DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into in the City of Coachella on the _____ day of _____, 2014, by and between the CITY OF COACHELLA, a municipal corporation ("City"), and PSAV LLC, a Delaware limited liability company and LLSE Holdings LLC, a New Jersey limited liability company (collectively "Landowner" or "Owner"), pursuant to the authority of Sections 65864 – 65869.5 of the California Government Code and the applicable provisions of the municipal code of the City of Coachella. The City and the Landowner are hereinafter, from time to time, individually referred to in this Agreement as a "Party" and collectively referred to as the "Parties."

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 – 65869.5 (the "Development Agreement Statute"), which authorizes a City and any person having a legal or equitable interest in real property to enter into a development agreement and, among other things, establish certain development rights in property which is the subject of a development project application.

B. City, a general law city, is authorized by the Development Agreement Statute to enter into development agreements with persons and entities having a legal or equitable interest in real property, for the purposes of establishing predictability for both the City and property owner in the development process. City enters into this Agreement pursuant to the provisions of the California Government Code, the City's General Plan (the "General Plan"), the Coachella Municipal Code (the "City's Municipal Code"), and all applicable City policies.

C. Landowner is the fee owner of the real property located within the City of Coachella, County of Riverside, State of California, and the City's approved sphere of influence, as further described in Exhibit A, attached hereto and incorporated herein by reference (the "Property"). Owner desires to develop the Project in accordance with the City Approvals (defined below).

D. Landowner proposes to construct a multi-use development on the Property, commonly known as La Entrada (the "Project"), consisting of 7,800 single and multi-family Units, commercial, retail and office uses and community/public facilities, on approximately 2,200 acres located immediately south of and adjacent to I-10 and east of the Coachella Branch of the All American Canal.

E. The following approvals, entitlements, applications and findings (collectively, the "City Approvals") have already been adopted or are in place for the Project:

i. Resolution No. 2013-53, which certified Environmental Impact Report No. 12-01 (the "Project EIR");

ii. Resolution No. 2013-50, which approved General Plan Amendment No. 12-02;

iii. Resolution No. 2013-51, which approved General Plan Amendment No. 12-03;

iv. Resolution No. 2013-52, which approved Tentative Tract Map No. 36494;

v. Resolution No. WA-2013-04, which approved the Water Supply Assessment for the Project;

vi. Ordinance No. 1059, which approved Specific Plan Amendment No. 88-03;

vii. Ordinance No. 1060, which approved Change of Zone No. 12-03 including a pre-annexation zoning of 588 acres; and

viii. Annexation No. 63 which requests annexation of approximately 588 acres into the City of Coachella.

F. The development of the Project also will require future discretionary and ministerial approvals from the City that have not been reviewed or approved by the City prior to the Adoption Date (defined below) of this Agreement. These future discretionary and ministerial approvals by the City, include, but are not limited to, tentative maps, final subdivision maps, encroachment permits, grading permits, building permits, special permits, plan reviews, design review and certificates of occupancy (collectively the "Subsequent Approvals"). The term "Subsequent Approvals" also references and includes any further project review required by the California Environmental Quality Act ("CEQA"), including implementation of all mitigation measures, monitoring programs, and conditions adopted as part of the City Approvals.

G. To ensure that the intentions of the City and Landowner with respect to the City Approvals are carried out, the Parties desire voluntarily to enter into this Agreement to facilitate development of the Project, subject to the conditions and requirements included in this Agreement.

H. The City Council has determined that development of the Project will further the comprehensive planning objectives contained with the General Plan, as defined below, and will afford the City, its citizens and the surrounding region with the following benefits (the "Public Benefits"):

i. Fulfilling long-term economic and social goals for the City and the community, including amenities that the City and residents desire;

ii. Providing fiscal benefits to the City's general fund in terms of increased property tax and sales tax revenues to help support essential City services;

iii. Providing job creation, both short term construction employment and long-term permanent employment in the City;

iv. Financing and constructing significant infrastructure improvements that will serve the region and the community;

v. Providing recreational amenities for use by the City and its residents, including approximately 345 acres of park, paseo and walking trails and approximately 557 acres of dedicated open space; and

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

I. This Agreement constitutes a current and valid exercise of the City's police powers, to provide predictability to Landowner in the approval and development process by vesting the permitted uses, density, intensity of use, timing, and phasing of development consistent with the City Approvals in exchange for Landowner's commitment to provide Public Benefits to the City.

J. The phasing, timing, and development of public infrastructure necessitates a significant commitment of resources, planning and effort by Landowner for the public facilities financing, construction and dedication to be successfully completed. In return for Landowner's participation and commitment to these significant contributions of private resources for public purposes, the City is willing to exercise its authority to enter into this Agreement and to make a commitment of predictability for the development process for the Project and the Property. The development of the Project and the Property will be necessary to generate the fees, tax revenue and other funding required for the public infrastructure.

K. After reviewing the Project EIR in the context of the consideration and approval of this Agreement, the City Council has determined that none of the elements set forth in California Public Resources Code Section 21166 and Section 15162 of the California Environmental Quality Act Guidelines exists, and therefore has determined that no subsequent or supplemental Environmental Impact Report or Mitigated Negative Declaration is required to be prepared prior to adopting the Enacting Ordinance approving this Agreement.

L. California's current drought conditions and Governor Brown's declaration of a statewide drought emergency (January 17, 2104) does not change or otherwise impact the water supply analyses or conclusions that have been reached for the La Entrada Specific Plan. The recent media coverage regarding drought conditions is understandable, as the Governor's declaration indicates that 2014 could become the State's driest year on record if current hydrologic patterns persist. However, such drought conditions, including multiple dry year and extraordinary single dry year events, are the very type of factors that have been anticipated and analyzed in the La Entrada Specific Plan EIR, the Responses to Comments, the Project's Watershed Study, the Project's Water Supply Assessment, the City's 2010 Urban Water Management Plan, the Coachella Valley Water District's ("CVWD") 2010 Urban Water Management Plan, CVWD's 2010 Coachella Valley Water Management Plan Update, the 2011 Subsequent Programmatic Environmental Impact Report for the 2010 Coachella Valley Water Management Plan, the 2010 Coachella Valley Integrated Regional Water Management Plan, and

the Department of Water Resources' 2011 Final State Water Project Delivery Reliability Report.

It is also important to note that drought conditions are not new to the La Entrada Specific Plan or to the City of Coachella. In fact, as analyzed in the Draft EIR for this Project, water demands in the Coachella Valley will continue to be met in a sustainable manner by using the groundwater basin as a conjunctive use resource. These resources include the use of groundwater wells to produce amounts that are continually supplemented and recharged with Colorado River, State Water Project, and local water supplies. Overall, the Draft EIR found that the City's water supply is uniquely insulated from drought conditions and is capable of ensuring sufficient and reliable water supplies to meet demand.

M. The City Planning Commission held a duly noticed public hearing on this Agreement, on _____, and recommended approval of this Agreement to the City Council.

N. The City Council held a duly noticed public hearing on this Agreement, on _____. The City Council, on the recommendation of the Planning Commission, made findings and subsequently determined that the Project is one for which a development agreement is appropriate under the Development Agreement Statute and the applicable sections of the City's Municipal Code. The City Council approved this Agreement by Ordinance No. _____, introduced on _____, and adopted on _____ (the "Adoption Date"). Ordinance No. _____ (the "Enacting Ordinance") became effective on _____ (the "Effective Date").

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, conditions and covenants hereinafter set forth, the Parties agree as follows:

AGREEMENT

1. Incorporation of Recitals. The Preamble, the Recitals and all defined terms set forth in both are hereby incorporated into this Agreement as if hereinafter fully and completely rewritten.

2. Incorporation of Exhibits. All exhibits attached to this Agreement are incorporated as a part of this Agreement. Those Exhibits are:

Exhibit	Description
A	Legal Description of Property
B	Land Use Summary
C	Development Impact Fees – Satisfaction and Credits
D	Development Fee Credit Process
E.	Third Party Reimbursement Process
F.	Conditions of Approval
G.	Tentative Tract Map 36494
H.	Development Impact Fee Worksheet Form
I.	CFD Financing Parameters
J.	Form of Assignment Agreement

3. **TERMS AND DEFINITIONS**. Each reference in this Agreement to any of the following terms shall have the meaning set forth below for each such term. Certain other terms shall have the meaning set forth for such term in this Agreement:

3.1 "Adoption Date" means _____, 2014, the date on which the City Council conducted the first reading of the ordinance adopting this Agreement.

3.2 "Agreement" means this Development Agreement between the City and the Owner. The term "Agreement" shall include any amendment properly approved and executed pursuant to Section 24 herein.

3.3 "Age Restricted Project" means any residential project developed exclusively for residents aged fifty-five (55) or greater, or any project that meets the requirements of California Civil Code Section 51.3, as discussed in Section 12.4.

3.4 "Assignment Agreement" is defined in Section 23.

3.5 "Avenue 50 Interchange and Infrastructure" means the proposed future Avenue 50 interchange at Interstate 10, and the related road connection between the current terminus of Avenue 50 and the proposed future interchange.

3.6 "Builder's Tentative Map" means a map created for the purpose of designing individual residential lots or multi-family units for sale to end-user homeowners.

3.7 "CC&Rs" means the covenants, conditions and restrictions recorded against the Property by the Owner or its successors and assigns.

3.8 "CEQA" means the California Environmental Quality Act, codified at California Public Resources Code Sections 2100-21178.

3.9 "CFD Agreements" include, but are not limited to the rate and method of apportionment, funding and acquisition agreement and appraisal.

3.10 "City Approval" is defined in Recital E.

3.11 "City Council" means the governing body of the City.

3.12 "City Facilities" means those Public Facilities (defined in Section 3.65) owned or to be owned by the City.

3.13 "City Law" means those ordinances, resolutions, rules, regulations, standards, policies, conditions and specifications applicable to the Property in effect as of the Effective Date. The City's Municipal Code and the adopted Specific Plan are included in this definition.

3.14 "City Manager" means the city manager of the City.

3.15 "City's Municipal Code" means the City of Coachella Municipal Code (also known as the "Code of Ordinances"). However, changes to the Municipal Code occurring between the Adoption Date and the Effective Date, that materially alter any regulation or guideline in the Specific Plan prior to the Effective Date shall not be considered part of the City's Municipal Code for purposes of this Agreement without Owner's prior written consent.

3.16 "City's Obligations" means those obligations set forth in Section 14 herein.

3.17 "Commercial Map" means the division of a lot or parcel of land into two or more lots for the purpose of creating a development for commercial or business related purposes. This definition includes, but is not limited to, retail commercial and office commercial uses.

3.18 "Commercial Sale" means the sale or lease of a commercial lot, space or building intended for commercial, retail or mixed uses, to a member of the public or any other ultimate user.

3.19 "Community Development Director" means the Community Development Director, Development Services Director, Planning Director or equivalent positions within the City organization.

3.20 "Compliance Certificate" is defined in Section 26.1.

3.21 "Construction" is defined in Section 13.1.

3.22 "Construction Code" means, collectively, the California Building Code and Title 24 of the California Code of Regulations.

3.23 "County Recorder" means Recorder of County of Riverside.

3.24 "Default" is defined in Section 25.1.

