not in default in the performance of its obligations under this Development Agreement, or if in default, to describe

therein the nature and amount of any such defaults, and (iv) any other information reasonably requested. The Party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within twenty (20) days following the receipt thereof. The failure of either Party to provide the requested certificate within such twenty (20) day period shall constitute a confirmation that this Agreement is in full force and effect and no modification or default exists. Either the City Manager or the Director shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

11.11 Recordation. Pursuant to Government Code Section 65868.5, within ten (10) days after the later of execution of the Parties of this Development Agreement or the Effective Date, the City Clerk shall record this Development Agreement with the Contra Costa County Recorder. Thereafter, if this Development Agreement is terminated, modified or amended, the City Clerk shall record notice of such action with the Contra Costa County Recorder.

11.12 No Waiver. No waiver of any provision of this Agreement shall be binding unless executed in writing by the Party making the waiver. No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver unless the written waiver so specifies.

11.13 Time Is of the Essence. Time is of the essence for each provision of this Development Agreement for which time is an element.

11.14 Governing Law. This Agreement is entered into in and shall be governed by and construed in accordance with the laws of the State of California, without reference to any of its conflict of laws principles. The exclusive venue for any disputes or legal actions hereunder shall be the Superior Court of California in and for the County of Contra Costa and all parties waive their respective rights to change venue pursuant to Section 394 of the Code of Civil Procedure.

11.15 Attorneys' Fees. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement as a result of any breach thereof, the Party prevailing in any such action shall be entitled to recover against the Party not prevailing all reasonable attorneys' fees (including in-house attorneys' fees) and costs incurred in such action. For purposes of this provision, the fees of in-house attorneys shall be based on the fees then regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which such services were rendered who practice in San Francisco Bay Area law firms.

In the event legal action is commenced by a third party or parties, the effect of which is to directly or indirectly challenge or compromise the enforceability, validity, or legality of this Agreement and/or the power of the City to enter into this Agreement or perform its obligations hereunder, and/or to attack or set aside any Project Approvals, Developer shall defend such action (with counsel reasonably acceptable to the City), and shall indemnify and hold the City harmless against all Claims arising from or in connection with such action in accordance with Section 8.6, above. Upon commencement of any such action, the City and Developer shall meet in good faith and seek to establish a mutually acceptable method of defending such action.

11.16 No Third Party Beneficiary. No person or entity other than the City, the Developer, and their permitted successors and assigns shall be third party beneficiaries of this Agreement or have any right of enforcement or action under or with respect to this Agreement.

11.17 Constructive Notice and Acceptance. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Development Agreement is contained in the instrument by which such person acquired an interest in the Property.

11.18 Counterparts. This Development Agreement may be executed by each Party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

11.19 Authority. The persons signing below represent and warrant that they have the authority to bind their respective Party and that all necessary board of directors', shareholders', partners', city councils', redevelopment agencies' or other approvals have been obtained.

11.20 City Approvals and Actions. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent, request, waiver or other action by the City is required or permitted under this Agreement, such action may be given, made, or taken by the City Manager on behalf of the City, or by any person who shall have been designated in writing to Developer by the City Manager, without further approval or authorization required by the City Council, and any such action shall be in writing; provided, however, that the City Manager may seek such authorization when he or she deems it appropriate in his or her sole and absolute discretion. The City Manager may also, at his or her discretion, agree in writing to modification of the dates by which actions are to be completed or to waive non-substantive terms and conditions of this Agreement, to make non-substantive amendments to this Agreement in furtherance of the goals and objectives of this Agreement, or to make reasonable modifications to this Agreement requested by Mortgagees. The City Manager or his or her designee is authorized to execute and deliver, on behalf of the City, any ancillary documents and to take any action necessary or desirable to effectuate the provisions and intent of this Agreement.

[Remainder of Page Intentionally Blank; Signatures]

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

DEVELOPER:

WINEHAVEN LEGACY LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

CITY:

CITY OF RICHMOND,
a California municipal corporation and charter city

By: _____
Name: _____
Title: _____

ATTESTATION:

By: _____, City Clerk

APPROVED AS TO FORM:

By: _____, City Attorney

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 2020, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature of the Notary Public

Signature _____ (Seal)

[Seal]

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 2020, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature of the Notary Public

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF POINT MOLATE SITE

[Attached]

EXHIBIT A

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

A PORTION OF TIDE LOTS 5, 6, 7 AND 8 AS DESIGNATED ON THE MAP ENTITLED "MAP NO. 1, SALT MARSH AND TIDE LANDS, SITUATE IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, 1872" AND A PORTION OF LOTS 49 AND 50, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO, ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT THE NORTHWESTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113 HAVING A BEARING OF NORTH 41°23' WEST, 2384.11 FEET, SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 76 LSM 29, RECORDED IN THE COUNTY OF CONTRA COSTA; THENCE ALONG SAID JUDGMENT LAND DESCRIPTION SOUTH 40°27'17" EAST, 2383.78 FEET (NORTH 40°27'00" WEST, 2388.48 FEET, 76 LSM 29) TO THE SOUTHEASTERLY TERMINUS OF SAID COURSE TO A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN PER SAID 76 LSM 29, ALSO BEING A POINT HEREINAFTER REFERRED TO AS POINT "A"; THENCE CONTINUING SOUTHEASTERLY, ALONG SAID JUDGMENT LAND DESCRIPTION, SOUTH 52°31'27" EAST, 881.70 FEET (NORTH 54° WEST, 883.71 FEET, 819 O.R. 113), (NORTH 52°34'48" WEST, 883.57 FEET, 76 LSM 29) TO A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN PER SAID 76 LSM 29; THENCE LEAVING SAID JUDGMENT LAND DESCRIPTION AND 76 LSM 29 ALONG THE FOLLOWING COURSES: SOUTH 10°12'52" WEST, 198.05 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 55.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 50°23'44" EAST; THENCE SOUTHERLY, ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 63°11'48", 60.66 FEET; THENCE TANGENT TO SAID CURVE SOUTH 23°35'32" WEST, 96.01 FEET; THENCE SOUTH 20°08'57" WEST, 130.90 FEET; THENCE SOUTH 14°17'59" WEST, 47.90 FEET; THENCE SOUTH 17°42'05" WEST, 88.41 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 125.00 FEET; THENCE SOUTHERLY AND SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 72°18'17", 157.74 FEET; THENCE TANGENT TO SAID CURVE SOUTH 54°36'12" EAST, 35.12 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 70.00 FEET; THENCE SOUTHEASTERLY, SOUTHERLY AND SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 95°17'30", 116.42 FEET; THENCE TANGENT TO SAID CURVE SOUTH 40°41'18" WEST, 94.32 FEET; THENCE SOUTH 44°46' 44" WEST, 116.90 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°27'57", 39.21 FEET; THENCE TANGENT TO SAID CURVE SOUTH 67°14'41" WEST, 74.63 FEET; THENCE SOUTH 59°28'19" WEST, 84.03 FEET; THENCE SOUTH 52°07'01" WEST, 32.87 FEET; THENCE SOUTH 59°18'57" WEST, 71.64 FEET; THENCE SOUTH 67°50'38" WEST, 67.70

FEET; THENCE SOUTH 64°12'46" WEST, 132.36 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 400.00 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°15'26", 183.31 FEET; THENCE TANGENT TO SAID CURVE SOUTH 37°57'20" WEST, 164.93 FEET; THENCE NORTH 52°02'40" WEST, 66.64 FEET; THENCE SOUTH 37°57'20" WEST, 412.80 FEET TO THE MEAN HIGH WATER LINE ON THE PACIFIC OCEAN, SAID MEAN HIGH WATER LINE SET AT 2.62 FEET, SEA LEVEL DATUM OF 1929, AS SAID ELEVATION IS DETERMINED FROM TIDAL BENCH MARK NO. 5 HAVING NATIONAL OCEAN SURVEY PID NO. HT0935; THENCE ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING MEANDERED COURSES: NORTH 34°19'53" WEST, 44.69 FEET; THENCE NORTH 89°22'42" WEST, 36.28 FEET; THENCE NORTH 47°02'43" WEST, 362.72 FEET; THENCE NORTH 68°49'46" WEST, 67.62 FEET; THENCE NORTH 42°53'27" WEST, 311.67 FEET; THENCE NORTH 50°08' 38" WEST, 140.54 FEET; THENCE NORTH 65°40'23" WEST, 159.02 FEET; THENCE SOUTH 87°05'08" WEST, 81.89 FEET; THENCE SOUTH 88°40'35" WEST, 43.41 FEET; THENCE NORTH 69°08'13" WEST, 41.08 FEET; THENCE NORTH 70°31'40" WEST, 130.72 FEET; THENCE NORTH 63°38'53" WEST, 63.02 FEET; THENCE NORTH 65°08'48" WEST, 394.97 FEET; THENCE NORTH 65°45'40" WEST, 239.27 FEET; THENCE NORTH 89°37'59" WEST, 251.39 FEET; THENCE SOUTH 43°41'43" WEST, 176.37 FEET; THENCE SOUTH 37°41'46" WEST, 89.58 FEET; THENCE SOUTH 74°10'57" WEST, 84.01 FEET; THENCE NORTH 69°51'46" WEST, 114.32 FEET; THENCE LEAVING SAID MEAN HIGH WATER LINE NORTH 43°21'42" EAST, 362.28 FEET; THENCE NORTH 84°51'47" EAST, 193.82 FEET; THENCE NORTH 43°57'58" WEST, 134.67 FEET; THENCE NORTH 29°26'53" WEST, 176.01 FEET; THENCE NORTH 24°41'35" WEST, 377.75 FEET; THENCE NORTH 12°59'56" EAST, 147.72 FEET; THENCE NORTH 26°17'09" EAST, 20.33 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 43.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 63°42'53" WEST; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 92°39'22", 69.54 FEET; THENCE TANGENT TO SAID CURVE SOUTH 61°03' 30" EAST, 24.78 FEET; THENCE SOUTH 85°57'01" EAST, 70.92 FEET; THENCE NORTH 78°38'41" EAST, 162.93 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 30.00 FEET; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 35°32'48", 18.61 FEET TO A POINT OF COMPOUND CURVATURE WITH A CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 417.50 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 24°11'30" EAST; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°32'55", 84.15 FEET TO A POINT OF COMPOUND CURVATURE WITH A CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 328.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 35°44'25" EAST; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 30°18'22", 173.49 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 408.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 66°02'27" WEST; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°52'55", 77.49 FEET TO A POINT OF COMPOUND CURVATURE WITH A CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 430.00 FEET, A RADIAL- LINE TO SAID POINT BEARS SOUTH 55°09'51" WEST; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGEL OF 34°14'06", 256.93 FEET; THENCE TANGENT TO SAID CURVE SOUTH 69°04'15" EAST, 154.37 FEET; THENCE SOUTH 60°16'28" EAST, 97.18 FEET; THENCE SOUTH 57°49'26" EAST, 76.92 FEET; THENCE SOUTH 64°56'55" EAST, 134.85 FEET TO A POINT OF CUSP ON A NON-TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 165.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 57°23'13" EAST; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 46°21'29", 133.50 FEET; THENCE NON-

TANGENT TO SAID CURVE NORTH 70°43'29" EAST, 128.32 FEET; THENCE NORTH 39°44'49" WEST, 225.91 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 104.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 44°56'55" WEST; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 52°44'45", 95.74 FEET; THENCE TANGENT TO SAID CURVE NORTH 07°41'39" EAST, 62.05 FEET; THENCE NORTH 24°46'14" EAST, 74.39 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 143.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 57°10'49", 142.71 FEET; THENCE TANGENT TO SAID CURVE NORTH 81°57'02" EAST, 100.96 FEET; THENCE NORTH 53°30'38" EAST, 307.04 FEET; THENCE NORTH 20°25'49" WEST, 130.93 FEET; THENCE NORTH 70°03'28" WEST, 391.62 FEET; THENCE NORTH 11°27'15" EAST, 258.24 FEET; THENCE NORTH 76°14'59" EAST, 127.73 FEET; THENCE NORTH 04°08'39" WEST, 111.83 FEET; THENCE NORTH 10°11'53" EAST, 68.52 FEET; THENCE NORTH 36°04'45" WEST, 96.57 FEET; THENCE NORTH 07°07'00" WEST, 135.59 FEET; THENCE NORTH 13°02'37" WEST, 114.61 FEET; THENCE NORTH 47°34'30" WEST, 254.70 FEET; THENCE SOUTH 75°25'10" WEST, 70.85 FEET; THENCE NORTH 46°08'57" WEST, 42.41 FEET; THENCE NORTH 07°40'45" EAST, 61.66 FEET; THENCE NORTH 25°17'45" WEST, 267.64 FEET TO A POINT ON THE NORTHERLY LINE OF THE ABOVE-MENTIONED JUDGMENT LAND DESCRIPTION HAVING A CERTAIN COURSE OF SOUTH 70°09' WEST; THENCE ALONG SAID JUDGMENT LAND DESCRIPTION THE FOLLOWING COURSES: NORTH 71°22'13" EAST, 63.07 FEET, (SOUTH 70°09' WEST, 819 OR 113), (SOUTH 71°21'04" WEST 76 LSM 29); THENCE NORTH 29°53'00" EAST, 471.59 FEET, (SOUTH 28°29' WEST, 472.09 FEET, 819 OR 113), (SOUTH 29°55'34" WEST, 471.76 FEET, 76 LSM 29) TO THE POINT OF BEGINNING.

PARCEL TWO:

A PORTION OF LOTS 49 AND 50, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO, ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT AT THE NORTHWESTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113 HAVING A BEARING OF NORTH 41°23' WEST, 2384.11 FEET, SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 76 LSM 29, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE ALONG THE NORTHERLY LINE OF SAID JUDGMENT LAND DESCRIPTION THE FOLLOWING COURSES: SOUTH 29°53'00" WEST, 471.59 FEET, (SOUTH 28°29' WEST, 472.09 FEET, 819 O.R. 113), (SOUTH 29°55'34" WEST, 471.76 FEET, 76 LSM 29); THENCE SOUTH 71°22'13" WEST, 63.07 FEET (SOUTH 70°09' WEST, 819 O.R. 113), (SOUTH 71°21'04" WEST) TO THE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY LINE OF SAID JUDGMENT LAND DESCRIPTION SOUTH 25°17'45" EAST, 267.64 FEET; THENCE SOUTH 07°40'45" WEST, 61.66 FEET; THENCE SOUTH 46°08'57" EAST, 42.41 FEET; THENCE SOUTH 75°25'10" WEST, 70.85 FEET; THENCE SOUTH 47°34'30" EAST, 254.70 FEET; THENCE SOUTH 13°02'37" EAST, 114.61 FEET; THENCE SOUTH 07°07'00" EAST, 135.33 FEET; THENCE SOUTH 36°04'45" EAST, 96.57 FEET; THENCE SOUTH 10°11'53" WEST, 68.52 FEET; THENCE SOUTH 04°08'39" EAST, 111.83 FEET; THENCE SOUTH 76°14'59" WEST, 127.73 FEET; THENCE SOUTH 11°27'15" WEST, 258.24 FEET; THENCE NORTH 71°04'34" WEST, 181.62 FEET; THENCE SOUTH 09°35'56" WEST, 33.95 FEET TO THE BEGINNING OF A NON-TANGENT

CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1355.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 78°46'09" EAST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 07°18'05", 172.67 FEET; THENCE TANGENT TO SAID CURVE SOUTH 18°31'56" WEST, 128.64 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 663.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°28'39", 179.10 FEET; THENCE NON-TANGENT TO SAID CURVE SOUTH 79°56'50" EAST, 166.58 FEET; THENCE NORTH 18°31'56" EAST, 66.63 FEET; THENCE SOUTH 82°58'33" EAST, 280.00 FEET; THENCE SOUTH 81°57' 02" WEST, 100.96 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 143.00 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 57°10'49", 142.71 FEET; THENCE TANGENT TO SAID CURVE SOUTH 24°46'14" WEST, 74.39 FEET; THENCE SOUTH 07°41'39" WEST, 62.05 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 104.00 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 52°44'45", 95.74 FEET; THENCE NON-TANGENT TO SAID CURVE SOUTH 39°44'49" EAST, 225.91 FEET; THENCE SOUTH 70°43'29" WEST, 128.32 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 165.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 76°15'18" EAST; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 46°21'29", 133.50 FEET; THENCE NORTH 64°56'55" WEST, 134.85 FEET; THENCE NORTH 57°49'26" WEST, 76.92 FEET; THENCE NORTH 60°16'28" WEST, 97.18 FEET; THENCE NORTH 69°04'15" WEST, 154.37 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 430.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°14'06", 256.93 FEET; THENCE NON-TANGENT TO SAID CURVE NORTH 15°08'40" EAST, 738.78 FEET; THENCE NORTH 12°20'38" WEST, 1064.01 FEET; THENCE NORTH 27°54'31" WEST, 261.47 FEET TO A POINT ON THE NORTHERLY LINE OF THE ABOVE-MENTIONED JUDGMENT LAND DESCRIPTION; THENCE ALONG SAID JUDGMENT LAND DESCRIPTION THE FOLLOWING COURSES: NORTH 46°25'17" EAST, 45.74 FEET (SOUTH 46°24'59" WEST, 819 O.R. 113); THENCE SOUTH 43°32'17" EAST, 172.14 FEET (NORTH 43°35'01" WEST, 172.14 FEET, 819 O.R. 113); THENCE NORTH 71°22'13" EAST, 377.35 FEET (SOUTH 70°09' WEST, 819 O.R. 113), (SOUTH 71°21'04" WEST) TO THE POINT OF BEGINNING.

PARCEL THREE:

A PORTION OF TIDE LOT 13 AS DESIGNATED ON THE MAP ENTITLED "MAP NO. 1, SALT MARSH AND TIDE LANDS SITUATE IN COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, 1872 " AND A PORTION OF LOT 49, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO, ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113, HAVING A BEARING OF NORTH 34°37' WEST, 2267.73 FEET, SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 59 LSM 10, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA;

THENCE ALONG SAID JUDGMENT, TRACT IV SOUTHERLY BOUNDARY, SOUTH 56°35'43" WEST (NO BEARING GIVEN, 819 O.R. 113), 2132.76 FEET TO THE INTERSECTION WITH THE CENTERLINE OF WESTERN AVENUE (60.00 FEET WIDE) AS MONUMENTED BY A FOUND STANDARD CENTERLINE WELL MONUMENT AS REFERENCED PER SAID RECORD OF SURVEY 59 LSM 10 (NORTH 56°35'11" EAST, 2132.81 FEET, 59 LSM 10), ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY BOUNDARY SOUTH 56°35'43" WEST, 19.42 FEET (NORTH 56°35'11" EAST, 18.77 FEET, 59 LSM 10) TO AN ANGLE POINT IN SAID SOUTHERLY LINE; THENCE CONTINUING ALONG SAID SOUTHERLY LINE SOUTH 87°53'09" WEST, 114.06 FEET (NORTH 87°53'02" EAST, 114.99, 819 O.R. 113), (NORTH 87°50'10" WEST, 114.89 FEET, 59 LSM 10) TO A POINT ON THE WESTERLY LINE OF THE ABOVE-MENTIONED SAN PABLO RANCHO; THENCE CONTINUING ALONG SAID SOUTHERLY BOUNDARY LINE NORTH 88°42'31" WEST (EAST, 819 O.R. 113), (NORTH 88°45'30" WEST, 59 LSM 10), 54.23 FEET TO AN INTERSECTION WITH THE MEAN HIGH WATER LINE ON THE SAN FRANCISCO BAY, SAID MEAN HIGH WATER LINE SET AT 2.62 FEET, SEA LEVEL DATUM OF 1929, AS SAID ELEVATION IS DETERMINED FROM TIDAL BENCH MARK NO. 5 HAVING NATIONAL OCEAN SURVEY PID NO. HT0935; THENCE ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING MEANDERED COURSES: NORTH 05°29'37" WEST, 65.99 FEET; THENCE NORTH 05°48'09" WEST, 122.19 FEET; THENCE NORTH 14°34'41" WEST, 222.25 FEET; THENCE NORTH 15°07'37" WEST, 156.33 FEET; THENCE NORTH 14°17'10" WEST, 132.12 FEET; THENCE NORTH 20°05'53" WEST, 117.22 FEET; THENCE NORTH 23°10'52" WEST, 133.84 FEET; THENCE NORTH 31°06'20" WEST, 104.47 FEET; THENCE LEAVING SAID MEAN HIGH WATER LINE NORTH 63°01'20" EAST, 233.73 FEET; THENCE SOUTH 25°45'03" EAST, 101.82 FEET; THENCE SOUTH 25°44'33" EAST, 125.93 FEET; THENCE SOUTH 14°24'33" EAST, 112.62 FEET; THENCE SOUTH 14°24'44" EAST, 273.42 FEET; THENCE SOUTH 13°25'51" EAST, 232.11 FEET; THENCE SOUTH 03°33'03" EAST, 99.20 FEET; THENCE SOUTH 04°45'04" EAST, 193.06 FEET TO THE POINT OF BEGINNING.

PARCEL FOUR:

A PORTION OF LOT 49, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO, ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113, HAVING A BEARING OF NORTH 34°37' WEST, 2267.73 FEET, SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 59 LSM 10, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE ALONG SAID JUDGMENT, TRACT IV SOUTHERLY BOUNDARY LINE, SOUTH 56°35'43" WEST (NO BEARING GIVEN, 819 O.R. 113), 819.39 FEET, (NORTH 56°35'11" EAST, 2132.81 FEET, 59 LSM 10) TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY BOUNDARY LINE SOUTH 56°35'43" WEST, 1313.37 FEET TO THE INTERSECTION OF THE CENTERLINE OF WESTERN DRIVE (60.00 FEET WIDE) AS MONUMENTED BY A FOUND STANDARD CENTERLINE WELL MONUMENT AS REFERENCED PER SAID RECORD OF SURVEY 59 LSM 10; THENCE LEAVING SAID SOUTHERLY BOUNDARY LINE NORTH 04°45'04" WEST, 193.05 FEET; THENCE NORTH 03°33'03" WEST, 99.20 FEET; THENCE NORTH 13°25'51" WEST, 232.11 FEET; THENCE NORTH

69°29'38" EAST, 237.63 FEET; THENCE NORTH 71°30'54" EAST, 275.64 FEET; THENCE NORTH 25°10'29" WEST, 1040.69 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°02'22", 59.41 FEET; THENCE TANGENT TO SAID CURVE NORTH 59°12'51" WEST, 44.07 FEET; THENCE NORTH 57°21'59" WEST, 37.63 FEET; THENCE NORTH 49°58'29" WEST, 78.77 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 400.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 40°28'28" WEST; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14°41'14", 102.54 FEET; THENCE TANGENT TO SAID CURVE NORTH 64°12'46" EAST, 132.36 FEET; THENCE NORTH 67°50'38" EAST, 67.70 FEET; THENCE NORTH 59°18'57" EAST, 71.64 FEET; THENCE NORTH 52°07'01" EAST, 32.87 FEET; THENCE NORTH 59°28'19" EAST, 84.03 FEET; THENCE NORTH 67°14'41" EAST, 74.63 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°27'57", 39.21 FEET; THENCE TANGENT TO SAID CURVE NORTH 44°46'44" EAST, 116.90 FEET; THENCE NORTH 40°41'18" EAST, 94.32 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 70.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 95°17'30", 116.42 FEET; THENCE TANGENT TO SAID CURVE NORTH 54°36'12" WEST, 35.12 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 125.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 72°18'17", 157.74 FEET; THENCE TANGENT TO SAID CURVE NORTH 17°42'05" EAST, 88.41 FEET; THENCE NORTH 14°17'59" EAST, 47.90 FEET; THENCE NORTH 20°08'57" EAST, 130.90 FEET; THENCE NORTH 23°35'32" EAST, 96.01 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 55.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 63°11'48", 60.66 FEET TO A POINT OF CUSP; THENCE NON-TANGENT TO SAID CURVE SOUTH 39°36'17" EAST, 29.14 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 45.00 FEET; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 54°54'22", 43.12 FEET; THENCE TANGENT TO SAID CURVE SOUTH 15°18'04" WEST, 93.98 FEET; THENCE SOUTH 15°03'00" WEST, 74.96 FEET; THENCE SOUTH 08°47'33" WEST, 35.96 FEET; THENCE SOUTH 02°52'32" WEST, 27.40 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 66.00 FEET; THENCE SOUTHERLY AND SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 91°58'14" , 105.94 FEET; THENCE TANGENT TO SAID CURVE SOUTH 89°05'42" EAST, 7.48 FEET; THENCE NORTH 77°29'21" EAST, 73.34 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 67.00 FEET; THENCE EASTERLY AND SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 106°10'01", 124.15 FEET; THENCE TANGENT TO SAID CURVE SOUTH 03°39'21" WEST, 79.11 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 125.00 FEET; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°34'41", 25.26 FEET; THENCE TANGENT TO SAID CURVE SOUTH 07°55'20" EAST, 112.11 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 100.00 FEET: THENCE SOUTHERLY AND SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 58°32' 27", 102.17 FEET; THENCE TANGENT TO SAID CURVE SOUTH 50°37'08" WEST, 46.06 FEET; THENCE SOUTH 39°26'46" WEST, 71.81 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 50.00 FEET;

THENCE SOUTHERLY AND SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 130°03'56", 113.50 FEET; THENCE TANGENT TO SAID CURVE NORTH 89°22'50" EAST, 77.93 FEET; THENCE NORTH 77°03'08" EAST, 54.89 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 35.00 FEET; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 68°24'32", 41.79 FEET; THENCE TANGENT TO SAID CURVE SOUTH 34°32'20" EAST, 59.72 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 18°14'02", 31.82 FEET; THENCE TANGENT TO SAID CURVE SOUTH 16°18'18" EAST, 131.68 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 75.00 FEET; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°19'52", 65.88 FEET; THENCE TANGENT TO SAID CURVE SOUTH 34°01'35" WEST, 113.35 FEET; THENCE SOUTH 45°52'06" WEST, 60.64 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 59°45'21", 104.29 FEET TO A POINT ON A NON-TANGENT REVERSE CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 89°22'44" EAST; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 32°10'25", 56.15 FEET; THENCE TANGENT TO SAID CURVE SOUTH 32°47'40" WEST, 52.07 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°19'51", 23.27 FEET; THENCE TANGENT TO SAID CURVE SOUTH 19°27'49" WEST, 88.81 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 75.00 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°50'40", 18.12 FEET; THENCE TANGENT TO SAID CURVE SOUTH 33°18'30" WEST, 79.91 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 150.00 FEET; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 32°52'47", 86.08 FEET; THENCE TANGENT TO SAID CURVE SOUTH 00°25'43" WEST, 73.83 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 78.00 FEET; THENCE SOUTHERLY AND SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 88°02'11", 119.85 FEET; THENCE TANGENT TO SAID CURVE SOUTH 87°36'28" EAST, 56.17 FEET; THENCE SOUTH 87°21'51" EAST, 52.03 FEET: THENCE SOUTH 82°10'53" EAST, 48.77 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 16°15'00", 28.36 FEET; THENCE TANGENT TO SAID CURVE NORTH 81°34'07" EAST, 22.80 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 35°15'24", 61.53 FEET; THENCE TANGENT TO SAID CURVE SOUTH 63°10'29" EAST, 20.34 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°38'10", 27.29 FEET; THENCE TANGENT TO SAID CURVE SOUTH 47°32'19" EAST, 102.15 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 125.00 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 29°01'17", 63.31 FEET; THENCE

TANGENT TO SAID CURVE SOUTH 18°31'02" EAST, 86.10 FEET TO THE POINT OF BEGINNING.