3.25 "Development Agreement Fee" refers to the fee set forth in Section 13.7 herein.

3.26 "Development Agreement Statute" means the California Government Code Sections 65864-65869.5.

3.27 "Development Approvals" means all permits, certificates, approvals, and other entitlements approved or issued by the City for construction, use, occupancy, and/or development (including marketing and sales of land, or structures by Owner) of or on the Property, whether ministerial or discretionary. For the purposes of this Agreement, Development Approvals shall be deemed to include, but are not limited to, the following actions, including revisions, addenda, amendments, and modifications to these actions:

- Master Tentative Maps, Financing Maps, Builder's Tentative Maps, Final Maps and parcel maps;
- Conditional use permits, use permits, variances and exceptions, and site plan or design review approvals;
- Planned developments, specific plans, specific plan amendments, or other legislative approvals for specific neighborhoods;
- Rough grading, precise grading and building plan approvals and/or permits;
- Certificates of compliance and/or lot line adjustments;
- Improvement plans and permits, including, but not limited to, those related to street, drainage, utility, storm water, water quality management, and landscape improvements issued by the City;
- Occupancy permits; and

- CEQA documents, technical studies and other environmental review documents required for the Project and approved/adopted after the Approval Date.

3.28 "Development Impact Fees" commonly referred to as the "DIF Fee" means all fees: (i) established and imposed upon the Project by the City pursuant to the Mitigation Fee Act as set forth in California Government Code Section 66000 *et seq*., and this Agreement; and (ii) in effect as of the date specified in Section 12.3 of this Agreement. Any water and sewer service fees, including but not limited to hook-up fees and supplemental water supply charges, are specifically excluded from this definition.

3.29 "Enacting Ordinance" means Ordinance No. ___ adopted by the City Council on _____ , 2014 and effective on _____ , 2014.

3.30 "Effective Date" is defined in Section 8.2.

3.31 "Existing City Approvals" means all City Approvals in effect on the Effective Date.

3.32 "Existing Financing District" means the City of Coachella CFD No. 2005-1 (Law Enforcement, Fire and Paramedic Services).

3.33 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date, including the General Plan and La Entrada Specific Plan, as amended. However, changes to the Land Use Regulations approved or becoming effective between the Adoption Date and the Effective Date shall not be considered part of the Existing Land Use Regulations without Owner's prior written consent.

3.34 "Fair Market Value" means the appraised value as determined by an appraiser mutually acceptable to the Parties. If the Parties cannot agree on an appraiser within ten (10) days after either Party requests a determination of the Fair Market Value, then, within an additional fifteen (15) days, each shall select an appraiser who shall appraise the subject property and the Parties shall attempt to agree on the Fair Market Value on the basis of the two appraisals. If the Parties cannot so agree within ten (10) days after the last of the two appraisals is delivered to both Parties, then, within an additional ten (10) days, the Parties shall select a third appraiser. Within thirty (30) days after being selected, the third appraiser shall prepare a new appraisal that will be binding on the parties.

3.35 "Federal" means the United States of America.

3.36 "FIA" is defined in Section 13.8.2.

3.37 "Final Map" includes the terms Final Map, Final Tract Map and shall have the same meaning as those terms are defined in the California Subdivision Map Act (California Government Code Section 66410 *et seq*).

3.38 "Financing District" means a community facilities district to be authorized pursuant to the Mello-Roos Act, an assessment district, an infrastructure financing district or other form of district or bond financing authorized by the State as a means to fund public improvements including, public safety services, and/or maintenance of those improvements.

3.39 "Financing Map" includes Tentative Tract Map 36494 and any other similar map recorded for finance and conveyance purposes only.

3.40 "Fiscal Review" is defined in Section 13.8.2.

3.41 "General Plan" means the general plan of the City.

3.42 "Government Code" shall mean the California State Government Code.

3.43 "Implementing Project" means a subsequent project, located in the Specific Plan area, pursuant to either a Builder's Tentative Map or Commercial Map.

3.44 "Indemnitor" is defined in Section 30.

3.45 "La Entrada Facility CFD" means any Community Facilities District created or adopted for the Project to finance City Facilities.

3.46 "La Entrada Services CFD" means any services and maintenance Community Facilities District created or adopted for the Project.

3.47 "LAFCO" means the Riverside County Local Agency Formation Commission.

3.48 "Landowner" or "Owner" means collectively PSAV LLC, a Delaware limited liability company and LLSE Holdings LLC, a New Jersey limited liability company, and their respective successors and assigns to all or any part of the Property, as set forth in Section 5 of this Agreement.

3.49 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulation, moratoria, initiatives, and official policies of the City governing the development and use of land, including, without limitation, the General Plan, zoning ordinances, subdivision ordinances (but not Tentative or Final Maps, which are City Approvals), specific plans, planned community texts, and their respective amendments. Land Use Regulations govern, without limitation, the permitted use of land, the density or intensity of use, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement, construction, and initial occupancy standards and specifications applicable to the Project.

3.50 "Master Developer" shall mean the developer responsible for the master planning of the Project including, without limitation, infrastructure and utilities planning, site preparation, identification of users, phasing and the potential development of sites for users within the Project. The Master Developer is responsible for

managing the development of the Project from planning to final build-out including, without limitation, infrastructure development, financing, marketing and asset management.

3.51 "Master Developer Funding" is defined in Section 13.11.

3.52 "Master Tentative Map" or "Master Subdivision Map" means a map that subdivides large tracts of land into smaller parcels for the purpose of later selling or otherwise transferring the parcels for further subdivision, together with planning and construction of infrastructure elements, but not for the purpose of creating individual commercial parcels or individual residential lots for sale to end-user homeowners. The purpose and intent of the Master Subdivision Map process is to allow the subdivision of land to correspond to the Specific Plan Planning Areas, open space, and infrastructure elements without allowing the creation of individual commercial or residential lots. For nonresidential property, while the Master Subdivision Map process may create parcels which may or may not be subdivided further, no building may be undertaken on any master parcel unless and until all other required discretionary entitlements have been lawfully obtained, as required by applicable land use and development regulations of the Specific Plan. The boundary lines on any Master Subdivision Map shall correspond to applicable Planning Area plan land use designations and infrastructure elements.

3.53 "Mello-Roos Act" means the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 *et seq*., of the California Government Code.

3.54 "Mortgage" is defined in Section 28.

3.55 "Mortgagee" is defined in Section 28.

3.56 "Option Term" means any extension of the Term of this Agreement, as allowed in Section 8.3.

3.57 "Oversized Improvements" is defined in Section 14.2.3.

3.58 "Owner's Facilities Obligations" means those obligations of Owner, excluding any reimbursements or credits, to construct public improvements, to the extent required by City Approvals and as specified in this Agreement.

3.59 "Party" or "Parties" means the City and the Owner.

3.60 "Permit Streamlining Act" means Sections 65920 *et. seq*., of the Government Code and all successor provisions thereof.

3.61 "Planning Commission" mean the planning commission of the City.

3.62 "Project" is defined in Recital D.

3.63 "Property" means the real property governed by the La Entrada Specific Plan and EIR, as described in Exhibit A.

3.64 "Public Benefit" means Owner's contributions, as defined in Section 21.2 and further described in Section 13, toward land, improvements and funding to further the development of the Public Facilities.

3.65 "Public Facilities" means collectively, the City Facilities, Fire Facilities, Park and Recreation Facilities, Police Facilities, Streets and Highways Facilities, Water and Sewer Facilities, stormwater and drainage facilities and School Facilities.

3.66 "Quimby Fees" means all fees (i) established and imposed upon the Project pursuant to the Quimby Act as set forth in California Government Code Section 66477 *et seq*., and this Agreement, (ii) in effect as of the Adoption Date.

3.67 "Reservation of Rights" means the rights and authority excepted from the assurances and rights provided to Landowner under this Agreement and reserved to City under Section 11 of this Agreement.

3.68 "Residential Sale" means the sale of a Unit to a member of the public or any other ultimate user. In the case of a multi-family rental project, the term "Residential Sale" shall apply once a certificate of occupancy has been issued for the building(s).

3.69 "State" means the State of California.

3.70 "Subsequent Approvals" is defined in Recital F.

3.71 "Subsequent Land Use Regulation" means those Land Use Regulations which are both adopted and effective after the Approval Date and which are not included within the definition of Existing Land Use Regulations.

3.72 "Substantial Conformance, Minor Modifications/Technical Adjustments" is as defined in Section 5.1.5 of the La Entrada Specific Plan.

3.73 "Supplemental Water Supply Charge" shall have the same meaning as is contained in the Memorandum of Understanding dated February 2013 by and between the City and Coachella Valley Water District.

3.74 "Tentative Map(s)" means any Project tentative map approved after the Effective Date, including a tentative parcel map, as defined in the California Subdivision Map Act and the Municipal Code.

3.75 "Term" as outlined in Section 8.3 means the initial Term and any Option Term of this Agreement.

3.76 "Transferee" means any third party that has acquired an interest or estate in all or any portion of Owner's interest, rights, or obligations under this Agreement.

3.77 "Transferred Property" means any portion of the Property acquired by Transferee.

3.78 "TUMF" shall mean the Coachella Valley Transportation Uniform Mitigation Fee.

3.79 "Uniform Administrative Code" means the Uniform Administrative Code, 2013 Edition, as promulgated and published by the International Conference of Building Officials.

3.80 "Uniform Building Code" means the International Building, Mechanical, Plumbing, Electrical and Fire Codes.

3.81 "Unit" means a residential dwelling unit within the Project regardless of whether for sale or for rent. This definition is provided for the purpose of calculating the Development Agreement Fee set forth in Section 13.7 and Development Impact Fee described in Exhibit C, and is not intended to allow for conversion of non-residential uses to residential uses.

3.82 "Vested Rights" is defined in Section 12.1.

4. Provisions Required by Statute. California Government Code Sections 65865.1 and 65865.2 provide, in part, that a development agreement shall specify the following:

a) Duration of the Agreement. See Section 8.3 of this Agreement.

b) Permitted uses of the Property. See Section 12.1 of this Agreement.

c) Maximum height and size of proposed buildings. See City Approvals and Exhibit F.

d) Reservation or dedication of land for public purposes. See City Approvals and Exhibit F.

e) Periodic review, at least annually, to demonstrate good faith compliance with the development agreement. See Section 26 of this Agreement.

5. Landowner Representations and Warranties. The Landowner is PSAV, LLC and LLSE Holdings, LLC. For purposes of this Agreement, the Landowner's office address is: c/o New West Communities, 5055 West Patrick Lane #101, Las Vegas, Nevada 89118.

Landowner represents and warrants that, as of the Effective Date of this Agreement:

5.1 Property Ownership. Landowner is the only fee owner of the Property and no other person or entity holds any legal or equitable interests in the Property.

5.2 Organization. The Landowner consists of limited liability companies, duly organized, validly existing and in good standing under the laws of the States of Delaware and New Jersey, with full right, power and authority to conduct its

business within the State of California as presently conducted, and to execute, deliver and perform its obligations under this Agreement.

5.3 Authorization. The Landowner has taken all necessary actions to authorize its execution, delivery and, subject to any conditions set forth in this Agreement, performance of this Agreement. Upon the Effective Date of this Agreement, this Agreement shall constitute a legal, valid and binding obligation of the Landowner, enforceable against it in accordance with its terms.