PARCEL FIVE:

A PORTION OF LOT 49, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION, WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113, HAVING A BEARING OF NORTH 34°37' WEST, 2267.73 FEET, SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 59 LSM 10, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE ALONG SAID JUDGMENT, TRACT IV SOUTHERLY BOUNDARY, SOUTH 56°35'43" WEST (NO BEARING GIVEN, 819 O.R. 113), 819.39 FEET TO A POINT; THENCE LEAVING SAID SOUTHERLY BOUNDARY LINE ALONG THE FOLLOWING COURSES: NORTH 18°31'02" WEST, 86.10 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 125.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 29°01'17", 63.31 FEET; THENCE TANGENT TO SAID CURVE NORTH 47°32'19" WEST, 102.15 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°38'10", 27.29 FEET; THENCE TANGENT TO SAID CURVE NORTH 63°10'29" WEST, 20.34 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 35°15'24", 61.53 FEET; THENCE TANGENT TO SAID CURVE SOUTH 81°34'07" WEST, 22.80 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 16°15'00", 28.36 FEET; THENCE TANGENT TO SAID CURVE NORTH 82°10'53" WEST, 48.77 FEET; THENCE NORTH 87°21'51" WEST, 52.03 FEET; THENCE NORTH 87°36'28" WEST, 56.17 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 78.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 88°02'11" , 119.85 FEET; THENCE TANGENT TO SAID CURVE NORTH 00°25'43" EAST, 73.88 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 150.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 32°52'47" , 86.08 FEET; THENCE TANGENT TO SAID CURVE NORTH 33°18' 30" EAST, 79.91 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 75.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°50'41", 18.12 FEET; THENCE TANGENT TO SAID CURVE NORTH 19°27 '49" EAST, 88.81 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°19'51", 23.27 FEET; THENCE TANGENT TO SAID CURVE NORTH 32°47'40" EAST, 52.07 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 32°10'24", 56.15 FEET TO THE BEGINNING OF A

REVERSE CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 59°45'22", 104.29 FEET; THENCE TANGENT TO SAID CURVE NORTH 45°52'06" EAST, 60.64 FEET; THENCE NORTH 34°01'35" EAST, 113.35 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 75.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°19'53", 65.88 FEET; THENCE TANGENT TO SAID CURVE NORTH 16°18'18" WEST, 131.68 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 18°14'02", 31.82 FEET; THENCE TANGENT TO SAID CURVE NORTH 34°32'20" WEST, 59.72 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 35.00 FEET; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 68°24'32", 41.79 FEET; THENCE TANGENT TO SAID CURVE SOUTH 77°03'08" WEST, 54.89 FEET; THENCE SOUTH 89°22'50" WEST, 77.93 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 50.00 FEET; THENCE WESTERLY, NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 130°03'56", 113.50 FEET; THENCE TANGENT TO SAID CURVE NORTH 39°26'46" EAST, 71.81 FEET; THENCE NORTH 50°37'08" EAST, 46.06 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHERLY AND SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 58°32'28", 102.17 FEET; THENCE TANGENT TO SAID CURVE NORTH 07°55'20" WEST, 112.11 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 125.00 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°34'41", 25.26 FEET; THENCE TANGENT TO SAID CURVE NORTH 03°39'21" EAST, 79.11 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 67.00 FEET; THENCE EASTERLY, SOUTHEASTERLY AND SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 106°10'00", 124.15 FEET; THENCE TANGENT TO SAID CURVE SOUTH 77°29'21" WEST, 73.34 FEET; THENCE NORTH 89°05'42" WEST, 7.48 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 66.00 FEET; THENCE WESTERLY, NORTHWESTERLY AND NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 91°58'14", 105.94 FEET; THENCE TANGENT TO SAID CURVE NORTH 02°52'32" EAST, 27.40 FEET; THENCE NORTH 08°47'33" EAST, 35.96 FEET; THENCE NORTH 15°03'00" EAST, 74.96 FEET; THENCE NORTH 15°18'04" EAST, 93.98 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 45.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 54°54'21", 43.12 FEET; THENCE TANGENT TO SAID CURVE NORTH 39°36'17" WEST, 29.14 FEET; THENCE NORTH 10°12'52" EAST, 198.05 FEET TO THE NORTHWESTERLY TERMINUS OF THE ABOVE-MENTIONED CERTAIN COURSE HAVING A BEARING OF NORTH 34°37' WEST, 2267.73 FEET; THENCE SOUTHEASTERLY ALONG SAID COURSE SOUTH 33°27'25" EAST 2268.19 FEET, (NORTH 33°25'55", 2267.00 FEET) TO THE POINT OF BEGINNING.

PARCEL SIX:

TIDE LOTS 2 AND 3 AND PORTIONS OF TIDE LOTS 1,4 AND 5 IN SECTION 9, TOWNSHIP 1 NORTH, RANGE 5 WEST, MOUNT DIABLO BASE AND MERIDIAN, AS DESIGNATED ON THE MAP ENTITLED "MAP NO. 1, SALT MARSH AND TIDE LANDS SITUATED IN THE COUNTY OF

CONTRA COSTA, STATE OF CALIFORNIA, 1872", WHICH MAP IS ON FILE IN THE OFFICE OF THE SURVEYOR GENERAL AND A PORTION OF LOT 50, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE REFEREES IN PARTITION" WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT AT THE NORTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113, HAVING A BEARING OF SOUTH 32°14'30" WEST, 191.40 FEET, SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 76 LSM 29, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE ALONG SAID LAST COURSE SOUTH 33°13'32" WEST, 192.21 FEET (SOUTH 33°21'16" WEST, 192.02 FEET, 76 LSM 29); THENCE ALONG SAID JUDGMENT LAND DESCRIPTION THE FOLLOWING COURSES: SOUTH 71°12'58" WEST, 48.40 FEET (SOUTH 70°09' WEST, 48.83 FEET, 819 O.R. 113), (SOUTH 71°21'04" WEST, 48.43 FEET, 76 LSM 29) TO THE POINT OF BEGINNING; THENCE BACK ALONG SAID COURSE NORTH 71°12'58" EAST, 10.50 FEET TO A POINT ON THE MEAN HIGH WATER LINE ON THE SAN FRANCISCO BAY, SAID MEAN HIGH WATER LINE SET AT 2.62 FEET, SEA LEVEL DATUM OF 1929, AS SAID ELEVATION IS DETERMINED FROM TIDAL BENCH MARK NO. 5 HAVING NATIONAL OCEAN SURVEY PID NO. HT0935; THENCE ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING MEANDERED COURSES: SOUTH 29°31'13" WEST, 7.81 FEET; THENCE SOUTH 27°56'02" EAST, 140.61 FEET; THENCE NORTH 74°18'01" EAST, 165.85 FEET; THENCE SOUTH 31°52'36" EAST, 111.69 FEET; THENCE NORTH 67°31'03" EAST, 34.66 FEET; THENCE SOUTH 43°11'00" EAST, 50.36 FEET; THENCE SOUTH 15°39'08" EAST, 190.81 FEET; THENCE SOUTH 06°29'48" EAST, 193.39 FEET; THENCE SOUTH 11°26'02" WEST, 185.60 FEET; THENCE SOUTH 28°14'14" WEST, 152.33 FEET; THENCE SOUTH 41°28'20" WEST, 125.88 FEET; THENCE SOUTH 42°49'56" WEST, 247.64 FEET; THENCE NORTH 09°20'11" WEST, 73.63 FEET; THENCE NORTH 75°46'11" WEST, 44.55 FEET; THENCE SOUTH 37°00'56" WEST, 110.11 FEET; THENCE SOUTH 28°47'25" WEST, 184.87 FEET; THENCE SOUTH 48°37'33" WEST, 202.39 FEET; THENCE SOUTH 36°37'57" WEST, 423.76 FEET; THENCE SOUTH 76°07'01" WEST, 74.51 FEET; THENCE SOUTH 31°36'12" WEST, 56.23 FEET; THENCE SOUTH 20°19'07" WEST, 184.59 FEET TO THE WEST LINE OF TIDE LOT 5 OF SAID MAP NO. 1 SALT MARSH AND TIDELANDS; THENCE LEAVING SAID MEAN HIGH WATER LINE ALONG SAID WEST LINE OF TIDE LOT 5, AND THE WEST LINE OF TIDE LOTS 3 AND 2, NORTH 12°54'43" WEST, 2084.43 FEET; THENCE SOUTH 88°51'00" EAST, 1198.15 FEET; THENCE NORTH 25°54'28" WEST, 47.25 FEET TO THE POINT OF BEGINNING.

PARCEL SEVEN:

LOTS 6 THROUGH 11, AND PORTIONS OF LOTS 12 AND 13 IN SECTION 9, TOWNSHIP 1 NORTH, RANGE 5 WEST, MOUNT DIABLO BASE AND MERIDIAN, AS DESIGNATED ON THE MAP ENTITLED "MAP NO. 1, SALT MARSH AND TIDE LANDS SITUATED IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, 1872", WHICH MAP IS ON FILE IN THE OFFICE OF THE SURVEYOR GENERAL, AND A PORTION OF LOT 49, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHERLY BOUNDARY LINE DESCRIBED IN THAT CERTAIN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE

113, AND THE CENTERLINE OF WESTERN AVENUE (60.00 FEET WIDE) AS MONUMENTED BY A FOUND STANDARD CENTERLINE WELL MONUMENT AS REFERENCED PER RECORD OF SURVEY 59 LSM 10 RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE CONTINUING ALONG SAID SOUTHERLY BOUNDARY LINE SOUTH 87°53'09" WEST, 114.06 FEET (NORTH 87°53'02" EAST, 114.99 FEET, 819 O. R. 113), (NORTH 87°50'10" EAST, 114.89 FEET, 59 LSM 10) TO A POINT ON THE WESTERLY LINE OF THE ABOVE-MENTIONED SAN PABLO RANCHO; THENCE CONTINUING ALONG SAID SOUTHERLY BOUNDARY LINE NORTH 88°42'31" WEST, 1715.95 FEET (EAST, 1716.20 FEET, 819 O.R. 113), (NORTH 88°45' 30" WEST, 1716.08, 59 LSM 10), TO A POINT ON THE SOUTHWESTERLY LINE OF TIDE LOT NO. 12 OF SAID MAP NO. 1, SALT MARSH AND TIDELANDS, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 28°14'16" WEST, 682.40 FEET TO THE CORNER COMMON TO SAID TIDE LOTS 11 AND 12; THENCE ALONG THE SOUTHWESTERLY LINE OF TIDE LOTS 11, 7 AND 6 NORTH 37°14'14" WEST, 1961.80 FEET TO A POINT ON THE MEAN HIGH WATER LINE ON THE SAN FRANCISCO BAY, SAID MEAN HIGH WATER LINE SET AT 2.62 FEET, SEA LEVEL DATUM OF 1929, A3 SAID ELEVATION IS DETERMINED FROM TIDAL BENCH MARK NO. 5 HAVING NATIONAL OCEAN SURVEY PID NO. HT0935; THENCE ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING MEANDERED COURSES: SOUTH 55°02'10" EAST, 72.77 FEET; THENCE SOUTH 80°48'14" EAST, 89.92 FEET; THENCE NORTH 82°04'52" EAST, 150.24 FEET; THENCE SOUTH 69°51'46" EAST, 114.32 FEET; THENCE NORTH 74°10'57" EAST, 84.01 FEET; THENCE NORTH 37°41'46" EAST, 89.58 FEET; THENCE NORTH 43°41'43" EAST, 176.37 FEET; THENCE SOUTH 89°37'59" EAST, 251.39 FEET; THENCE SOUTH 65°45'40" EAST, 239.27 FEET; THENCE SOUTH 65°08'48" EAST, 394.97 FEET; THENCE SOUTH 63°38'53" EAST, 63.02 FEET; THENCE SOUTH 70°31'40" EAST, 130.72 FEET; THENCE 88°40'35" SOUTH 69°08'13" EAST, 41.08 FEET; THENCE NORTH EAST, 43.41 FEET; THENCE NORTH 87°05'08" EAST, 81.89 FEET; THENCE SOUTH 65°40'23" EAST, 159.02 FEET; THENCE SOUTH 50°08'38" EAST, 140.54 FEET; THENCE SOUTH 42°53'27" EAST, 311.67 FEET; THENCE SOUTH 68°49'46" EAST, 67.62 FEET; THENCE SOUTH 47°02'43" EAST, 362.72 FEET; THENCE SOUTH 89°22'42" EAST, 36.28 FEET; THENCE SOUTH 34°19'53" EAST, 22 .85 FEET; THENCE SOUTH 29°09'30" EAST, 164.48 FEET; THENCE SOUTH 31°06'20" EAST, 121.34 FEET; THENCE SOUTH 23°10'52" EAST, 133.84 FEET; THENCE SOUTH 20°05'53" EAST, 117.22 FEET; THENCE SOUTH 14°17'10" EAST, 132.12 FEET; THENCE SOUTH 15°07'37" EAST, 156.33 FEET; THENCE SOUTH 14°34'41" EAST, 222.25 FEET; THENCE SOUTH 05°48'09" EAST, 122.19 FEET; THENCE SOUTH 05°29'37" EAST, 65.99 FEET TO SAID SOUTHERLY BOUNDARY LINE DESCRIBED IN JUDGEMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113; THENCE ALONG SAID SOUTHERLY BOUNDARY LINE NORTH 88°42'31" WEST, 1661.72 FEET TO THE POINT OF BEGINNING.

PARCEL EIGHT:

A PORTION OF LOT 50, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO, ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113, HAVING A BEARING OF NORTH 40°27'17" WEST, 2383.78 FEET (NORTH 41°23' WEST, 2384.11 FEET, 819 O.R. 113), (NORTH 40°27'00" WEST, 2383.48 FEET, 76 LSM 29), SAID POINT ALSO BEING

A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 76 LSM 29, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE SOUTH 88°55'56" WEST, 1160.11 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 20°25'49" EAST, 130.93 FEET; THENCE SOUTH 53°30'38" WEST, 307.04 FEET; THENCE NORTH 82°58'33" WEST, 280.00 FEET; THENCE SOUTH 18°31'56" WEST, 66.63 FEET; THENCE NORTH 79°56'50" WEST, 166.58 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 663.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 86°56'43" WEST; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°28'39", 179.10 FEET; THENCE TANGENT TO SAID CURVE NORTH 18°31'56" EAST, 128.64 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1355.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 07°18'05", 172.67 FEET; THENCE NON-TANGENT TO SAID CURVE NORTH 09°35'56" EAST, 33.95 FEET; THENCE SOUTH 71°04'34" EAST, 181.62 FEET; THENCE SOUTH 70°03'28" EAST, 391.62 FEET TO THE POINT OF BEGINNING.

PARCEL NINE:

PORTION OF TIDE LOT 1 AS DESIGNATED ON THE MAP ENTITLED "MAP NO. 1 SALT MARSH AND TIDE LANDS, SITUATED IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, 1872" AND A PORTION OF LOT 50, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO, ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT AT THE NORTHWESTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113 HAVING A BEARING OF NORTH 41°23' WEST, 2384.11 FEET, SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 76 LSM 29, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE ALONG THE NORTHERLY LINE OF SAID JUDGMENT LAND DESCRIPTION THE FOLLOWING COURSES: SOUTH 29°53'00" WEST, 471.59 FEET, (SOUTH 28°29' WEST, 472.09 FEET, 819 O.R. 113), (SOUTH 29°55'34" WEST, 471.76 FEET, 76 LSM 29); THENCE SOUTH 71°22'13" WEST, 440.41 FEET (SOUTH 70°09' WEST, 819 O.R. 113), (SOUTH 71°21'04" WEST, 76 LSM 29); THENCE NORTH 43°32'17" WEST, 172.14, (NORTH 43°35'01" WEST, 172.14 FEET, 819 O.R. 113); THENCE SOUTH 46°25'17" WEST, 45.74 FEET, (SOUTH 46°24'59" WEST, 819 O.R. 113) TO THE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY LINE OF SAID JUDGMENT LAND DESCRIPTION SOUTH 27°54'31" EAST, 261.47 FEET; THENCE SOUTH 12°20'38" EAST, 629.13 FEET; THENCE SOUTH 77°39'22" WEST, 123.91 FEET TO THE MEAN HIGH WATER LINE ON THE SAN FRANCISCO BAY, SAID MEAN HIGH WATER LINE SET AT 2.62 FEET, SEA LEVEL DATUM OF 1929, AS SAID ELEVATION IS DETERMINED FROM TIDAL BENCH MARK NO. 5 HAVING NATIONAL OCEAN SURVEY PID NO. HT0935; THENCE ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING MEANDERED COURSES: NORTH 11°26'02" EAST, 55.48 FEET; THENCE NORTH 06°29'48" WEST, 193.39 FEET; THENCE NORTH 15°39'08" WEST, 190.81 FEET; THENCE NORTH 43°11'00" WEST, 50.36 FEET; THENCE SOUTH 67°31'03" WEST, 34.66 FEET; THENCE NORTH 31°52'36" WEST, 111.69 FEET; THENCE SOUTH 74°18'01" WEST, 165.85 FEET; THENCE NORTH 27°56'02" WEST, 140.61 FEET; THENCE NORTH 29°31'13" EAST, 7.81 FEET TO A POINT ON THE NORTHERLY LINE OF THE ABOVE-MENTIONED

JUDGMENT LAND DESCRIPTION HAVING A CERTAIN COURSE OF SOUTH 70°09' WEST, 48.83 FEET; THENCE ALONG SAID LAST COURSE NORTH 71°12'58" EAST, 37.90 FEET (SOUTH 71°21'04" WEST, 48.43 FEET, 76 LSM 29); THENCE ALONG SAID JUDGMENT LAND DESCRIPTION THE FOLLOWING COURSES: NORTH 33°13'32" EAST, 192.21 FEET (SOUTH 32°14'30" WEST, 191.40 FEET, 819 O.R. 113), (SOUTH 33°21'16" WEST, 192.02 FEET, 76 LSM 29); THENCE NORTH 71°40'49" EAST, 104.65 FEET (SOUTH 70°09' WEST, 103.89, 819 O.R. 113), (SOUTH 71°21'04" WEST, 104.41 FEET, 76 LSM 29); THENCE NORTH 46°25'17" EAST, 45.74 FEET, (SOUTH 46°24'59" WEST, 819 O.R. 113) TO THE POINT OF BEGINNING.

PARCEL TEN:

A PORTION OF TIDE LOTS 1, 4 AND 5 AS DESIGNATED ON THE MAP ENTITLED "MAP NO. 1, SALT MARSH AND TIDE LANDS SITUATE IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, 1872", AND A PORTION OF LOT 50, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO, ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT POINT AT THE SOUTHWESTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113, HAVING A BEARING OF SOUTH 29°53'00" WEST, 472.09 FEET (SOUTH 28°29' WEST, 472.09 FEET, 819 O.R. 113), (SOUTH 29°55'34" WEST, 471.76 FEET, 76 LSM 29), SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 76 LSM 29, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE ON A RANDOM LINE SOUTH 19°16'00" WEST, 946.06 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 12°20'38" EAST, 434.88 FEET; THENCE SOUTH 15°08'40" WEST, 738.78 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 408.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 55°09'51" WEST; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°52'55", 77.49 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 328.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 66°02'47" EAST; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 30°18'22", 173.49 FEET TO A POINT OF COMPOUND CURVATURE WITH A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 417.50 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 35°44'25" EAST; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°32'55", 84.15 FEET TO A POINT OF COMPOUND CURVATURE WITH A CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 30.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 24°11'30" EAST; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 35°32'148", 18.61 FEET; THENCE TANGENT TO SAID CURVE SOUTH 78°38'41" WEST, 162.93 FEET; THENCE NORTH 85°57'01" WEST, 70.92 FEET; THENCE NORTH 61°03'30" WEST, 24.78 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 43.00 FEET; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 92°39'22", 69.54 FEET; THENCE NON-TANGENT TO SAID CURVE SOUTH 26°17'09" WEST, 20.33 FEET; THENCE SOUTH 12°59'56" WEST, 147.72 FEET; THENCE NORTH 78°23'38" WEST, 144.84 FEET; THENCE SOUTH 11°36'22" WEST, 5.21 FEET; THENCE NORTH 76°04'00" WEST, 128.24 FEET TO THE MEAN HIGH WATER LINE ON THE SAN FRANCISCO BAY,

SAID MEAN HIGH WATER LINE SET AT 2.62 FEET, SEA LEVEL DATUM OF 1929, AS SAID ELEVATION IS DETERMINED FROM TIDAL BENCH MARK NO. 5 HAVING NATIONAL OCEAN SURVEY PID NO. HT0935; THENCE ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING COURSES: NORTH 36°37'57" EAST, 209.19 FEET; THENCE NORTH 48°37'33" EAST, 202.39 FEET; THENCE NORTH 28°47'25" EAST, 184.87 FEET; THENCE NORTH 37°00'56" EAST, 110.11 FEET; THENCE SOUTH 78°46'11" EAST, 44.55 FEET; THENCE SOUTH 09°20'11" EAST, 73.63 FEET; THENCE NORTH 42°49'56" EAST, 247.64 FEET; THENCE NORTH 41°28'20" EAST, 125.88 FEET; THENCE NORTH 28°14'49" EAST, 152.33 FEET; THENCE NORTH 11°26'02" EAST, 130.12 FEET; THENCE LEAVING SAID MEAN HIGH WATER LINE NORTH 77°39'22" EAST, 123.91 FEET TO THE POINT OF BEGINNING.

PARCEL ELEVEN:

A PORTION OF LOT 49, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO, ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113, HAVING A BEARING OF NORTH 34°37' WEST, 2267.73 FEET, SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 59 LSM 10, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE ALONG SAID JUDGMENT, TRACT IV SOUTHERLY BOUNDARY, SOUTH 56°35'43" WEST (NO BEARING GIVEN, 819 O.R. 113), 2132.76 FEET TO THE INTERSECTION WITH THE CENTERLINE OF WESTERN AVENUE (60.00 FEET WIDE) AND MONUMENTED BY A FOUND STANDARD CENTERLINE WELL MONUMENT AS REFERENCED PER SAID RECORD OF SURVEY 59 LSM 10 (NORTH 56°35'11" EAST, 2132.81 FEET, 59 LSM 10); THENCE LEAVING SAID SOUTHERLY BOUNDARY ALONG THE FOLLOWING COURSES: NORTH 04°45'04" WEST, 193.06 FEET; THENCE NORTH 03°33'03" WEST, 99.20 FEET; THENCE NORTH 13°25'51" WEST, 232.11 FEET; THENCE NORTH 14°24'44" WEST, 0.99 FEET TO THE POINT OF BEGINNING; THENCE NORTH 14°24'44" WEST, 272.43 FEET; THENCE NORTH 14°24'33" WEST, 112.62 FEET; THENCE NORTH 25°44'33" WEST, 125.93 FEET; THENCE NORTH 25°45'03" WEST, 101.82 FEET; THENCE SOUTH 63°01'20" WEST, 233.73 FEET TO THE MEAN HIGH WATER LINE ON THE SAN FRANCISCO BAY, SAID MEAN HIGH WATER LINE SET AT 2.62 FEET, SEA LEVEL DATUM OF 1929, AS SAID ELEVATION IS DETERMINED FROM TIDAL BENCH MARK NO. 5 HAVING NATIONAL OCEAN SURVEY PID NO. HT0935; THENCE ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING MEANDERED COURSES: NORTH 31°06'20" WEST, 16.87 FEET; THENCE NORTH 29°09'30" WEST, 164.48 FEET; THENCE NORTH 34°19'53" WEST, 176.16 FEET; THENCE LEAVING SAID MEAN HIGH WATER LINE NORTH 37°57'20" EAST, 412.80 FEET; THENCE SOUTH 52°02'40" EAST, 66.64 FEET; THENCE NORTH 37°57'20" EAST, 164.93 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 400.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°34'12", 80.77 FEET; THENCE NON-TANGENT TO SAID CURVE SOUTH 49°58'29" EAST, 78.77 FEET; THENCE SOUTH 57°21'59" EAST, 37.63 FEET; THENCE SOUTH 59°12'51" EAST, 44.07 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°02'22", 59.41 FEET;

THENCE TANGENT TO SAID CURVE SOUTH 25°10' 29" EAST, 1040.69 FEET; THENCE SOUTH 71°30'54" WEST, 275.64 FEET; THENCE SOUTH 69°43'54" WEST, 237.53 FEET TO THE POINT OF BEGINNING.