5.4 No Conflict. The execution, delivery and performance of this Agreement by the Landowner does not and will not materially conflict with, or constitute a material violation or material breach of, or constitute a default under (i) the company organizational documents of the Landowner, or (ii) any material agreements to which the Landowner is a Party.

6. City Representations and Warranties. The City represents and warrants that, as of the Effective Date of this Agreement:

6.1 Authorization. The execution and delivery of this Agreement and the necessary performance of the obligations of the City have been duly authorized by all necessary actions and approvals required for a municipal corporation.

6.2 Good Standing. The City is in good standing and has all necessary powers under the laws of the State of California and in all other respects to enter into and perform the undertakings and obligations of this Agreement.

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

7. Relationship of City and Landowner. The Parties specifically acknowledge that this Agreement is a contract that has been negotiated and knowingly and voluntarily entered into by the City and Landowner and that the Landowner is an independent contractor and not an agent or partner of the City. The Parties further acknowledge that neither Party is acting as the agent of the other in any respect hereunder and that each Party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement.

None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in the business of Landowner, the affairs of the City, or otherwise. City and Landowner hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as making the City and Landowner joint venturers or partners. The only relationship between the City and Landowner is that of a governmental entity regulating development and the owner of the Property and developer of the Project.

8. Execution, Recording and Term.

8.1 Execution and Recording. Section 65868.5 of the Development Agreement Statute requires that this Agreement be recorded in the Official Records of the County of Riverside, State of California no later than ten (10) days after the Effective Date, provided that a referendum applicable to the Enacting Ordinance has not been timely submitted to the City. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

8.2 Effective Date. The Effective Date of this Agreement shall be the date on which the Enacting Ordinance became effective, which shall be thirty (30) days from the date of the second reading of the Enacting Ordinance by the City Council.

8.3 Term. The term of this Agreement shall commence on the Effective Date and continue for the earlier of: (i) a period of fifteen (15) years from the Effective Date (the "Term"); (ii) entry of a final judgment of a court of last resort setting aside, voiding, or annulling the Enacting Ordinance approving this Agreement; (iii) the adoption, by voters of the City, of a referendum measure overriding or repealing the Enacting Ordinance approving this Agreement; (iv) completion of the Project in accordance with the terms of this Agreement, including issuance of all required occupancy permits and acceptance, as required by City Law, of all required dedications and the satisfaction of all of Landowner's obligations under this Agreement; or (v) as may be provided by other specific provisions of this Agreement.

Landowner shall have the option to extend the initial Term for a maximum of three (3) five (5) year extensions for a total possible term of thirty (30) years (the "Option Term") unless the Term is terminated, modified, or extended by the terms of this Agreement, or by mutual consent of the Parties hereto, provided: (a) Landowner provides at least one hundred eighty (180) days advance written notice prior to the expiration of the initial Term or any preceding Option Term of its intent to request an Option Term; and (b) the Landowner is not then in Default under this Agreement.

Upon the request of Owner, any Option Term shall be confirmed by a vote of the City Council, in writing, at least thirty (30) days prior to the expiration of the initial Term or any preceding Option Term.

Following the expiration of the Term and any subsequent Option Term, this Agreement shall be deemed terminated and of no further force and effect regardless of whether Landowner has paid any Development Impact Fees.

8.4 Extension of Term Due to Litigation. In the event that litigation is filed by a third party (defined to exclude City and Landowner and any assignee or Transferee of Landowner) which seeks to invalidate this Agreement or any of the City Approvals or Subsequent Approvals, the Term shall be extended for a period equal to the length of time from the time a summons and complaint and/or petition are served

on the defendant(s)/respondent(s) until the resolution of the matter is final and not subject to appeal.

8.5 Extension of Approvals or City Approval.

1. Financing Maps and Master Subdivision Maps. Pursuant to California Government Code Section 66452.6, the term of all Master Tentative Maps and Financing Maps that are approved for all or any portion of the Property, both prior and subsequent to the Effective Date, shall be automatically extended to a date coincident with the Term. Builder Tentative Maps shall be governed by the Subdivision Map Act and the City's Subdivision Ordinance.

2. Discretionary Actions. Design reviews, use permits, variances and exceptions, public art approvals not related to a subdivision map approval, and governed by the procedures of the City's Municipal Code or other applicable specific plan, shall lapse according to the regulations in the City's Municipal Code or applicable specific plan.

8.6 Automatic Termination of Agreement. This Agreement shall automatically be terminated, without any further action by either Party or need to record any additional document upon the occurrence of any of the following:

(a.) Issuance of a Certificate of Occupancy. Upon issuance by the City of a final certificate of occupancy for a Unit.

In connection with its issuance of a final inspection for such improved Unit or lot, City shall confirm that all improvements, which are required to serve the Unit or lot, as determined by City, have been accepted by City. Termination of this Agreement for any Unit as provided in this Section 8.6(a) shall not in any way be construed to terminate or modify any general tax, special tax, assessment or covenant affecting such Unit or lot at the time of termination.

(b.) Non-Residential Sale. The non-residential sale or Commercial Sale of a lot in the Project; or

(c.) Conveyance to an Association. Upon the conveyance of any lot, parcel or other property, whether residential, commercial, or open space, to a homeowners' association, property owners' association, or public or quasi-public entity, that lot, parcel, or property and its owner shall have no further obligations under and shall be released from this Agreement automatically and without necessity of a separate instrument, provided that this paragraph shall not be deemed to release any transferee, including a good faith purchaser, from obligations to pay any special taxes or assessments imposed in connection with a Financing District.

Additionally, Landowner shall have no further obligations under and shall be released from the obligations and encumbrances of this Agreement with respect to that lot.

(d.) No Formal Action Required. No formal action by the City is required to effect any release occurring under this Section. However, within forty-five (45) days after Landowner's request, the City shall sign and deliver an estoppel certificate or other similar document, to acknowledge the release.

8.7 Rights and Obligations Upon Expiration of the Term. Following termination of this Agreement, as to a lot or parcel, all the rights, duties and obligations of the Parties hereunder shall terminate and be of no further force and effect, except with respect to Section 12. Upon termination of this Agreement, Landowner shall thereafter comply with the provisions of all City Laws then in effect or subsequently adopted with respect to the Property and/or the Project, except that any termination shall not affect any right vested (absent this Agreement), or other rights arising from Approvals and/or City Approvals granted by the City for development of all or any portion of the Project, including but not limited to any approval defined in Section 8.5, valid building permit, or certificate of occupancy. Termination of this Agreement shall not affect the validity of any building or improvement within the Property which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a valid building permit issued by the City. Furthermore, no termination shall prevent Landowner from completing and occupying any building or other improvement authorized pursuant to an approved Plot Plan Review, valid building permit previously issued by the City or certificate of occupancy provided that any such building or improvement is completed in accordance with said building permit in effect at the time of such termination.

8.8 Limitation on Subsequent Land Use Regulations. Except as set forth in the La Entrada Specific Plan and Section 8.11, during the Term, City shall not apply any City Laws enacted after the Adoption Date that would conflict with or impede the Vested Rights of Landowner as set forth in this Agreement or otherwise conflict with this Agreement or the Existing City Laws or Existing Land Use Regulations, without Landowner's written consent, which consent shall be at Landowner's sole discretion.

8.9 Conflicting Laws. For purposes of illustrating, but in no way limiting the provisions of this Section, any action or proceeding of the City (whether enacted by the legislative body or the electorate), that has any of the following effects on the Project, shall be considered in conflict with the Vested Rights, this Agreement and the Existing City Laws and/or Existing Land Use Regulations:

a. Reduce the maximum number of Units permitted or increase the minimum number of Units required to be developed on the Property from that required by City Law or this Agreement;

b. Change any land use designation or permitted use of the Property from that shown in City Law or on the adopted La Entrada Specific Plan, except as may be permitted under a future specific plan amendment;

c. Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Property;

d. Limit or restrict any right specifically granted by the City Approvals; or

e. Increase Development Impact Fees ("DIF"), repeal or restrict credits or any other actions that directly conflict with the terms and provisions of this Agreement.

8.10 Applicable Rule/City Approval/Development Agreement Inconsistency. In the event of any inconsistency between any Existing City Law, Existing Land Use Regulation, City Approval and the La Entrada Specific Plan and this Agreement, the provisions of the La Entrada Specific Plan and this Agreement shall control.

8.11 Subsequent Approvals. In reviewing and acting on applications for Subsequent Approvals, the City shall apply the City Approvals and the Existing Land Use Regulations when considering the application and may attach such conditions as necessary to comply with the City Approvals and Existing Land Use Regulations. Applications for Subsequent Approvals shall be processed diligently in good faith by the City and considered in a manner consistent with the rights granted by this Agreement and City Law.

With the City Approvals, the City has made a final policy decision that development of the Property and the Project are consistent with the City Approvals and are in the best interests of the public health, safety, and general welfare. Nothing herein shall limit the ability of the City to require the necessary reports, analysis, or studies to assist in determining whether the requested Subsequent Approval is consistent with the City Approvals, City Law and this Agreement. City's review of the Subsequent Approvals shall be consistent with this Agreement, including, without limitation, Section 11 of this Agreement. To the extent that is consistent with CEQA, as determined by the City in its reasonable discretion, the City shall utilize the Environmental Impact Report No. 12-01, certified on November 13, 2013, to review the environmental effects of the Subsequent Approvals. Any conditions, terms, restrictions, or requirements imposed by the City on the Subsequent Approvals shall not prevent development of the Property for the uses and to the density of development included in the City Approvals.

8.12 Substantial Conformance and Minor Modifications/Technical Adjustments. The provisions of this Agreement require a close degree of cooperation between the Parties. Any Substantial Conformance or Minor Modifications/Technical Adjustments, as that term is defined in Section 5.1.5 of the La Entrada Specific Plan, may be required from time to time, to accommodate design changes,

engineering changes and other refinements related to the details of the Parties' performance.

Accordingly, the Parties may mutually consent to adopting any Substantial Conformance, Minor Modifications/Technical Adjustments through administrative approvals by the Community Development Director, his or her designee, or any other City department head when the Parties mutually determine that the proposed modifications and refinements are subject to the terms and conditions of this Section 8.12, and not significant changes requiring amendment of this Agreement.

8.13 Initiative and Referenda. If any City Law is enacted or imposed by a citizen-sponsored initiative or referendum, or by the City Council directly or indirectly in connection with any proposed initiative or referendum, which City Law would conflict with this Agreement, such City Law shall not apply to the Property or Project. The Parties, however, acknowledge that the City's approval of this Agreement and the City Approvals are legislative actions subject to referendum.

Without limiting the generality of the foregoing, no moratorium or other limitation whether relating to the rate, timing, phasing or sequencing of development affecting subdivision maps, building permits, or other Subsequent Approvals shall apply to the Property or Project. Landowner agrees and understands that the City does not have authority or jurisdiction over another public agency's authority to grant a moratorium or to impose any other limitation that may affect the Property or Project.