PARCEL TWELVE:

PORTIONS OF TIDE LOTS 5 AND 6, AS DESIGNATED ON THE MAP ENTITLED "MAP NO. 1, SALT MARSH AND TIDE LANDS SITUATE IN COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, 1872", AND A PORTION OF LOTS 49 AND 50, AS DESIGNATED ON THE MAP ENTITLED "MAP OF THE SAN PABLO RANCHO, ACCOMPANYING AND FORMING A PART OF THE FINAL REPORT OF THE REFEREES IN PARTITION", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON MARCH 1, 1894, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN JUDGMENT RECORDED JULY 28, 1945, BOOK 819, OFFICIAL RECORDS, PAGE 113, HAVING A BEARING OF NORTH 40°27'17" WEST, 2383.78 FEET (NORTH 41°23' WEST, 2384.11 FEET, 819 O.R. 113), (NORTH 40°27'00" WEST, 2383.48 FEET, 76 LSM 29), SAID POINT ALSO BEING A FOUND 8" CONCRETE MONUMENT WITH STEEL PIN AS REFERENCED PER RECORD OF SURVEY 76 LSM 29, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA; THENCE SOUTH 64°25'47" WEST, 2712.62 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 84°51'47" WEST, 193.82 FEET; THENCE SOUTH 43°21'42" WEST, 362.28 FEET TO THE MEAN HIGH WATER LINE ON THE SAN FRANCISCO BAY, SAID MEAN HIGH WATER LINE SET AT 2.62 FEET, SEA LEVEL DATUM OF 1929, AS SAID ELEVATION IS DETERMINED FROM TIDAL BENCHMARK NO. 5 HAVING NATIONAL OCEAN SURVEY PID NO. HT0935; THENCE ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING COURSES: SOUTH 82°04'52" WEST, 150.24 FEET; THENCE NORTH 80°48'14" WEST, 89.92 FEET; THENCE NORTH 55°02'10" WEST, 72.77 FEET TO A POINT ON THE WESTERLY LINE OF SAID TIDE LOT 6; THENCE NORTH 37°14'14" WEST, 72.18 FEET (NORTH 38°19' WEST, 819 O.R. 113) TO AN ANGLE POINT IN THE EXTERIOR BOUNDARY OF SAID MAP OF SAN PABLO RANCHO; THENCE ALONG SAID EXTERIOR BOUNDARY NORTH 40°46'12" WEST, 92.71 FEET (SOUTH 42° EAST, 92.40 FEET, SAN PABLO RANCHO); THENCE NORTH 23°46'12" WEST, 141.06 FEET (SOUTH 25° EAST, 141.04 FEET, SAN PABLO RANCHO); THENCE NORTH 14°13'48" EAST, 112.58 FEET (SOUTH 13° WEST, SAN PABLO RANCHO) TO SAID MEAN HIGH WATER LINE; THENCE ALONG SAID MEAN HIGH WATER LINE NORTH 20°19'07" EAST, 184.59; THENCE NORTH 31°36'12" EAST, 56.23 FEET; THENCE NORTH 76°07'01" EAST, 74.51 FEET; THENCE NORTH 36°37'57" EAST, 214.58 FEET; THENCE LEAVING SAID MEAN HIGH WATER LINE SOUTH 76°04'00" EAST, 128.24 FEET; THENCE NORTH 11°36'22" EAST, 5.21 FEET; THENCE SOUTH 78°23'38" EAST, 144.84 FEET; THENCE SOUTH 24°41'35" EAST, 377.75 FEET; THENCE SOUTH 29°26'53" EAST, 176.01 FEET; THENCE SOUTH 43°57'58" EAST, 134.67 FEET TO THE POINT OF BEGINNING.

APN: 561-100-008

**SAN PABLO RANCHO
MAP NO. 1 SALT MARSH & TIDELANDS 1872
POR SEC'S 2,3,4,9,10 & 11 T1N R5W MDB&M**

NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION DELINEATED HEREON. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT SPLIT MAY OR BUILDING SITE ORDINANCES.

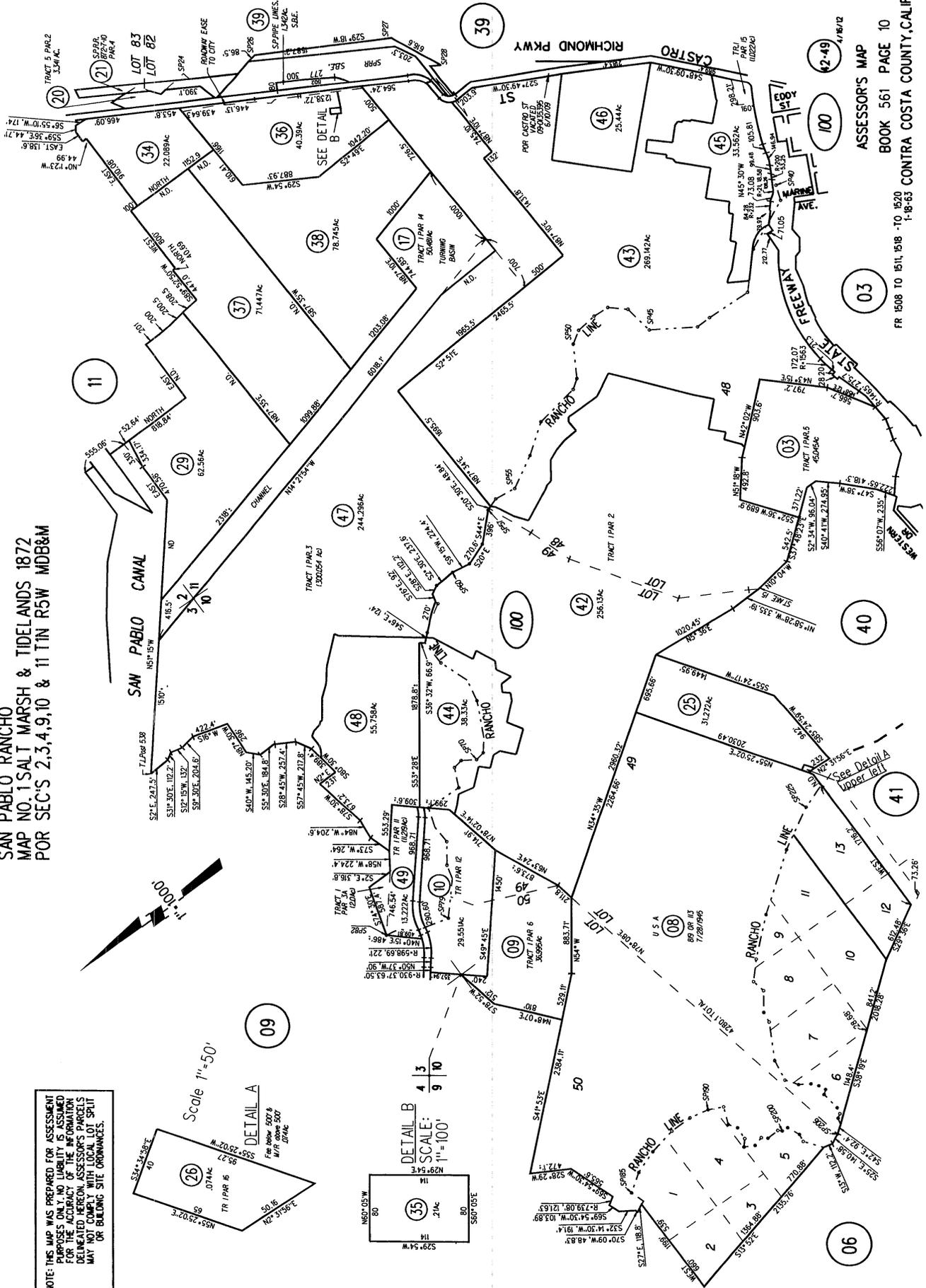


EXHIBIT B

VESTING TENTATIVE TRACT MAP OF THE PROPERTY

[Attached]

LEGEND:

-  DEVELOPABLE AREA
-  OPEN SPACE
-  CONSERVATION LAND
-  SHORELINE PARK

NOTES

1. EXACT LOCATION OF WATER LINE EASEMENT WITHIN PARCELS 1 AND 2 WILL BE FINALIZED DURING THE PERMITTING PHASE. ACCESS ROAD CONNECTING STENMARK DRIVE TO WATER STORAGE TANKS WILL BE CONSTRUCTED IN PHASE ONE.
 2. FUTURE EASEMENTS WILL BE PROVIDED WITHIN DEVELOPMENT AREAS WHEN EXACT LOCATIONS OF INFRASTRUCTURE ARE DETERMINED IN PERMITTING PHASE.
- * APPROXIMATE ACREAGES, ACTUAL AREAS MAY CHANGE.

DEVELOPABLE AREAS					
PARCEL #	APPROX. GROSS ACREAGE	APPROX. DEVELOPMENT ACREAGE	APPROX. CONSERVATION LAND (OPEN SPACE) ACREAGE	APPROX. PUBLIC PLAZA (OPEN SPACE) ACREAGE	APPROX. PARKS (OPEN SPACE) ACREAGE
1	20.63 AC	+17.23 AC	+0.50 AC	-	+2.90 AC
2	7.80 AC	+7.55 AC	+0.25 AC	-	-
3	2.00 AC	-	-	-	-
4	11.60 AC	+10.16 AC	+1.44 AC	-	-
5	3.20 AC	-	-	-	-
6	7.50 AC	+6.51 AC	+0.99 AC	+0.60 AC	-
7	1.79 AC	+1.24 AC	-	-	-
8	3.42 AC	-	-	-	+0.55 AC
9	2.67 AC	-	-	-	-
10	4.48 AC	+4.23 AC	-	-	+0.25 AC
11	2.57 AC	-	-	-	-
12-38 (HISTORIC COTTAGES)	2.29 AC	-	-	-	-
39	1.28 AC	+0.93 AC	-	-	+0.35 AC
40	0.60 AC	-	-	-	-
41	0.41 AC	-	-	-	-
42	1.16 AC	-	-	+1.16 AC	-
43	5.24 AC	-	-	+5.03 AC	-
44	2.92 AC	-	-	-	-
TOTAL	81.56 AC	+72.96 AC	+2.58 AC	+1.97 AC	+4.05 AC

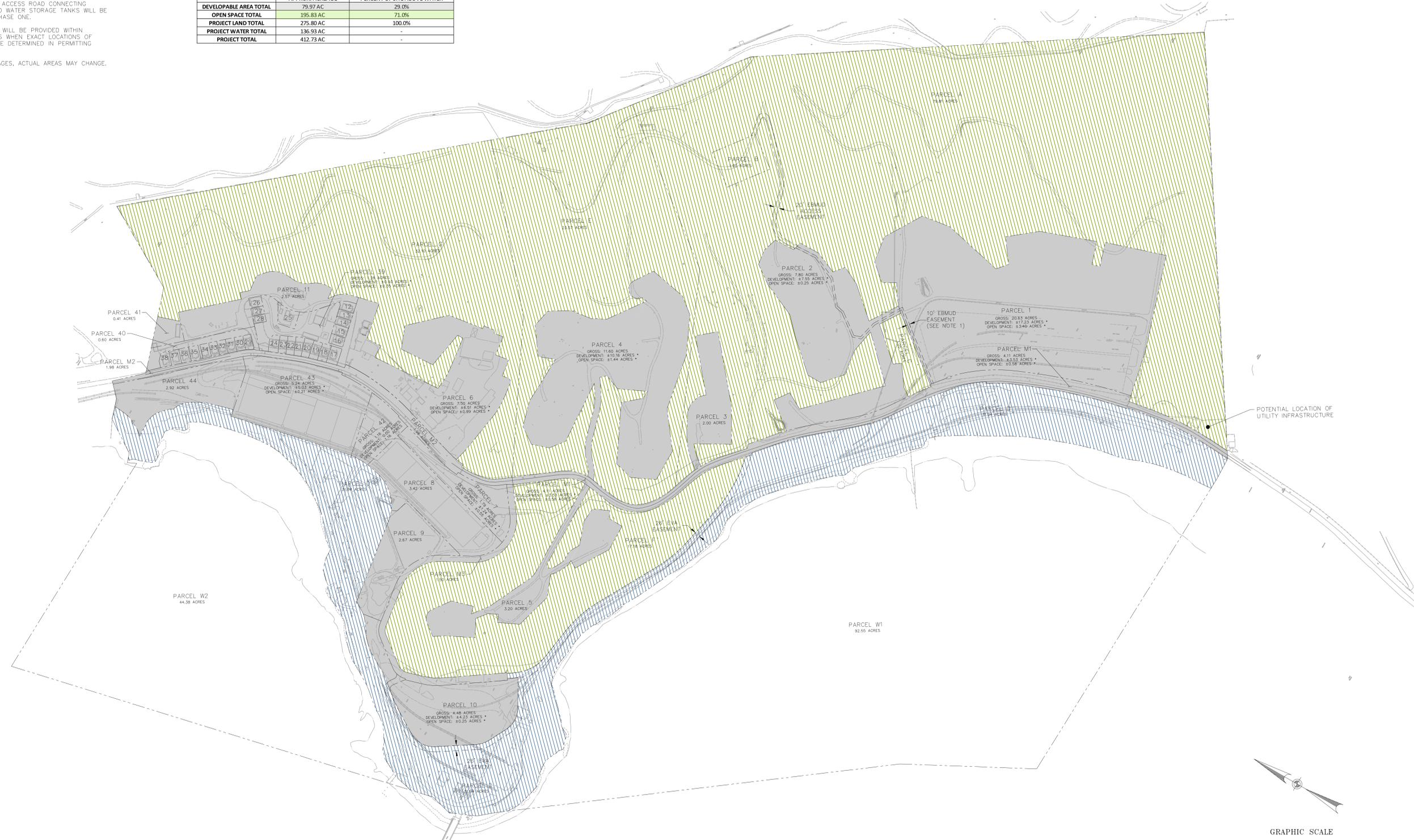
OPEN SPACE AREAS		
PARCEL #	APPROX. CONSERVATION LAND (OPEN SPACE) ACREAGE	APPROX. SHORELINE PARK (OPEN SPACE) ACREAGE
A	79.81 AC	-
B	1.00 AC	-
C	1.05 AC	-
D	-	31.94 AC
E	23.57 AC	-
F	17.18 AC	-
G	32.10 AC	-
TOTAL	154.71 AC	31.94 AC

- PARCEL B WILL BE USED FOR WATER STORAGE TANKS

STREET RIGHT OF WAY			
PARCEL #	APPROX. GROSS ACREAGE	APPROX. DEVELOPMENT ACREAGE	APPROX. OPEN SPACE ACREAGE
M1	4.11 AC	+3.53 AC	+0.58 AC
M2	1.98 AC	-	-
M3	1.50 AC	-	-
TOTAL	7.59 AC	+7.01 AC	+0.58 AC

OPEN WATER	
PARCEL #	APPROXIMATE ACREAGE
W1	92.55 AC
W2	44.38 AC
TOTAL	136.93 AC

	APPROX. ACREAGE	PERCENT OF SITE ABOVE WATER
DEVELOPABLE AREA TOTAL	79.97 AC	29.0%
OPEN SPACE TOTAL	155.83 AC	71.0%
PROJECT LAND TOTAL	275.80 AC	100.0%
PROJECT WATER TOTAL	136.93 AC	-
PROJECT TOTAL	412.73 AC	-



VESTING TENTATIVE TRACT MAP NO. XXXX
POINT MOLATE PROJECT
OVERALL PROPOSED LARGE LOT PARCELIZATION
 CONTRA COSTA COUNTY
 RICHMOND



1730 N. FIRST STREET
 SUITE 600
 SAN FRANCISCO, CA 94112
 415-467-9100
 415-467-9199 (FAX)

Date	Revisions
05/04/2020	05/04/20 City Submitter #1
	07/24/20 City Submitter #2

Scale: 1" = 200'
 Design: SH
 Drawn: SH
 Approved: JN
 Job No: 20160880

C3.0
11 of **36**

EXHIBIT C

PROJECT DESCRIPTION

The Point Molate Mixed-Use Development Project includes Planned Area District (PM-PAD) zoning, a Master Planned Area Plan, and a large-lot vesting tentative subdivision map for the Project Site pursuant to RMC sections 15.04.810 and 15.04.704, respectively.

The Project is divided into eight planning areas, Planning Area A through H, as shown in Figure 1. The PM-PAD defines the Site's maximum development capacities as follows:

A. Residential Capacity: up to 2,040 residential units in eight planning areas as follows:

1. Planning Areas A and B: 408 new units
2. Planning Area C: 168 new units
3. Planning Area D: 66 new units
4. Planning Area E: 300 new units
5. Planning Areas F, G, and H: 625 new units and up to 473 units in the existing historic buildings

The PM-PAD allows units to be transferred between Planning Areas A through G, with a maximum change in the residential development capacity of any planning area of 20 percent so long as the total number of residential units in the PM-PAD Plan Area does not exceed 2,040 residential units.

B. Historic District: The allowable development capacity in the Winehaven Historic District (Planning Areas F, G, and H), can fall within the range of (1) 1,098 residential units with up to 40,000 square feet of general commercial space; (2) 318 residential units with up to 624,572 square feet of general commercial space; or (3) anything in between on the basis that each residential unit is interchangeable with 750 square feet of general commercial space, up to 780 units.

C. Commercial Capacity:

1. Planning Areas F, G, and H: The PM-PAD allows up to 624,572 square feet of general commercial space (which can include neighborhood-serving commercial spaces), of which up to 40,000 square feet can comprise high-trip commercial uses such as region-serving retail and restaurant uses.
2. Planning Areas A and E: The PM-PAD allows up to 15,000 square feet of neighborhood-serving commercial spaces.

- D. Cultural and Civic Capacity: Planning Areas D, E, and F permit up to 10,000 new square feet of buildings for cultural and/or civic uses. Cultural and civic uses are also permitted in other planning areas as per the proposed PASD zoning. Up to 5,000 square feet can be refurbished (or if necessary constructed) in Planning Area E for a building to serve water transit uses.

Approximately 70 percent of the Site (about 193 acres) would remain as public parks and natural open space, including miles of hiking and biking trails. The Project will increase the shoreline access by extending and improving the existing shoreline park and completion of the portions of the Bay Trail. Further, the Project will provide pier upgrades and a parking lot to accommodate a ferry or water taxi service. The Project would also include new roads to serve the development within the Site, including widening Stenmark Drive from the Project Site to the I-580 ramps and construction of utility and infrastructure needed to support the Project.

Figure 1: Planning Areas



Project to be Approved

All development in the PM-PAD Area must comply with the PM-PAD zoning, conform with the Master Planned Area Plan and Point Molate Design Guidelines, and comply with the applicable mitigation measures in the Point Molate Mitigation Monitoring and Reporting Program, adopted by City Council in September 2020. In response to comments received, the applicant submitted an updated and illustrative land use master plan for presentation to the City Council for consideration and approval. Referenced in the Final Point Molate Mixed-Use Development Plan Subsequent Environmental Impact Report (“SEIR”) as the “Refined Project,” the updated and illustrative land use master plan includes land uses that are encompassed within the mix and envelope of land uses contemplated under the PM-PAD zoning and Master Planned Area Plan and Design Guidelines, according to the following distributions and configurations within the identified planning areas:

- 1,452 residential units, comprised of the following unit types:
 - 185 single family homes
 - 241 townhomes
 - 1,026 apartments and condominiums

- 453,774 square feet of nonresidential uses:
 - 55,000 retail/restaurant uses (including 15,000 being neighborhood serving)
 - 10,000 square feet of civic uses, including a fire station and police substation
 - 5,000 square feet water transit service terminal
 - 383,774 square feet office/research and development

The Project includes several neighborhoods, including two mixed-use residential areas that include neighborhood-serving commercial uses on the ground floor. A third neighborhood is centered around the rehabilitation and renovation of the Winehaven Historic District. Within the Winehaven Historic District, the Project would rehabilitate approximately 374,572 square feet of existing historic buildings for reuse as offices or other commercial uses and/or residences. An additional 250,000 square feet of new buildings would be added to the Winehaven Historic District to complement the historic buildings and create a vibrant mixed-use village center.

Under the PM-PAD, consisting of the zoning and the Master Planned Area Plan (Chapter 2.0 of the Point Molate Design Guidelines), any development within each Plan Area will be subject to Development Plan Review pursuant to RMC section 15.04.810.080 and Section 1.040 of the PM-PAD. After City Council approval of the PM-PAD and illustrative land use master plan, the PM-PAD requires that a Development Plan for a particular Planning Area shall be reviewed by the Zoning Administrator for conformity with the program for development in the illustrative land use master plan approved by the City Council, consisting of up to 1,452 residential units (up to 510 units in Planning Areas F, G, and H) and up to 453,774 square feet of non-residential uses. A deviation from the program for development in the illustrative land use master plan that nevertheless falls within the mix and envelope of land uses evaluated in the SEIR and the Development Capacity defined by PM-PAD section 1.020 will be approved as a minor program amendment by the Zoning Administrator pursuant to PM-PAD section 1.040.B. Major amendments to the PM-PAD or the Master Planned Area Plan require additional City Council review and approval.

EXHIBIT D

IMPACT FEES

All terms not defined herein shall have the meaning ascribed to them in the Development Agreement to which this **Exhibit D** is attached to and a part thereof.

1. Except as otherwise provided for in Section 3.6.4 (Fee Credits), the following Impact Fees shall apply to the Project during the Term as provided in Section 3.6.3 of this Development Agreement, except that after the Impact Fee Re-Assessment Date, the City may re-assess the Impact Fees applicable to the construction of the Later Phase Vertical Improvements (but not the First Phase Vertical Improvements):
 - A. The Public Facilities Impact Fee established by RMC Chapters 12.64 and 12.65 (the “**Public Facilities Impact Fee**”), which includes the following components:
 - **Park/Open Space - Per Section 3.6.4.1 (Park and Open Space Credit), Developer shall be fully credited for the amount of the Park/Open Space fee otherwise payable in connection with the development of the Project and Developer shall not be obligated to pay the Park/Open Space fee.**
 - Residential, single-family development, per dwelling unit: \$6,609.00
 - Residential, multi-family development, per dwelling unit: \$5,427.00
 - Commercial development, per 1,000 square feet: \$0.00 (N/A)
 - Office development, per 1,000 square feet: \$0.00 (N/A)
 - **Sewer – Per Section 3.6.4.3 (Sewer Fees, Storm Drainage Fee, and Traffic Fee Credit), Developer shall receive Fee Credits for Developer’s obligation to construct the Sewer Improvements in the amount of the cost of the Sewer Improvements and documented in the Credit Confirmation Letter(s).**
 - Residential, single-family development, per dwelling unit: \$3,447.00
 - Residential, multi-family development, per dwelling unit: \$2,790.00
 - Commercial development, per 1,000 square feet: \$3,143.00
 - Office development, per 1,000 square feet: \$2,205.00
 - **Traffic – Per Section 3.6.4.3 (Sewer Fees, Storm Drainage Fee, and Traffic Fee Credit), Developer shall receive Fee Credits for Developer’s obligation to construct the Traffic Improvements in the amount of the cost of the Traffic Improvements and documented in the Credit Confirmation Letter(s).**
 - Residential, single-family development, per dwelling unit: \$1,872.00
 - Residential, multi-family development, per dwelling unit: \$1,496.00
 - Commercial development, per 1,000 square feet: \$4,648.00
 - Office development, per 1,000 square feet: \$4,101.00
 - **Community/Aquatic Centers**

- Residential, single-family development, per dwelling unit: \$1,585.00
 - Residential, multi-family development, per dwelling unit: \$1,301.00
 - Commercial development, per 1,000 square feet: \$0.00 (N/A)
 - Office development, per 1,000 square feet: \$0.00 (N/A)
- **Storm Drainage – Per Section 3.6.4.3 (Sewer Fees, Storm Drainage Fee, and Traffic Fee Credit), Developer shall receive Fee Credits for Developer’s obligation to construct the Storm Drainage Improvements in the amount of the cost of the Storm Drainage Improvements and documented in the Credit Confirmation Letter(s).**
 - Residential, single-family development, per dwelling unit: \$675.00
 - Residential, multi-family development, per dwelling unit: \$367.00
 - Commercial development, per 1,000 square feet: \$940.00
 - Office development, per 1,000 square feet: \$706.00
- **Library**
 - Residential, single-family development, per dwelling unit: \$1,791.00
 - Residential, multi-family development, per dwelling unit: \$1,791.00
 - Commercial development, per 1,000 square feet: \$239.00
 - Office development, per 1,000 square feet: \$397.00
- **Police Facilities - Per Section 3.6.4.2 (Police and Fire Station Credit), Developer shall be fully credited for the amount of the Police Facilities fee otherwise payable in connection with the development of the Project and Developer shall not be obligated to pay the Police Facilities fee.**
 - Residential, single-family development, per dwelling unit: \$372.00
 - Residential, multi-family development, per dwelling unit: \$198.00
 - Commercial development, per 1,000 square feet: \$286.00
 - Office development, per 1,000 square feet: \$286.00
- **Fire Facilities - Per Section 3.6.4.2 (Police and Fire Station Credit), Developer shall be fully credited for the amount of the Fire Facilities fee otherwise payable in connection with the development of the Project and Developer shall not be obligated to pay the Fire Facilities fee.**
 - Residential, single-family development, per dwelling unit: \$453.00
 - Residential, multi-family development, per dwelling unit: \$170.00
 - Commercial development, per 1,000 square feet: \$251.00
 - Office development, per 1,000 square feet: \$251.00

C. The Public Art Requirement established by RMC Chapter 12.62 (the “**Public Art Requirement**”) which requires either onsite public art or payment of an in-lieu in an amount equal to one percent of building development costs.