9. Development Timing. The Parties acknowledge that Landowner cannot, at this time, predict when or the rate at which the phases of the Project will be developed or the order in which each phase will be developed. Such decisions depend upon numerous factors which are not within the control of the Landowner, such as market conditions and demand, interest rates, absorption, completion and other similar factors. In particular, and not in any limitation of any of the foregoing, since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465, that failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the Parties' desire to avoid that result by acknowledging that, unless otherwise provided for in this Agreement, Landowner shall have the vested right to develop the Project in such order and at such rate and at such times as Landowner deems appropriate in the exercise of its business judgment, provided that Landowner is in compliance with the City Approvals.

Notwithstanding the above, the Landowner is required to comply with the specific construction milestones set forth in Section 13.1 ("Construction Milestones").

10. Compliance with Requirements of Other Governmental Entities. During the Term, Landowner, at no cost to City, shall comply with lawful requirements of, and obtain all permits and approvals required by other local, regional, State and Federal agencies

having jurisdiction over the Landowner's activities in furtherance of this Agreement. Landowner shall pay all required fees when due to local, regional, State and Federal governmental agencies other than the City and acknowledges that City does not control the amount of any such fees.

10.1 City Cooperation. City shall cooperate with Landowner in Landowner's efforts to obtain permits and approvals from local, regional, State and Federal governmental agencies, provided that same does not impose any costs on or require the City to incur any costs without reimbursement, or require the City to amend any of the City's policies, regulations or ordinances.

10.2 Quotas, Restrictions or Other Growth Limitations. Landowner and City intend that, except as otherwise provided in this Agreement, this Agreement shall vest the City Approvals against subsequent City Laws that directly or indirectly limit the rate, timing, sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses as set forth in the City Approvals.

11. Reservation of Rights

11.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following regulations shall apply to the development of the Property:

1. Processing fees and charges of every kind and nature imposed by City to cover the estimated actual costs to City of processing applications for Development Approvals and Subsequent Approvals and for monitoring compliance with any such approvals granted or issued;

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

3. Regulations, policies and rules governing engineering and construction standards and specifications applicable to public and private improvements, including, without limitation, all uniform codes adopted by the City and any local amendments thereto including, without limitation the City's building code, plumbing code, mechanical code, electrical code and any future City grading ordinance;

4. Temporary regulations which may be enacted and may be in conflict with this Agreement, but which are objectively required, and for which there are no available reasonable alternatives, to protect the public health, safety and welfare in the event of a sudden, unexpected occurrence involving a clear and imminent danger, and demanding immediate action to prevent or mitigate loss

of, or damage to, life, health, property, or essential public service within the immediate community. Such regulations must be a valid exercise of the City's police power and must be applied and construed so as to provide the Landowner, to the maximum extent feasible and possible, with the rights and assurances provided in this Agreement. Any regulations, including moratoria, enacted by the City and imposed on the Property to protect the public health, safety and welfare in the circumstances described in this Section shall toll the Term, Option Term and any other time periods for performance by Landowner and City, as set forth in this Agreement;

5. As provided in Government Code Section 65869.5, this Agreement shall not preclude the application to the Property of changes in laws, regulations, plans, or policies to the extent that such changes are specifically mandated and required by changes in State or Federal laws or regulations. In the event changes in the law prevent or preclude compliance with one or more provisions of this Agreement, this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations. The Parties shall meet and confer in good faith in order to determine whether such provisions of this Agreement shall be modified or suspended as may be necessary to comply with the changes in the law, and the City, in consultation with the Landowner, shall determine such actions as may be reasonably required. It is the intent of the Parties that any such modification or suspension be limited to that which is necessary and to preserve to the greatest extent feasible and possible the original intent of the Parties in entering into this Agreement. This Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations. Nothing in this Agreement shall preclude the City or Landowner from contesting, by any available means, including, without limitation, administrative or judicial proceedings, the applicability of any such State or Federal laws or regulations to the Property;

6. Regulations that impose, levy, alter or amend fees and charges, or Land Use Regulations relating to consumers or end users, including, without limitation, trash enclosure/bin placement, service charges and regulations on vehicle parking; and

7. Regulations of other public agencies, including Development Impact Fees adopted or imposed by such other public agencies, collected by the City.

11.2 Subsequent Approvals. This Agreement shall not prevent City, in acting on Subsequent Approvals, and to the same extent it would otherwise be authorized to

do so absent this Agreement, from applying subsequently adopted or amended Land Use Regulations that do not materially conflict with this Agreement.

11.3 Electricity, Internet, Cable TV and Telephone. The Parties acknowledge and agree that the City, to the full extent permissible by law, is reserving its authority and ability to provide and serve the Project with electricity, cable TV, internet, telephone, wireless and other utility services and products if and when the City has the means, capability and infrastructure necessary to provide some or all of these utility services.

11.4 Modifications or Suspension by State or Federal Law. In the event that State, County or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State and Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

11.5 Intent. The Parties acknowledge and agree that the City is restricted in its authority to limit certain aspects of its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to the City all of its police power that cannot be or is not expressly so limited. This Agreement shall be construed to reserve to City all such power and authority that cannot be or is not by this Agreement's express terms so restricted.

12. Vested Rights.

12.1 Permitted Uses/Vested Rights. During the Term, the permitted uses of the Property, the density and intensity of use, the rate, timing and sequencing of development, the maximum height and design and size of proposed buildings, the parking standards, the provisions for reservation and dedication of land, and any other applicable development standards shall be those set forth in the City Approvals, and the City Laws in force and effect on the Adoption Date of this Agreement (the "Vested Rights").

12.2 Fees and Exactions. The City hereby agrees that the Project has satisfied certain Development Impact Fee requirements and may be entitled to certain Development Impact Fee Credits and Third Party Reimbursements as more particularly described in Section 14.2 and Exhibits C, D and E of this Agreement, and as governed by the City Municipal Code, including but not limited to Section 4.45.110 and prior City administrative practices. Unless otherwise specifically stated in this Agreement or Exhibits C, D and E, the Parties recognize that the current City Approvals do not include sufficient detail to identify all potential improvements that may be eligible for Development Impact Fee Credits and Third Party Reimbursements. All requests for additional Development Impact Fee Credits and Third Party Reimbursements not covered by this Agreement shall be

subject to review, verification and acceptance by the City in accordance with the process outlined in the City Municipal Code.

Protection for any increases in any of the City's Development Impact Fees shall not include increases mandated by the County, the State of California, the federal government, the City's water authority, the City's sanitary district or any other entity that is outside the control of the City. This Section shall not be construed to limit the authority of the City to charge processing fees.

12.3 Freeze of Development Impact Fees. Development Impact Fees for this Project which are not deemed fully satisfied pursuant to the Agreement or otherwise credited pursuant to this Agreement shall be frozen, both in category of fees charged and fee amount, at the rates in effect as of the first nexus study and resulting DIF schedule adopted by the City Council after the Effective Date of this Agreement and shall remain frozen for the first two thousand (2,000) Units constructed in the Project.

12.4 Reduction in Development Impact Fees for Age Restricted Project. Any qualifying Age Restricted Project developed in the Project shall be eligible for an automatic reduction equivalent to thirty-three percent (33%) of the then-current Development Impact Fees imposed by the City on Units. This reduction shall be in addition to any other Fee Credits and Third Party Reimbursements available under this Agreement.

12.5 Uniform Codes Applicable. The Project shall be constructed in accordance with the provisions of the California Building, Mechanical, Plumbing, Electrical and Fire Codes and Title 24 of the California Code of Regulations, relating to building standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project.

12.6 Subdivision Maps – Compliance with California Government Code Section 66473.7. As required by California Government Code Section 65867.5, any and all tentative maps prepared for a subdivision of the Property shall comply with the provisions of California Government Code Section 66473.7, as that section may apply, and shall be extended for the Term hereof. Notwithstanding this provision, the Parties acknowledge that the Coachella Water Authority and the CVWD may require periodic updates to the adopted Water Supply Assessment for the Project and the adopted Supplemental Water Supply Charge.

12.7 Dedication of On-Site Easements and Rights of Way. Landowner, to the extent required by the City, shall dedicate to City all on-site rights of way and easements deemed necessary by the City for public improvements within forty-five (45) days of receipt of written request by the City.

13. Land Owner Obligations. As a material consideration for the long term assurances, Vested Rights, and other City obligations provided by this Agreement, and as a material inducement to City to enter into this Agreement, Landowner has offered and agreed to

provide the Public Benefits to the City listed in this Section 13, and has further agreed to comply with all of its obligations under this Agreement including, in particular, the obligations set forth in this Section 13.

13.1 Construction Milestones. In order to preserve and maintain the provisions of this Agreement, Landowner must commence Construction on the Project within five (5) years from the Effective Date of the Agreement. For purposes of this section, "Construction" is defined as any one or more of the following: rough grading, finished grading, utility construction, infrastructure construction, and any other physical preparations or building construction either on-site or off-site for the Project.

Notwithstanding any other provisions of this Agreement, Landowner shall be required to perform the following additional construction obligations:

a A minimum of eight hundred (800) Units shall receive a certificate of occupancy within the first ten (10) years of the Effective Date.

b A minimum of fifty thousand (50,000) square feet of commercial or retail uses, including at least one grocery store, shall be constructed and occupied within the first ten (10) years of the Effective Date.

c A minimum of 140 hotel or motel rooms shall be constructed and available for reservations within the first fifteen (15) years of the Effective Date.

Fiscal Reviews of the Project will be performed as further discussed in Section 13.11. If the Fiscal Reviews determine the results of the FIA show a net annual deficit, Master Developer Funding may be required as discussed in Section 13.11.

13.2 Compliance with Agreement and City Law. In addition to any other obligations of Landowner set forth herein, in consideration of the City entering into this Agreement, Landowner has agreed that if Landowner commences development of the Property and proceeds to develop the Property, such development shall be in conformance with all of the terms, covenants, and requirements of this Agreement and City Law at the times set forth in this Agreement, and Landowner shall perform those specific obligations and provide those specific contributions identified in the City Approvals, the City Approvals and all related Exhibits and documents thereto. Landowner shall pay when due, any and all required fees, Development Impact Fees of any type and any other costs which are imposed on all or any portion of the Project or the Property, whether imposed by the City or other agencies, only as provided in this Agreement.

13.3 Affordable Housing. Prior to or concurrent with the submittal of the first Master Tentative Map, an affordable housing plan must be submitted to, and approved by, the City that provides for the following:

1. A minimum of five hundred (500) affordable dwelling units must be identified and constructed as follows, in accordance with the terms and provisions of Section 26 herein:

   (i) Two hundred forty (240) affordable dwelling units must be identified and constructed within the first two (2) phases of the La Entrada Project; Phase 1 will contain a minimum of one hundred fifty (150) affordable dwellings units and Phase 2 will contain the balance of ninety (90) affordable dwelling units; and

   (ii) Two hundred sixty (260) affordable dwelling units must be identified and constructed within the remaining three (3) phases of the La Entrada Project.

Affordable housing, as that term is used in this Agreement, shall include, but not be limited to, housing for low-income residents, seniors, veterans, and the disabled.

The affordable dwelling units will be evenly distributed within the mixed-use, high-density residential and medium-density residential land use designations of the La Entrada Specific Plan.