D. Park land dedication and/or fee requirement established by RMC [15.04.708.030](#) (the “**Quimby Act Ordinance**”) – **Per Section 3.6.4.1 (Park and Open Space Credit), Developer shall be fully credited for the land dedication/payment of fees otherwise required under the Quimby Act Ordinance in connection with the development of the Project and Developer shall not be obligate to dedicate land or pay fees pursuant to the City’s Quimby Act Ordinance.**

- Single Family dwelling unit, detached or townhouse, fee per unit: 432.00
- Duplex, medium low: \$372.00
- Condominiums and Clusters: \$300.00
- Apartments (7 units or more): \$216.00

E. The City’s Inclusionary Housing Requirement established by RMC Section [15.04.603](#) – **Per Section 3.6.4.5 (Including Housing Requirement Credit), the 67 Required Onsite Affordable Housing Units will be credited towards the inclusionary housing requirements of the Project.**

- The Project will be subject to the inclusionary housing requirements set forth in the City’s Inclusionary Housing Ordinance, in effect on the date of the Judgement.

F. **Subregional Transportation Mitigation Program (STMP) Fees** (RMC Chapter 15.12)

- Single family residential, fee per dwelling unit: \$5,439.00
- Multi-family Residential, fee per dwelling unit: \$2,679.00
- Senior Housing, fee per dwelling unit: \$1,469.00
- Commercial hotel per room: \$3,481.00
- Commercial Retail, fee per square feet: \$6.59
- Office, fee per square feet: \$8.72
- Industrial, fee per square feet: \$5.56
- Mini Storage Space, fee per square fee: \$0.76

The Impact Fee vesting provisions set forth in Section 3.4.2, Section 3.6.3, and this Exhibit D shall not apply to STMP Fees, as City cannot unilaterally vest such fees. The STMP Fee levied on the Project and the annual increase of this fees shall be calculated as per Richmond Municipal Section 15.12.040. City shall reasonably cooperate with Developer and Developer’s efforts to obtain fee credits for STMP Fees that are payable in connection with the Project.

As set forth in Section 3.6.3, this Exhibit D shall not apply to school impact fees.

General Terms

1. **Generally.** The Project shall only be subject to the Impact Fees as set forth in this **Exhibit D**, and the City shall not impose any new Impact Fees on the development of the Project or impose new conditions or requirements for the right to develop the Project (including

required contributions of land, public amenities or services) except as set forth in this Agreement.

2. Impact Fees.

- Developer shall pay all applicable Impact Fees set forth in this **Exhibit D** that are in effect, on a City-Wide basis, at the time that Developer applies for or obtains, as applicable, a Building Permit for Vertical Construction of the Project.
- After the Agreement Date, except as set forth in this **Exhibit D**, no new categories of Impact Fees (nor expansion of the application of same due to changes in exceptions or definitions of covered uses thereto) shall apply to the development of the Project.

3. Any substitute Impact Fees that amend or replace the Impact Fees in effect on the Agreement Date shall not be considered new categories of Impact Fees except to the extent that they expand the scope of the Impact Fees or increase the rates of the Impact Fees. In other words, if the City amends or replaces existing Impact Fees during the Term to increase the rates and/or expand the scope of application (e.g., apply an existing Impact Fee to a use that was not previously subject to that Impact Fee), then the portion(s) of the Impact Fee associated with the increased rate and/or the expanded scope would not apply to the Project. However, Developer shall be responsible for any adjustments in fees in accordance with Section 13.45.010 of the RMC which provides for quarterly adjustments to all city levied taxes, fees, and charges in accordance with any increase or decrease in the Bureau of Labor Statistics Employment Cost Index (ECI), State Local Government Workers component, during the preceding fiscal quarter.

4. Processing Fees. For three (3) years following the Effective Date, as may be extended by the number of days in any extension of the Term, Processing Fees for the Project shall be limited to the Processing Fees in effect, on a City-Wide basis, as of the Agreement Date (provided that to the extent Processing Fees are based on time and materials costs, such fees may be calculated based on the schedule for time and materials costs in effect on the date the work is performed by the City). Thereafter, Processing Fees for the Project shall be limited to the Processing Fees in effect, on a City-Wide basis, at the time that Developer applies for the permit or approval for which such Processing Fee is payable in connection with the applicable portion of the Project.

5. Water and Sewer Fees. Notwithstanding anything to the contrary above, Developer shall be responsible for the payment of the following fees and charges, if and to the extent applicable: the water capacity charges and connection fees, and wastewater capacity charges and connection fees, in effect at the time of assessment; provided, Developer shall receive credit toward such fees and/or charges based on the existing capacity and/or meters serving the Property as of the Agreement Date, as set forth in Section 3.6.4.4 (Water and Sewer Capacity Credit).

EXHIBIT E

PROJECT APPROVALS AND APPLICABLE RULES

[To Be Attached]

EXHIBIT F

COMMUNITY FACILITIES DISTRICT

ESTIMATED ELIGIBLE IMPROVEMENTS

Infrastructure Cost [1][3]	Total Amount
Sanitary Sewer (assumes offsite sewer)	\$11,118,271
Storm Drainage	\$8,634,010
Domestic Water	\$15,053,907
Street Improvements	\$20,443,669
Landscaping / Fencing / Signage	\$15,125,009
Common Amenities / Public Services	\$12,987,000
Fire Station/Police Substation	\$10,000,000
Engineering, Design & Survey & Fees/Permits @ 15%	\$12,504,280
Total Eligible Reimbursable Infrastructure Costs	\$105,866,145
<hr/>	
Fee Facilities [2][3]	
Park/open space	\$8,162,694
Sewer	\$5,293,261
Traffic	\$4,120,710
Storm Drainage	\$973,867
Police facilities (assumes 100% credit for construction of Fire/Police Station)	\$0
Fire facilities (assumes 100% construction of Fire/Police Station)	\$0
Park Land Dedication	\$452,844
Total Eligible Reimbursable City Impact Fees	\$19,003,376
Grand Total of Eligible Improvements	\$124,869,521

Notes

[1] Costs per preliminary cost estimate by Developer; subject to change.

[2] 2020 impact fee estimates

[3] Costs include 20% contingency

APPENDIX I

DEFINITIONS

In addition to the terms defined elsewhere in this Agreement, the following definitions shall apply:

“Affordable Onsite Units” means all or any of the Onsite Residential Units located within the Project and affordable to low- or moderate-income households ($\leq 120\%$ AMI), a minimum number of which shall total no less than sixty-seven (67) Residential Units (such sixty-seven (67) Affordable Onsite Units, the “Required Onsite Affordable Units”). All of the Required Onsite Affordable Units shall be completed as part of the Vertical Phases to be constructed within the First Site Improvement Phase, and at least 25% of the Required Onsite Affordable Units will be for sale units and will be interspersed with market rate housing (and not in a separate building).

“Agreement” means this Development Agreement.

“Applicable Rules” means the rules, regulations, ordinances and policies of City applicable to development of the Property on the Agreement Date (collectively, together with the Applicable General Plan and the Applicable Zoning Ordinance)

“Applicable Law” means any and all federal, state, and local laws, statutes, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, policies, directives, building codes, zoning codes, standards, permits, licenses, conditions of approval and other requirements adopted by any governmental, administrative or judicial authority including, without limitation, Other Agencies. Applicable Law includes, without limitation, all Project Approvals, all Hazardous Materials Laws, all federal, state and local historical preservation and adaptive reuse requirements (including without limitation the requirements included or referenced in the State Historic Preservation MOA), and other laws and regulations governing environmental conditions, the Davis Stirling Act, and all covenants, conditions and restrictions of record, which are or at any time during the Term may become binding upon or applicable to all or any portion of the Property or the Project or any improvements thereon, or to the use or operation of all or any portion of the Property or the Project, or to this Agreement and/or the transactions contemplated by this Agreement, subject to the terms and conditions of the Disposition and Development Agreement.

“Building Permit” means a building permit or equivalent permit for vertical construction of all or any portion of the Project issued by the City in its regulatory capacity, other than vertical construction for which a Site Improvement Permit is issued.

“CEQA” means the California Environmental Quality Act, Sections 21000 et seq. of the Public Resources Code and the CEQA Guidelines set forth at 14 California Code of Regulations Sections 15000 et seq.

“Certificate of Completion” means either a Certificate of Construction Phase Completion or a Certificate of Project Completion.

“Certificate of Construction Phase Completion” means the certificate to be issued by the City with respect to Completion of Construction of a particular Construction Phase pursuant to Section 5.9.1 of the Disposition and Development Agreement and refers to the form set forth in attached Exhibit 5.9.1 A of the Disposition and Development Agreement (for Site Improvement Phases) or Exhibit 5.9.1-B of the Disposition and Development Agreement (for Vertical Improvement Phases), as applicable.

“Certificate of Occupancy” means a certificate of occupancy for any portion of the Project issued by the City.

“Certificate of Project Completion” means the certificate to be issued by the City with respect to Completion of the Project pursuant to Section 5.9.1 of the Disposition and Development Agreement and refers to the form set forth in attached Exhibit 5.9.1 C of the Disposition and Development Agreement .

“City” means the City of Richmond, a municipal corporation and charter city, operating through its governing body, the City Council, and its various departments.

“City Attorney” means the Office of the City Attorney.

“City Council” means the City Council of the City of Richmond, which is the governing body of the City.

“City Manager” means the City Manager of the City.

“Claims” means any and all claims, demands, actions, causes of action, proceedings, liabilities, losses, damages, fines, penalties, liens, costs and expenses (including court costs and reasonable attorneys’, experts’ and consultants’ fees and costs) of any nature whatsoever.

“Closing Date” means the date of Closing.

“Commercial Unit” means any commercial, retail or neighbor-serving building, condominium, or space constructed by Developer, the Historic Resources Assignee, or a Merchant Builder.

“Commercial Unit” means any commercial, retail or neighbor-serving building, condominium, or space constructed by Developer, the Historic Resources Assignee, or a Merchant Builder.

“Construction Phase” means, as applicable, each of the Site Improvement Phases and each of the Vertical Improvement Phases.

“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities or memberships, by contract, or otherwise, and the terms “Controlling” and “Controlled” have the meanings correlative to the foregoing.

“County” means the County of Contra Costa, a political subdivision of the State of California.

“Davis Stirling Act” means the Davis Stirling Common Interest Development Act, California Civil Code Sections 4000-4070, and any successor statute thereto.

“Developer” means the Original Developer, and its successors and assigns approved by the City or otherwise permitted in accordance with this Agreement.

“Developer Affiliate” means any entity that is directly or indirectly Controlling, Controlled by, or under common Control with Developer.

“Disposition and Development Agreement” has the meaning set forth in recital L.

“Effective Date” means the date set forth in Section 1.3.1 of this Agreement.

“Escrow” means the escrow established with the Escrow Agent for the purpose of conveying the Property from the City to Original Developer.

“Force Majeure Delay” has the meaning set forth in Section 11.2.

“Hazardous Materials” means any substance, material, or waste which is: (1) defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “restricted hazardous waste,” “pollutant” or any other terms comparable to the foregoing terms under any provision of California law or federal law; (2) petroleum; (3) asbestos and asbestos containing materials; (4) polychlorinated biphenyls; (5) radioactive materials; (6) MTBE; or (7) determined by California, federal, regional or local governmental authority to be capable of posing a risk of injury to health, safety, property or the environment. The term “Hazardous Materials” shall not include: (i) construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction, maintenance, rehabilitation, or management of commercial properties, buildings and grounds, or typically used in household activities, or (ii) certain substances which may contain chemicals listed by the State of California pursuant to California Health and Safety Code Sections 25249.8 et seq., which substances are commonly used by a significant portion of the population living within the region of the Project, including but not limited to, alcoholic beverages, aspirin, tobacco products, nutrasweet and saccharine, so long as such materials and substances are stored, used, and disposed of in compliance with all applicable Hazardous Materials Laws.

“Hazardous Materials Laws” means all federal, state, regional and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials.

“Historic Core” means that portion of the Historic District excluding the Retained Historic District Improvements.

“Historic Core Work” means the portion of the total Historic Resources Work to be performed by Original Developer (or, if applicable, by Historic Resources Assignee) on the buildings comprising the Historic Core.

“Historic Core Access Work” means the installation of roads and utilities to the Historic Core sufficient for the Commencement of the Construction of the Historic Core Work as part of the First Site Improvement Phase, which Historic Core Access Work Original Developer is obligated

to complete within thirty-six months (36) months after the Commencement of Construction on the First Site Improvement Phase. The “Historic Core Access Work” includes the work that is required for Original Developer (or, if applicable, Historic Resources Assignee) to Commence Construction of the Historic Core Work (but would not include the Completion of all of the First Phase Master Infrastructure).