The maximum sales or rental rates for the affordable units shall not exceed the maximum levels established by the City of Coachella consistent with the provisions of the Housing Element and State law.

All affordable housing units in La Entrada shall remain restricted to the corresponding income households for a minimum of thirty (30) years through a restrictive covenant, unless otherwise specified by State law or the City's density bonus provisions contained in Chapter 17.88 of the City's Municipal Code.

13.4 Tracking Development Impact Fees. Concurrent with the submittal of a Tentative Map, the Landowner shall submit a completed Development Impact Fee worksheet outlining the fees satisfied, the fees subject to credit based on the process outlined in Exhibit D, and fees due and owing for that subsequent Tentative Map. The form of the Development Impact Fee worksheet shall be substantially similar to the form attached hereto as Exhibit H and incorporated herein by reference.

13.5 Water and Sewer Facility Planning. In accordance with the requirements of the SP COAs, concurrent with the preparation of the first Master Subdivision Map, Owner shall prepare a project-specific master plan for the construction or expansion of the City's water and wastewater facilities as may be required for service of the Project.

13.6 Road and Infrastructure Planning. In accordance with the requirements of the SP COAs, concurrent with the preparation of the first Master Subdivision Map, Owner shall prepare a project-specific master plan for the construction of interim and

permanent road improvements for the Project. The plan shall include provisions for the timing and construction of interim and permanent landscaping improvements associated with all Project road improvements.

13.7 Avenue 50 Infrastructure and Interchange Benefit Assessment. At a minimum, Landowner shall fund its fair share contribution to the Avenue 50 Infrastructure and Interchange in accordance with a benefit assessment evaluation based on the ratio of trips generated by the Project. The benefit assessment evaluation will be prepared by the Master Developer in conjunction with the preparation of the first Master Subdivision Map for the Project.

13.8 Development Agreement Fee. Upon issuance of a certificate of occupancy for a Unit within the Project, Owner shall pay to the City a one-time Development Agreement Fee of Two Thousand Five Hundred Dollars ($2,500.00) for that Unit.

13.9 Fire Station Construction.

1. *Land Dedication and Temporary Facility Construction*. Upon issuance of a certificate of occupancy for the 1,500th Unit, the Owner shall provide a dedicated site with permanent utility improvements and a temporary modular facility, as approved by the fire department, for a fire station within the Project.

2. *Fire Station Staffing Upon 1,500th Unit*. Upon issuance of a certificate of occupancy for the 1,500th Unit, the Master Developer shall provide the necessary land and facilities for a three-person engine company, at an annual projected cost of One Million Five Hundred Thousand Dollars ($1,500,000). The cost of the three person engine company shall be funded in the following priority through one or more of any of the following means: (i) property tax revenue; (ii) operating transfers from the City's General Fund; (iii) special tax revenues from the La Entrada Services CFD; and (iv) Master Developer Funding (see Section 13.11).

   Within sixty (60) days following the issuance of a building permit for the 1,500th Unit, the Master Developer shall prepare a fiscal impact analysis of the Project subject to City review (the "FIA"). The FIA will be updated and reviewed encompassing both actual and projected development. The Project's Fiscal Impact Analysis dated November 8, 2013 (the "November FIA") shall serve as the basis for preparing the FIA. The fiscal impact of the Project shall be calculated using the methodologies included in the November FIA. The FIA shall be submitted to the City for review and approval (the "Fiscal Review").

3. *Fire Station Staffing Upon 3,900th Unit.* Upon issuance of a certificate of occupancy for the 3,900th Unit, the Project shall

provide the necessary funding for a four person engine company, at an annual projected cost of Two Million Dollars ($2,000,000) as approved by the fire department. The cost of the four person engine company shall be funded in the following priority through one or more of any of the following means: (i) property tax revenue; (ii) operating transfers from the City's General Fund; (iii) special tax revenues from the La Entrada Services CFD; and (iv) Master Developer Funding (see Section 13.11).

Within sixty (60) days following the issuance of a building permit for the 3,900th Unit, the Master Developer shall prepare, and the City shall review, an FIA using the methodologies included in the November FIA. The FIA shall be submitted to the City for a Fiscal Review.

4. *Fire Station Staffing Upon 7,800th Unit or Build-Out of the Project.* Upon issuance of a certificate of occupancy for the 7,800th Unit, the Project shall provide the necessary funding for a five person engine company, at an annual projected cost of Two Million Five Hundred Thousand Dollars ($2,500,000) as approved by the fire department. The cost of the five person engine company shall be funded in the following priority through one or more of any of the following means: (i) property tax revenue; (ii) operating transfers from the City's General Fund; and/or(iii) Special tax revenues from the La Entrada Services CFD.

13.10 Funding for Permanent Fire Station. Upon issuance of the 1st building permit, the Master Developer shall provide a bond to the City sufficient to secure construction of a permanent fire station within the Project at a time as required by the fire department. The amount of the bond shall be determined based on the costs for a permanent facility as outlined in the then-current City's Fee Nexus Study. Compliance with the requirements contained in Section 13.8 and provision of the bond outlined in this Section constitutes full satisfaction of the Fire Facilities portion of the Project's Development Impact Fee.

13.11 Property and Project Not Subject to Existing Financing District. In accordance with Condition 39 of the La Entrada Specific Plan conditions of approval, the Property is currently subject to annexation into the City's Existing Financing District. In lieu of annexing into the Existing Financing District, all Units within the Project shall be part of a Project-specific La Entrada Services CFD for public services and shall be assessed a special tax of Two Hundred and Fifty Dollars ($250), subject to annual adjustments as determined in the rate and method of apportionment, per Unit per fiscal year for the provision of operation and maintenance of law enforcement, fire and paramedic services.

13.12 Fiscal Review and Developer Funding. As part of the Fiscal Review, the City and Master Developer shall meet to review the projections of the FIA, compared to the

City's then-current adopted operating budget.

If the results of the FIA show a net annual deficit, the Master Developer shall prepare a supplemental analysis, subject to City review and approval, proposing how any projected City fiscal shortfall should be addressed ("Master Developer Funding"). Once the amount of deficit is identified, payment shall be made pursuant to one of the following options for addressing the shortfall: (i) a non-recurring undeveloped land tax, due and payable on the next County of Riverside tax roll; or (ii) interim funding by Master Developer of necessary service and maintenance costs (staff and equipment) between the time of individual Project entitlements and off-setting tax revenues. If interim funding is provided, then the Fiscal Review shall include the development of a payment schedule, as mutually agreed to by the City and Master Developer.

If the results of the FIA show a net annual deficit, the FIA shall be prepared, and a Fiscal Review performed, each subsequent year until the earlier of (i) the results of the FIA show a net annual surplus, or (ii) build-out of the Project. If the results of the FIA show a net annual surplus, no future FIAs need be prepared, except as otherwise specifically provided herein.

13.13 Covenants, Conditions and Restrictions. Landowner shall have the ability to reserve and record such covenants, conditions and restrictions ("CC&Rs") against the Property as Landowner deems necessary and appropriate, subject to review and approval by the City Attorney, which approval will not be unreasonably withheld, to adequately address the Project's conditions of approval. CC&Rs may not conflict with this Agreement or the General Plan. Before recording any CC&Rs, Landowner shall provide a copy of the CC&Rs to the City for review by the City Attorney. Within sixty (60) days after receiving a copy of the proposed CC&Rs from Landowner, the City Attorney shall provide Landowner with either (i) a statement that the CC&Rs substantially comply with this Agreement, or (ii) written comments identifying each aspect of the CC&Rs believes may conflict with this Agreement.

14. City Obligations.

14.1 Diligent Processing of Subsequent Approvals. City staff shall diligently process, in good faith, the Subsequent Approvals. Nothing in this Section or Agreement shall be construed to limit or otherwise preclude any rights allocated to Landowner under the Government Code, and the Permit Streamlining Act specifically.

14.2 Fee Satisfaction, Credits and Reimbursements. Subject to the terms and provisions of this Agreement, the City agrees that certain Development Impact Fees are deemed fully satisfied for the Project, as more fully described in this Section. Further, subject to the terms and provisions of this Agreement, the City agrees that the Project may be entitled to certain Development Impact Fee Credits, and Third Party Reimbursements as more fully described in this Section.

Landowner may, pursuant to this Agreement, finance the construction of certain improvements, including, without limitation, roadways, sewer, water, reclaimed water, solid waste, park, multi-purpose trails, drainage and/or electrical facilities which are the obligation of and thus would otherwise be paid for fully, or in part, by the City or other parties and which serve and benefit the Landowner (e.g., in the case where Landowner constructs facilities that are otherwise wholly or in part the obligation of another party) and/or properties or which would be financed by existing or future City fees, TUMF Fees or other similar fees.

City and Landowner agree that, in consideration for Landowner financing and construction of such improvements that qualify for credit or third party reimbursement, Landowner, upon entering into an improvement agreement with the City and posting security for improvements, shall be entitled to fee credits and/or third party reimbursements, in accordance with the procedures set forth in Exhibits D and E, attached hereto and incorporated herein by reference, which fee credits and third-party reimbursements are owned personally by Landowner and do not run with the Property to successors and assigns, unless Landowner provides written notice to City that said credits and/or reimbursements have been assigned by Landowner to a third party.

Such personal ownership of credits and/or reimbursements by Landowner apply to all credits and/or reimbursements set forth in this Section 14.2 and all subsections hereto, and all other credits and reimbursements provided under this Agreement. Landowner shall track all improvements eligible for credits or reimbursements and shall work with the City to establish a program to track and award such credits and reimbursements as provided in this Section 14.2 and this Agreement.

1. Fee Satisfaction. As specified in Section 14.2 and Exhibit C of this Agreement, the City hereby deems satisfied the following categories of Development Impact Fees:

(i) Park and Recreation Facilities – For the park and recreation facilities component of the Development Impact Fees, the Project is conditioned to construct public parks in accordance with the requirements of the City Approvals, including the design guidelines set forth in Section 3 of the La Entrada Specific Plan, and the phasing plan set forth in Exhibit C.

(ii) Fire Facilities – For the fire facilities component of the Development Impact Fees, the Project is hereby specifically conditioned to comply with the provisions of Sections 13.8 and 13.9 of this Agreement.

(iii) Government Facilities – For the government facilities component of the Development Impact Fees, the Project is hereby specifically conditioned to comply with the provisions of Section 22.7 of this Agreement.

For any Development Impact Fee payments that are deemed satisfied pursuant to this

Agreement, the Project will be exempt from any future fees or general obligation bond measures related to the same facilities.

2. Fee Credits. For the planning, design, right-of-way acquisition and construction of infrastructure that qualify for credit pursuant to Chapter 4.45.110 of the City's Municipal Code, the City shall grant to Landowner a credit for such costs applied against Landowner's respective fee obligations for the Project in accordance with the process outlined in Exhibit D. Fee credits shall be granted in accordance with the procedures set forth in Section 4.45.110(B) of the City's Municipal Code, or any successor provision thereof.

3. Reimbursement by Third Parties. When the Landowner plans, designs, engineers or constructs any public road, sewer, water, recycled water, drainage, electrical improvements, including without limitation cable, internet, phone, and other utility installations, and any other public improvements which contain supplemental size, capacity, number or length ("Oversized Improvement"), that benefits property owned by third persons outside of the Project, Landowner shall, to the fullest extent permitted by law, be entitled to receive a reimbursement from the benefitted property owner(s) for the pro rata cost, as adjusted for inflation of the Oversized Improvement, including all planning, design and engineering costs.

   For engineering, planning, design and construction costs provided by Owner for the Oversized Improvements, the City shall cooperate, to the fullest extent permissible by law, with Owner and work to facilitate third party reimbursement agreements for eligible expenditures that exceed Owner's fair share responsibility for costs, including planning, design and engineering costs, and construction of the Avenue 50 Interchange and Infrastructure from other benefitted landowners, including, without limitation, landowners north of the Avenue 50 Interchange and Infrastructure.

   All reimbursement payments due and owing under this Section 14.2.3 shall be payable to Owner from funds collected by the City through the imposition of a condition of on the development of the undeveloped benefitting properties for the purpose of reimbursement from those benefitted property owners. Reimbursement may also be provided directly from the owner abutting such improvements or from a Financing District if such Financing District is formed or includes such properties and includes such monies for the construction of said improvements. Exhibit E, attached hereto and incorporated herein by reference, outlines the process for obtaining reimbursements from benefitted property owners for improvements.

Where Landowner constructs improvements that are otherwise the obligation of another party, Landowner shall be entitled, to the extent permitted by law, to receive pro rata fair share reimbursement from said third party. Landowner shall provide the City with sufficient documentation of reimbursement costs owed by the third party.

City shall use all reasonable efforts, to the extent the City has the authority to do so, to impose the foregoing obligation to pay said reimbursement, as a condition of development of such benefitted property owned by third parties, at the time such property owner requests a discretionary approval or other such entitlement from the City for development of the benefitted property whereon such condition can be imposed.

The sole source of funds remitted to Landowner for construction of Oversized Improvements shall be from benefitted properties owned by third parties, and the City shall not be obligated to pay any amount pursuant to this Section other than the funds it collects from benefitted property owners. The source of reimbursement funds due and payable pursuant to this Section shall be proceeds from the formation of a Financing District and issuance of bonds for such Financing District serving development by such third parties or, recordation of a final Tentative Map serving the development by such third party, whichever occurs first. Any such reimbursements shall be transmitted to Landowner within ninety (90) days from the date of collection of such funds, less any reasonable administrative charge to offset the City's costs to administer such reimbursement process.

In accordance with Section 4.45.120(C) of the City's Municipal Code, any reimbursement obligations and reimbursement agreements provided by this Agreement shall automatically run for the Term of this Agreement, including any Option Term(s) granted. Thereafter, the reimbursement process shall cease and the unpaid balance shall become the property of the City to do with as it chooses.

City makes no guarantees, express or implied, that the benefiting properties will seek approval of any discretionary land approval or other such entitlement from the City within the Term, or any Option Term(s), and in the event that Landowner does not recoup his or her full reimbursable portion within this time period, City shall not be responsible for any such deficiency in reimbursement. In addition, although City agrees to use its best efforts to collect reimbursement from the benefiting properties, City shall not be liable to Landowner for any deficiency in the event City fails to collect reimbursement from one or more benefiting properties, regardless of fault or reason for City's failure to collect said reimbursement. Landowner shall also hold harmless and fully indemnify City in seeking reimbursement from benefitting third parties as provided in Section 30 of this Agreement.

14.3 Not a Limitation. Nothing in the foregoing Section 14.2 shall be construed to limit Landowner from receiving, in consideration of the improvements to be constructed by Landowner hereunder, any other credits or reimbursements from the City otherwise provided under then existing City policies, rules, regulations or ordinances.

14.4 TUMF Credits. City Staff may work with the Owner in securing credits and reimbursements for any constructed facilities that are TUMF eligible. City Staff may also work with the Owner to establish Project priorities and add additional Project facilities to the TUMF eligible list.

14.5 Avenue 50 Interchange and Infrastructure Funding. City may work with and assist Owner in efforts to secure outside funding for the Avenue 50 Interchange and Infrastructure pursuant to the terms and procedures outlined in this Agreement.

14.6 Future Development Fee Nexus Studies. The City shall consult with and advise Owner of any future nexus studies for City Development Impact Fees.

14.7 Additional Staffing. If standard City staffing fails to result in processing of ministerial permits and/or approvals or discretionary actions and/or approvals as promptly as required by Landowner, the City may, in accordance with applicable collective bargaining agreements, at the request and sole expense of the Landowner, hire plan check, inspection and other personnel, or hire additional consultants for such actions, or allocate use of exclusively dedicated staff time, such that the time limits of Landowner can be achieved. City may consult in good faith with Landowner as to any additional consultants to be hired pursuant to this section provided that the City shall retain the sole discretion as to selection and direction of any such consultants.

15. Mutual Obligations of the Parties. City hereby provides Landowner with the long term assurances, vested rights and other City obligations described in this Agreement, including in particular those obligations described in Section 14, in consideration for the Landowner obligations contained in this Agreement, including in particular those Landowner obligations described in Section 13. Landowner has agreed to provide the City with those Landowner obligations contained in this Agreement, including in particular those Landowner obligations described in Section 13, in consideration for the City obligations described in this Agreement, including in particular those obligations described in Section 14.

16. Annexation. This Agreement's effectiveness over land within the Landowner's Property that is currently not within the boundaries of the City is subject to the annexation of that land into the City. If the land is annexed into the City, the terms of this Agreement shall automatically apply to all portions of that land upon its annexation. In the event that annexation of portions of Landowner's Property not currently within the City is not approved by LAFCO, or for any other reason is not annexed to the City, then any such portions shall be excluded from this Agreement.

17. Eminent Domain. The City, in its sole and absolute discretion, may cooperate with Landowner in implementing all of the conditions of the City Approvals, including, but not limited to, the exercise of its eminent domain powers in connection therewith provided that the City, in its independent exercise of judgment following all applicable procedures, has made the requisite findings properly supported by evidence, that the use of such power is appropriate.

18. Easements, Improvements, Abandonments. City may work with Landowner in connection with any arrangements for abandoning existing utility or other easements and facilities and the relocation thereof, or the creation of any new easements within the Property necessary or appropriate in connection with the development of the Project. Landowner shall be responsible for any costs and expenses incurred by the City pursuant to this Section.

19. Design of On-Site and Off-Site Improvements. Subject to the provisions of Section 18 above, development of the Property shall be subject to future City review as provided by the City Approvals. The City Approvals, and all improvement plans prepared in accordance with the City Approvals, shall govern the design and scope of all on-site and off-site improvements to be constructed on or benefitting the Property, including all street widths and dedications.

20. Subdivision of Property – Future Tentative Maps. Landowner shall have the right, from time to time or at any time, to apply for one or more individual maps, subdividing the Property into smaller developable parcels, as may be necessary in order to develop, lease or finance any portion of the Property in connection with development of the Project consistent with the City Approvals. Final maps may be phased as described by City Ordinance and State law. As the Property is developed, subsequent individual maps further subdividing the Property or individual buildings may be submitted to the City for approval.

21. Public Benefits.

    21.1 Intent. This Agreement is entered into by the City in consideration of, and in exchange for, Landowner's agreement to contribute to the Public Benefits as detailed below.

    21.2 Public Benefits. The Public Benefits consist of Landowner's contributions, as described in the Recitals hereto toward land, improvements, and funding to further the development of the Public Facilities and fees as described in Sections 13 and 21 (collectively, "Owners Facilities Obligations").

    21.3 Community Wide Benefit. While a portion of the Public Benefits will be provided specifically to mitigate the impacts of the Project, certain of the Public Benefits will serve the City.

22. Financing Public Facilities. Owner's Facilities Obligations may be financed through the use of one or more Financing Districts, subject to this Section 22.

22.1 Formation of Financing Districts. The Owner may request the formation of one or more Financing Districts, each of which may include multiple improvement areas, to finance Owner's Facilities Obligations. To make that request, the Owner shall submit to the City a petition to form the Financing District pursuant to California Government Code Section 53318(c). Upon that submittal, the City shall use its best efforts to (a) adopt land secured debt goals and policies, and thereafter (b) conduct proceedings to consider formation of the Financing District. Proceedings for the formation of a Financing District and of improvement areas therein shall commence concurrently with, or prior to, the submittal of the first Builder's Tentative Map. For development purposes, the formation of multiple Financing Districts and/or improvement areas shall be phased in a manner consistent with the phasing that is submitted with the first Builder's Tentative Map application. The City and the Owner shall cooperate so that, to the extent possible, the associated public process and the resolution of intention to form any Financing District, and any improvement areas thereof, in each case, shall be adopted by the City Council before the issuance of the first residential building permit for construction of vertical improvements on the Property within such Financing District, or related improvement area, or as soon thereafter as the City may reasonably schedule and notice such hearing, taking into account its City Council meeting schedule. This provision shall not, however, delay the issuance of any building permit requested by the Owner within such Financing District, or related improvement area. The City and the Owner shall continue to cooperate so that the resolution of formation and landowner election of the Financing District, or improvement area thereof, as applicable, is adopted prior to the issuance of a certificate of occupancy for any residence within the Financing District, or improvement area thereof, as applicable. The City and the Owner shall use reasonable efforts not to delay the issuance of such certificates of occupancy.

Notwithstanding any other provision of this Agreement, the City shall not form a Financing District encumbering some or all of the Property without the prior written consent of Owner. Upon the formation of a Financing District, the City shall use its best efforts to issue bonds upon the request of Owner and in cooperation with Owner. The City shall cooperate with Owner to determine the timing and size of the proposed bond issuances in accordance with the CFD Financing Parameters outlined in Exhibit I. To the extent that a Financing District is established, the details of Owner's participation in that Financing District and the manner of construction and acquisition of the public facilities shall be addressed and reasonably agreed to in a separate agreement between the City and the Owner.

22.2 Formation Costs. Owner shall advance funds, in the form of a deposit, to the City to pay all costs for the formation of the Financing District and the issuance and sale of bonds by the Financing District, including, but not limited to: (i) the bonds by the Financing District and issuance of bonds, including an engineer, special tax consultant, financial advisor, bond counsel and any other consultant deemed reasonably necessary or advisable by the City; (ii) the costs of appraisals, market absorption and feasibility studies and other reports deemed reasonably necessary

by the City in connection with the issuance of bonds; (iii) the costs of publication of notices, preparation and mailing of ballots and other costs related to any hearing, election or other action or proceeding undertaken in connection with the formation of the Financing District and issuance of the bonds; and (iv) any and all other actual and reasonable costs and expenses incurred by the City in connection with the formation of the Financing District and issuance of the bonds. Upon the sale of the bonds, funds advanced for such formation and issuance costs by Owner shall be reimbursed to Owner from the bond proceeds concurrently with the issuance of the bonds.