“Historic Resources” means the historic buildings contributing to the Winehaven Historic District, including the existing historic winery buildings, cottages, powerhouse, and fire station.

“Historic Resources Assignee” shall mean Orton or any other entity approved by City in accordance with Section **Error! Reference source not found.** of the Disposition and Development Agreement that purchases the Historic District, excluding the Retained Historic District Improvements, for the purpose of renovating or otherwise repurposing historic buildings within the Historic District for commercial and/or residential use.

“Improvements” means any and all infrastructure, buildings, structures, fixtures, and other improvements, including but not limited to any work of improvement as defined in California Civil Code Section 8050, constructed, installed, erected, built, placed or performed (or to be so done) by or on behalf of Developer, Historic Resources Assignee or any Merchant Builder as part of the Project and pursuant to this Agreement, including the Site Improvements and the Vertical Improvements.

“Master Infrastructure” means the Police and Fire Station, the Offsite Improvements, the Historic Core Access Work, and all access and infrastructure, consisting of grading, streets, traffic signals, roadways, sidewalks, utilities (including without limitation water, sanitary sewer, storm sewer, gas, electricity, telephone, cable and broadband) sufficient to provide access, utilities, and emergency services to each Vertical Improvement Phase and to all Offsite Improvements. The Master Infrastructure will be constructed in phases in accordance with the Site Phasing Plan, provided that the Police and Fire Station, all Offsite Improvements, and the Historic Core Access Work will be constructed as part of the First Phase Master Infrastructure, which will be completed as part of the First Site Improvement Phase; provided further, that the Required Onsite Affordable Units shall be completed as part of the Vertical Phases to be constructed within the First Site Improvement Phase. Without limiting the generality of the foregoing, the required components of the Master Infrastructure for each Site Improvement Phase are more particularly shown on Exhibit 2.5.2-A of the Disposition and Development Agreement (“the “First Phase Master Infrastructure”) and Exhibit 2.5.2-B of the Disposition and Development Agreement (“Second Phase Master Infrastructure”). Exhibit 2.5.2-C of the Disposition and Development Agreement shows the Historic Core Access Work component of the First Phase Master Infrastructure.

“Master Developer Amenities” means the on- and off-site work to be constructed by the Developer, including right-of-way landscaping and sidewalks, parks and paseos, Bay Trail improvements, shoreline beach park improvements, trailheads, and neighborhood monumentation and gateway monumentation for the Project, and construction and installation of portions of the Project Common Area not included as part of any Vertical Phase. The Master Developer Amenities shall include, without limitation, preservation of approximately 193 acres of open space, including a shoreline park with recreational areas and trails, park recreation

facilities (such as play areas, equipment rentals, etc.), picnic facilities, public art and cultural exhibits, a paddle sport launch and restroom facilities, all open to the public and consistent with the Reuse Plan; (ii) construction of approximately 1.5 miles of the Bay Trail through the Site along the shoreline, including a vista overlook; (iii) enhanced and improved public waterfront amenities and access with a waterfront promenade, improvements to the Point Molate pier and beach park, (iv) pedestrian- and bike- friendly community design, including pedestrian trails through preserved natural hillside open space areas; and (v) local and regional public transportation connections, which shall include a terminal on the existing Point Molate pier that will be accessible to ferries, shuttles and/or water taxis as mutually agreed by the Parties. The Master Developer Amenities will be constructed in phases in accordance with the Site Phasing Plan. Without limiting the generality of the foregoing, the required components of the Master Developer Amenities for each Site Improvement Phase are more particularly shown on Exhibit 2.5.6-A of the Disposition and Development Agreement (the “First Phase Master Developer Amenities”) and Exhibit 2.5.6-B of the Disposition and Development Agreement (“the “Second Phase Master Developer Amenities”).

“Merchant Builder” shall mean any entity, approved by City in accordance with Section 7.7 of the Disposition and Development Agreement, purchasing a portion of the Project from Original Developer or the Historic Resources Assignee for the purpose of constructing in-tract improvements and Residential Units on portions of the Property zoned for residential lots for the purpose of sale of such Residential Units to members of the home-buying public uses or constructing Commercial Units and related improvements on portions of the Property zoned to allow commercial use, retail, and/or neighborhood-serving uses.

“NEPA” shall mean the National Environmental Policy Act of 1969, as amended (42 U.S.C., Sections 4321-4361) and any implementing regulations.

“Offsite Improvements” shall mean the improvements shown on Exhibits 2.5.6-C of the Disposition and Development Agreement and any other offsite Improvements that are required by the City or Other Agencies as part of CEQA review for the Project or under any MMRP for the Project, under the Development Agreement, or otherwise required by the Project Approvals, which are anticipated to include, without limitation (A) widening of Stenmark Drive from the easterly Project boundary to connection at the I-580 freeway; (B) undergrounding or relocating existing utility power poles along Stenmark Drive from the easterly boundary to the I-580 freeway connection to accommodate completion of anticipated improvements to Stenmark Drive; and (C) installation of a new force main for wastewater treatment along a proposed segment of the Bay Trail or Stenmark Drive and Western Drive to bring sanitary sewer service to and throughout the Project from an existing 12-inch sanitary sewer line at the intersection of Tewksbury Avenue and Contra Costa Street in Point Richmond.

“On-Going Remediation” refers to on-going remediation of hazardous materials on certain portions of the Site under the oversight authority of RWQCB, as further described in the Environmental Disclosures, including without limitation the Site Cleanup Requirements Order No. R2-2011-0087 issued by the RWQCB (the “RWQCB Order”).

“Original Developer” means Winehaven Legacy LLC, a Delaware limited liability company.

“Other Agencies” has the meaning given in Section 1.4.10.

“Other Agency Approvals” has the meaning given in Section 1.4.1.0.

“Parties” means the City and Developer.

“Police and Fire Station” means the onsite police substation and fire station, which may be new construction, adaptive reuse of the existing fire station, or a mix of both new construction and adaptive reuse, sufficient to service the entire Project, and to be constructed as part of the First Phase Master Infrastructure and Completed prior to the issuance of the first Certificate of Occupancy issued in connection with the Project, whether for a Residential Unit or a Commercial Unit; provided, however, (a) certificates of occupancy may be issued for model homes prior to the Completion of the Police and Fire Station provided that in no event shall a member of the homebuying public be able to occupy a model home until construction of the Police and Fire Station is Complete, and (b) Completion of the Police and Fire Station will not be a requirement for the issuance of a temporary (as opposed to final) Certificate of Occupancy (“TCO”) for the Historic Core if a TCO is needed for the Historic Core to be deemed “placed in service” for purposes of Section 47(b) of the IRC, so long as no portion of the Historic Core is occupied or used by persons or businesses until Completion of the Police and Fire Station occurs. The parties agree that the Police and Fire Station shall be Complete when the Police and Fire Station is connected to utilities and one or more certificates of occupancy have been issued for the Police and Fire Station, but that the Police Department and Fire Department do not need to have occupied the Police and Fire Station or commenced operations in the Police and Fire Station in order for the Police and Fire Station to be Complete hereunder.

“Point Molate Design Guidelines” has the meaning set forth in Section 1.4.4.

“Prime Contractor” has the meaning set forth in Section 11.2.

“Project” has the meaning set forth in Recital E and more fully described in attached Exhibit C and includes all Site Improvements and Vertical Improvements to be constructed hereunder and pursuant to the Project Approvals.

“Project Approvals” has the meaning set forth in Section 1.4.

“Project Common Area” has the meaning set forth in Section 6.3.2.1 of the Disposition and Development Agreement.

“Property” has the meaning set forth in Recital D.

“Residential Units” means any and all “for sale” or rental residential units within the Project, including any and all condominiums (as that term is defined in the Davis Stirling Act) and any and all Affordable Onsite Units (including without limitation the Required Onsite Affordable Units).

“Reuse Plan” is the Point Molate Reuse Plan adopted by the City Council in 1997.

“RMC” means the Richmond Municipal Code, as amended.

“RWQCB” means the San Francisco Bay Regional Water Quality Control Board, and any successor agency thereto.

“SB 854” means the California legislation commonly referred to as SB 854 and comprising Stat. 2014, chapter 28, and any successor statute thereto.

“Schedule of Performance” means the schedule or schedules (collectively) summarizing and setting forth the dates and/or time periods by which certain obligations of the Parties under this Agreement must be accomplished, which initial schedule for the Site Improvement Phases is Exhibit 2.3.1-A of the Disposition and Development Agreement, and which initial schedule for the Historic Core Work is Exhibit 2.3.1-B of the Disposition and Development Agreement, as each may be modified thereunder as provided in Sections 5.1 and 10.10 of the Disposition and Development Agreement.

“Site Improvement Permit” means a grading permit, demolition permit, building permit and/or any other horizontal site improvement permit or other approval for construction of all or any portion of the Site Improvements issued by the City, and any permit for construction of all or any portion of the Police and Fire Station and/or any other vertical improvements that are part of the Site Improvements.

“Site Improvement Phase” means any phase of construction of the Project consisting of Site Improvements. Each Site Improvement Phase shall be completed in accordance with the Project Approvals. The Parties acknowledge that the current intention of Original Developer is that there be two (2) Site Improvement Phases as shown on the Site Phasing Plan, but that during the planning of the Project and processing of the entitlements, such number of Site Improvement Phases may change. Notwithstanding anything to the contrary in this Agreement, in the Site Phasing Plan or any amendments thereto or in the Project Approvals or any amendments thereto, except as otherwise approved by the City in its sole discretion, the first Site Improvement Phase shall include (1) all First Phase Master Infrastructure (including without limitation all Offsite Improvements shown on Exhibit 2.5.2-A of the Disposition and Development Agreement and all Historic Core Access Work shown on Exhibit 2.5.2-C of the Disposition and Development Agreement), and (2) all First Phase Master Developer Amenities (collectively, the “First Site Improvement Phase”). The Parties further acknowledge that Original Developer intends to begin Vertical Improvement Phases (or sell such Vertical Improvement Phases to Merchant Builders or the Historic Resources Assignee) within each Site Improvement Phase at such time as the applicable Site Improvement Phase is sufficiently completed in order for Original Developer or such Merchant Builder or Historic Resources Assignee to begin construction of the Vertical Improvement Phase. The Parties further acknowledge that Original Developer will construct the Offsite Improvements and the Master Infrastructure and Master Developer Amenities as required by and in accordance with the Project Approvals such that the Project may be developed in an orderly and efficient manner and in accordance with the Schedule of Performance.

“Site Improvements” means the Master Infrastructure and, the Master Developer Amenities, and the Offsite Improvements but excluding any Vertical Improvements. Notwithstanding the foregoing, any Offsite Improvements shoring work on the existing piers partially located on the Submerged Land that is part of the Offsite Improvements will be delayed until such time as (i) the City and Original Developer have entered into a lease or other occupancy agreement relating

to the Submerged Lands, and (ii) all Other Agency Approvals for such Offsite Improvements have been obtained.

“Site Phasing Plan” means, initially, the phasing plan reflected collectively in Exhibits 2.5.2-A, 2.5.2-B, 2.5.2-C, 2.5.6-A, 2.5.6-B, and 2.5.6-C of the Disposition and Development Agreement, which show the Original Developer’s current best estimate of the conditions forecast for the expected development period in order to achieve an economically feasible project while maximizing the public and community benefits provided and satisfying the requirements of this Agreement and the Project Approvals. Original Developer may request changes to the initial Site Phasing Plan and related changes to the Schedule of Performance to adjust to market conditions, which changes will be subject to approval by the City Manager, which approval shall not be unreasonably withheld so long as all First Phase Master Infrastructure and First Phase Master Developer Amenities are included within the First Site Improvement Phase and the Vertical Phases associated with the First Site Improvement Phase include the Required Onsite Affordable Units.

“State Historic Preservation MOA” means the Memorandum of Agreement between The United States Department of the Navy and the California State Historic Preservation Officer Pursuant to 36 Code of Federal Regulations Part 800.6(c) For the Leasing, Disposal and Reuse of Naval Fuel Depot, Point Molate, Richmond, California, as amended by Amendment One, copies of which have been provided by the City to Original Developer.

“Submerged Lands” has the meaning set forth in Recital B of the Disposition and Development Agreement.

“Term” means the term of this Agreement.

“Title Company” means Old Republic Title Company, 555 12th Street, Suite 2000, Oakland CA 94607, (510) 272-1121 office, (510) 208-5045 fax.

“Transfer” has the meaning set forth in Section 9.1.

“Vertical Improvement Phase” or “Vertical Phase” means each and every construction phase of the Project consisting of or including Vertical Improvements. There will be multiple Vertical Improvement Phases within each Site Improvement Phase.

“Vertical Improvements” means any and all Improvements and construction thereof relating to the Project and pursuant to this Agreement other than the Site Improvements, including the Residential Units, commercial and retail spaces, and associated parking, hardscape, landscaping and irrigation, and the Historic Resources Work.

“Weatherization of Historic Resources” shall have the meaning set forth in Section 2.12 of the Disposition and Development Agreement.