22.3 Security. If any of Owner's Facilities Obligations which are contemplated to be funded by the Financing District become due before bond proceeds are available to satisfy those obligations, then the Owner shall either (1) pay the corresponding required fees concurrent with the building permit application applied for and based upon the number of building permits applied for in such application, or (2) provide cash or a bond, reasonably acceptable to the City, to satisfy such corresponding required fees until bond proceeds become available (at which time such cash or bond will be released to the Owner). The City shall immediately have the right to draw on such cash or bond, at any time that such cash is required to pay for the improvement for which it is collected, and after it is provided for its purposes hereunder. If the Owner provides cash pursuant to the foregoing provisions, then the City and Owner will enter into a deposit agreement for such required fees as may be directed by bond counsel to the City. The Owner may elect to fund some or all of the Owner's Facilities Obligations before bond proceeds are available for payment and/or reimbursement. If the Owner so elects or if the City draws on cash or a bond as provided above, then the Owner shall be reimbursed from bond proceeds as soon as reasonably practicable after the issuance thereof.

22.4 Issuance of Bonds. Upon the formation of a Financing District, the City shall use its best efforts to issue bonds upon the written request to do so by the Owner. The City shall levy special taxes or assessments on any portions of the Property according to the rates and methods of apportionment. Bond amounts and timing shall be determined by the City, in cooperation with the Owner, and City shall take into consideration the Owner's plan and phasing of development. If the City is ready, willing, and able to issue bonds, but the Owner requests that their issuance be delayed temporarily or indefinitely, the City shall comply with that request and the Owner's Facilities Obligations shall remain in effect. The Owner shall post cash or other security pursuant to Section 22.3 herein if the Owner's Facilities Obligations are then due. If the Owner subsequently requests (in one or more requests at the Owner's discretion) the issuance of bonds up to the full extent of the bonding capacity of a Financing District, the City shall use its best efforts to comply with that request. The bonds may be sold in one or more series, and with respect to one or more improvement areas, as determined by the City in cooperation with the Owner.

22.5 City's Failure to Form Financing District or Issue Bonds as Requested.

IF: (i) Within ninety (90) days after the Owner's submittal to the City Council of its petition to form the Financing District pursuant to California Government Code Section 53318(c) (the "Submittal Date"), the City has not adopted a Resolution of Intention ("ROI") to establish a Financing District pursuant to California Government Code Section 53320, and (ii) a hearing to establish the Financing District is not held within sixty (60) days of the date of the ROI, and (iii) the Owner's request as to the scope and bonding capacity (i.e., financed costs and bond sale amount) of each requested Financing District and each improvement area therein as stated in the petition are not approved, and (iv) the Owner's request for the City to issue bonds for the Financing District is not approved prior to issuance of the last building permit within such Financing District or improvement area, and (v.) bonds are not issued in accordance with the CFD Financing Parameters outlined in Exhibit I for any reason, without exception, other than:

a. The Owner's filing a majority protest against formation of the Financing District; or

b. Reasonable negotiation of the CFD Agreements in good faith pursuant to Section 22.6 hereof; or

c. Any delay at the request of the Owner.

THEN: This Agreement shall remain in full force and effect, but the respective obligations of the City and the Owner shall be modified as follows:

a. The City will refund all Development Agreement Fees paid to date and waive the requirement for payment of all future Development Agreement Fees not yet due and owing.

22.6 Rate and Method of Apportionment. The City and the Owners recognize that the rate and method of apportionment of the special taxes and other parameters of each separate improvement area within such Financing District cannot be completed in advance of the formation of the Financing District. In recognition of the necessity of forming a Financing District with separate improvement areas and selling bonds to the Project's financial viability, the Owner and the City shall, in good faith, negotiate the rate and method of apportionment of special taxes and other parameters of each separate improvement area within the Financing District prior to the issuance of the first building permit for such improvement area. Additionally, at the sole and absolute request of Owner, Owner and the City shall, in good faith, negotiate the timing of issuance and amount of any bonds to be issued by any of the separate improvement areas within the Financing District. While the City and the Owner recognize that the actual sale and delivery of the bonds of each separate improvement area within the Financing District are subject

to market constraints and limitations that are outside the control of the City, the provisions of Section 22.5 above shall none the less apply.

22.7 Improvement Funding. By approving this Agreement, the City Council has determined that certain improvements are eligible under the Mello-Roos Act and may be funded through a Financing District formed pursuant to this Agreement. Funding for eligible facilities shall be determined in consultation with the City at the time of formation of the La Entrada Financing District and shall be documented in the related CFD Agreements. Nothing in this Agreement shall be construed to prevent Owner from financing facilities and services, as permitted by the Mello-Roos Act.

The City and Owner hereby agree that, in conjunction with issuance of bonds for the La Entrada Facility CFD, payment shall be made from the La Entrada Facility CFD proceeds to the City in the total amount of Nine Million Five Hundred and One Thousand Six Hundred Fifty Four Dollars ($9,501,654) in full satisfaction of the Project's General Government Facilities component of the Development Impact Fee. Payment required pursuant to this Section shall occur as follows:

1. Upon receipt of bond proceeds from the first series of La Entrada Facility CFD bonds, Owner shall remit to the City the lesser of (i) fifty percent (50%) of such bond proceeds, or (ii) Four Million Seven Hundred and Fifty Thousand Eight Hundred and Twenty Seven Dollars ($4,750,827) out of the proceeds of the bond sale, which amount constitutes one-half of the total obligation required hereunder.

2. Upon receipt of bond proceeds from each subsequent series of La Entrada Facility CFD bond issuances, Owner shall remit to the City fifty percent (50%) of such bond proceeds until a total cumulative amount of Nine Million Five Hundred and One Thousand Six Hundred Fifty Four Dollars ($9,501,654) has been paid from the La Entrada Facility CFD bonds.

3. In accordance with the terms and requirements of this Section, City specifically acknowledges that Owner's performance under this Section specifically excludes Owner from any present or future requirements to pay the Project's General Government Facilities component of the Development Impact Fee through any sources other than La Entrada Facility CFD bond proceeds.

22.8 Reimbursement Agreement. Pursuant to California Government Code Section 53314.9, the City may accept, in its sole discretion, advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, payment of costs incurred by the City in creating a Financing District. The City Council may enter

into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to reimburse that person or entity for all or a portion of the funds advanced, provided that certain requirements are satisfied. The City and the Owner desire that this provision serve as an agreement that the Owner shall be reimbursed for all reasonable funds and work-in-kind advance by the Owner pursuant to this Agreement and Government Code Section 53314.9, subject to the review and approval of such reimbursements by the City, which approval shall not be unreasonably withheld. The City and the Owner shall take all steps within their power to meet the requirements of California Government Code Section 53314.9. In addition, the City and the Owner shall enter into any additional agreements on a timely basis needed to allow such reimbursements to occur.

23. Transfers and Assignments.

23.1 Procedure. Subject to the terms of this Section 23, Landowner shall have the right to assign or transfer all or any portion of its interest, rights or obligations under this Agreement to third persons provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following conditions precedent:

1. No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or part of the Property; and

2. At least fifteen (15) business days prior to any such sale, transfer or assignment, Landowner shall notify the City, in writing, of such sale, transfer or assignment and shall provide the City with an executed assignment and assumption agreement (the "Assignment Agreement") in a form substantially similar to the form attached hereto as Exhibit J.

   Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by Landowner under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the Assignment Agreement required above, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the benefits of the Agreement shall not inure to such purchaser, transferee or assignee until and unless such Assignment Agreement is executed.

3. Concurrent with any transfer, sale or assignment pursuant to this Section, the transferring, selling or assigning party shall be obligated to pay the City a fee for such transfer, sale or assignment based on the following requirements:

(i) If the transfer, sale or assignment is from one Master Developer to another, or involves more than 2,500 lots, the amount of the fee shall be Fifty Thousand Dollars ($50,000);

(ii) If the transfer, sale or assignment involves the sale of 1,000-2,500 lots, the amount of the fee shall be Twenty Five Thousand Dollars ($25,000); or

(iii) If the transfer, sale or assignment involves the sale of less than 1,000 lots, the amount of the fee shall be Five Thousand Dollars ($5,000).

(iv) A final sale of a Unit to an end user, or a final sale of a commercial lot to an end user, shall not be assessed a fee pursuant to this Section.

4. Any Default or other violation of the terms and provisions of this Section or this Agreement by any transferee shall not constitute a Default by Owner or any other transferee. If a Default occurs by any subsequent transferee, the City's recourse with respect to that Default shall necessarily be limited to the transferee who is in Default and shall not impact the Owner or any other transferee not in Default.

23.2 Release of Transferring Owner. Notwithstanding any sale, transfer or assignment, a transferring Owner shall continue to be obligated under this Agreement unless such transferring Owner is given a written release from the City, which release shall not be unreasonably withheld, and which release shall be provided by City upon satisfaction by such transferring Owner of the following conditions:

1. Owner no longer has a legal or equitable interest in all or any part of the Property;

2. Owner is not then in default under the Agreement;

3. Owner has provided City with notice and an executed Assignment Agreement, as required by this Section; and

4. The purchaser, transferee or assignee provides the City with security, as and when required, equivalent to any security previously provided by Owner, to secure any performance obligations as may be required hereunder.

23.3 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Agreement.

23.4 Agreement Runs with the Land. This Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants and obligations shall be binding upon the Parties and their respective heirs, successors (by merger,

consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Property or any portion thereof, or any interest therein, whether by sale, operation of law, or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns.

All of the provisions of this Agreement shall be enforceable during the Term as equitable servitudes and constitute covenants running with the land pursuant to City Law, including, but not limited to, California Civil Code Section 1468. Each covenant to do or refrain from doing some act on the Property hereunder: (a) is for the benefit of the Property and is a burden upon the Property; (b) runs with the Property; and (c) is binding upon Landowner and each successive owner during its ownership of the Property or any portion thereof, and each person or entity having any interest in the Property. Every person who now or hereafter owns or acquired 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 Agreement is contained in the instrument by which such person acquired an interest in the Property.

24. Amendment, Termination or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part from time to time by mutual consent of the City, Landowner and/or any successor owner of any portion of the Property in accordance with the provisions of the Development Agreement Statute. In accordance with Section 5 of the Specific Plan, the approval by the Planning Director of any minor modifications to the City Approvals that are consistent with this Agreement shall not constitute nor require an amendment to this Agreement to be effective or to be subject to this Agreement as set forth in Section 24 hereof.

24.1 Requirement for a Writing. No amendment, termination or cancellation of this Agreement or any provision hereof shall be effective for any purpose unless adopted pursuant to the procedures included in this Agreement and Government Code Section 65858and specifically set forth in a writing, which refers expressly to this Agreement and is signed by duly authorized representatives of the Parties.

24.2 Recordation Upon Amendment or Termination. Except when this Agreement is automatically terminated due to the expiration of the Term or the provisions of Section 8.6, the City shall cause any amendment hereto and any other termination hereof to be recorded, at Landowner's expense, with the County Recorder within ten (10) days after the City executes such amendment or termination. Any amendment or termination of the Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment or termination.

24.3 Amendments to Development Agreement Legislation. This Agreement has been entered into in reliance upon the provisions of the California Government Code Section 65864 *et seq*., relating to development agreements, as those provisions existed at the date of execution of this Agreement. No amendment or addition to

those provisions which would materially affect the interpretation or enforceability of this Agreement shall be applicable to this Agreement, unless such amendment or addition is specifically required by the California State Legislature, or is mandated by a court of competent jurisdiction. If such amendment or change is permissive, as opposed to mandatory, this Agreement shall not be affected, unless the Parties mutually agree in writing, after following the procedures in Section 24 to amend this Agreement, to permit such applicability.

24.4 Amendment of City Approvals. To the extent permitted by local, state and federal law, any City Approval may, from time to time, be amended or modified only by submittal of an application from the Landowner and following the procedures for such amendment or modification contained in this Agreement. Upon any approval of such an amendment or modification, the amendment or modification shall automatically be deemed to be incorporated into the City Law without any further procedure to amend this Agreement.

24.5 Effect of Termination on Landowner's Rights and Obligations.

1. Notwithstanding any other provision to the contrary, termination or cancellation of this Agreement or termination of the rights of Landowner as to any part of the Property, shall not effect the status of the City Approvals, any requirement to comply with the City Approvals, the terms and conditions of any other Subsequent Approval, nor any payments then due and owing to the City, nor shall it effect the covenants of Landowner specified in Section 13.12 above, to continue after the termination or cancellation of this Agreement. Notwithstanding the foregoing, Landowner understands that the City Approvals may be modified in light of the circumstances resulting from the termination or cancellation of this Agreement or Landowner's rights under this Agreement. Landowner shall have no right to challenge any such modification by reason of this Agreement other than the rights, if any, Landowner would have in the absence of this Agreement.

2. Notwithstanding anything in this Agreement to the contrary, the provisions of this Agreement shall survive and remain in effect following termination or cancellation of this Agreement for so long as necessary to give them full force and effect with respect to claims or rights of City or Landowner arising prior to termination or cancellation.

25. Default, Remedies and Termination.

25.1 Default. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either Party to perform any term or provision of this Agreement may constitute a default ("Default"). In the event of an alleged Default or breach of any term or condition of this Agreement, the Party alleging such

Default or breach shall give the other Party not less than thirty (30) days notice in writing specifying the nature of the alleged Default and the manner in which said Default may be satisfactorily cured. During such thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the thirty (30) day period, if the alleged Default is not rectified, the non-defaulting Party to this Agreement shall give written notice to the defaulting Party of the existence of the Default and request that the Default be cured in accordance with the following time periods:

1. The defaulting Party shall have sixty (60) days from the date of the written notice of Default to cure the Default or, if the Default cannot be cured within the sixty (60) day period, submit a plan for curing the default to the non-defaulting Party.

2. In the event a plan for cure is submitted, representatives of the non-defaulting Party, or City Manager and City Attorney shall review the plan for cure and either approve or deny the plan, which approval or denial shall be at the sole and absolute discretion of the representatives of the non-defaulting party, or City Manager and City Attorney. If the plan for cure is approved, the defaulting Party shall then proceed to timely implement such plan for curing the Default.

3. Nothing in this Section shall preclude the Parties from extending any time periods for curing any Defaults so long as any extension is documented in writing and signed by all Parties.

In the event a Default is not cured in accordance with the procedures set forth in this Section, or the non-defaulting Party, or the City Manager and City Attorney deny the plan for cure, the non-defaulting Party, at its sole option, may give notice of intent to terminate the Agreement pursuant to California Government Code Section 65868 and all other applicable local and state laws. Following notice of intent to terminate, the matter shall be scheduled for consideration and review by the City Council within thirty (30) calendar days in the manner set forth in California Government Code Sections 65865, 65867, and 65868 and all other applicable local and state laws and regulations implementing such Sections.

Following consideration of the evidence presented in said review before the City Council, either Party alleging the default by the other Party may give written notice of termination of this Agreement to the other Party.

Evidence of Default may also arise in the course of a regularly scheduled periodic review of this Agreement pursuant to Section 26 and California Government Code Section 65865.1. If the City determines that the Landowner is in Default following the completion of the normally scheduled periodic review, the City may give

written notice of Default under this Agreement as set forth in this Section, specifying in said notice the alleged nature of the Default and the potential actions or steps that may be taken to cure said Default. Upon receipt of such notice, the procedures outlined in this Section shall be implemented in order to cure such Default.

25.2 Legal Action. In addition to any other rights or remedies, either Party may institute legal action to cure, correct, or remedy any Default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation. Landowner's litigation remedies shall be limited to declaratory and injunctive relief, mandate and specific performance. All legal actions shall be initiated in the Superior Court of the County of Riverside, State of California, or in the Federal District Court for the Central District of California. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by either Party for Default under or breach of this Agreement, or to enforce any provisions herein, the prevailing Party in such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the Court.

25.3 Cooperation in the Event of a Legal Challenge. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending said action. All costs and expenses, including legal fees and costs, incurred under this Section shall be borne by the Landowner.

25.4 Indemnification. The Landowner shall bear its own costs of defense as a real party in interest in any third party challenge and the Landowner shall reimburse the City for all costs, including court costs and attorneys' fees incurred by City in defense of such action other proceeding. In its sole discretion, City may tender its defense of such third party challenge to Landowner or the City can elect to defend against the third party challenge itself. Upon a tender of defense to Landowner by City, Landowner shall defend City through Counsel chosen by Landowner, subject to approval by the City, which approval shall not be unreasonably withheld, and Landowner shall bear all attorneys' fees and costs from the date of tender. Under no circumstances shall Landowner be required to pay or perform any settlement arising out of a third party challenge unless the settlement is expressly approved by Landowner.

25.5 Invalidity. If any part of this Agreement is held by a court of competent jurisdiction to be invalid or unlawful as the result of a third party challenge, the Parties shall use their best efforts to cure any inadequacies or deficiencies identified by the court in a manner consistent with the expressed and implied intent of this Agreement, and then to adopt or re-enact such part of this Agreement as necessary or desirable to permit implementation of this Agreement.

25.6 Failure to Assert; No Waiver. Any failures or delays by a Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies. Delays by a Party in asserting any of its rights and remedies, irrespective of such length of the delay, shall not deprive the Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies, nor constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of a Default shall be effective or binding upon such Party unless made in writing by such Party and no such waiver shall be implied from any omission by a Party to take any action with respect to such Default.

25.7 Effect of Termination. If this Agreement is terminated following any event of Default of Landowner or for any other reason, such termination shall not affect the validity of any building or improvement within the Project which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a building permit issued by the City.

Furthermore, no termination of this Agreement shall prevent Landowner from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City that is under construction at the time of termination, provided that any such building or improvement is completed in accordance with said building permit in effect at the time of such termination.

26. Annual Review. City shall, at least every twelve (12) months from the Effective Date and any anniversary thereof, as such period may be extended or amended, during the Term of this Agreement, review the extent of good faith compliance by Landowner or successor in interest thereto with the terms of this Agreement. Such periodic review shall be limited in scope to the Fiscal Review, if required pursuant to Section 13.11 and compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1 and the monitoring of mitigation in accordance with California Public Resources Code Section 21081.6. Notice of such review shall include the statement that any review of obligations of Landowner as set forth in this Agreement may result in the modification or termination of this Agreement. Absent new information or changed circumstances, a finding by City of good faith compliance by Landowner with the terms of this Agreement shall be conclusive with respect to the performance of Landowner during the period preceding the review.

Upon not less than thirty (30) days written notice by the City, Landowner shall submit an annual monitoring report in a form acceptable to the City Manager, or his or her designee, in order for the City to ascertain compliance with this Agreement. The annual monitoring report shall be accompanied by an annual review and administration fee sufficient to defray the costs of review and administration of the Agreement during the succeeding year.

If City intends to proceed with modification or termination of this Agreement due to non-compliance by Landowner or successor in interest, the City shall give written notice to Landowner of its intention to modify or terminate the Agreement. The notice shall be given at least thirty (30) calendar days prior to the scheduled hearing. Landowner shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before the City Council or, if the matter is referred to the Planning Commission, before the Planning Commission. Landowner shall be required to demonstrate good faith compliance with the terms of the Agreement and the burden of proof on this issue shall be on Landowner.

If City takes no action within sixty (60) days following the date of the hearing on the Agreement, Landowner shall be deemed to have complied in good faith with the provisions of the Agreement.

Notwithstanding the above, during the seventh (7^{th}) year annual review, and every year thereafter on an annual basis, the City and the Master Developer shall review the need for affordable housing as outlined in Section 13.3 of this Agreement. The City may require downward or upward adjustments on the number of affordable housing units in consultation with the Master Developer based on the following factors including, but not limited to, current Regional Housing Needs Allocation numbers for the City and available City-wide affordable housing stock. For any affordable housing units constructed, the Master Developer shall be entitled to State Density Bonus law benefits for those affordable units.

26.1 Certificate of Agreement Compliance. If, at the conclusion of an annual review pursuant to this Section, Landowner is found to be in compliance with this Agreement, City shall, upon request of Landowner, issue a Certificate of Agreement Compliance ("Compliance Certificate") to Landowner stating that after the most recent annual review and based upon the information known or made known to the City that (1) this Agreement remains in effect, and (2) Landowner is not in default. The Compliance Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, and shall state the anticipated date of commencement of the next annual review. Landowner may record the Compliance Certificate with the County Recorder.

27. Estoppel Certificate. Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such Party certify in writing that, to the knowledge of the certifying Party: (a) this Agreement is in full force and effect and is a binding obligation of the Parties; (b) this Agreement has not been amended or modified or, if so amended or modified, identify the amendments or modifications; and (c) the requesting Party is not in Default in the performance of its obligations under this Agreement, or if in Default, describe the nature of any Defaults. The Party receiving a request under this Section 27 shall execute and return the certificate within forty-five (45) days following receipt of the request. The City Manager shall be authorized to execute any certificates requested by Landowner.

28. Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property or any portion of the Property after the date of recording of this Agreement, including the lien of any deed or trust or mortgage (the "Mortgage"). Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement including but not limited to City's remedies to terminate the rights of Landowner and its successors and assigns, under this Agreement, to terminate this Agreement, and to seek other relief as provided in this Agreement, shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee (the "Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

28.1 Mortgagee not Obligated. Notwithstanding the provisions of Section 28 above, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements on the Property, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements on the Property other than those uses or improvements provided for or authorized by this Agreement, or otherwise under City Law.

28.2 Notice of Default to Mortgagee. If City receives a written notice from a Mortgagee, Landowner or any approved assignee requesting a copy of any Notice of Default given to Landowner or any approved or permitted assignee and specifying the address for service, then City shall deliver to the Mortgagee, at Mortgagee's cost, concurrently with service to Landowner, any notice given to Landowner with respect to any claim by the City that Landowner is in Default under this Agreement, and if City issues a Declaration of Default or Certificate of Non-Compliance, City shall, if so requested by the Mortgagee, likewise serve at Mortgagee's cost notice of noncompliance on the Mortgagee concurrently with service on Landowner. Each Mortgagee shall have the right during the same period available to Landowner to cure or remedy, or to commence to cure or remedy, the event of Default claimed or the areas of noncompliance set forth in the City's notice.

28.3 No Supersedure. Nothing in this Section 28.3, or any subsections hereof, shall be deemed to supersede or release a Mortgagee or modify a Mortgagee's obligation under any subdivision improvement agreement or other obligation incurred with respect to the Property outside this Agreement, nor shall any provision of this Section 28.3, or any subsections hereof, constitute an obligation of City to the Mortgagee, except as to the notice requirements contained in Section 28.2.

28.4 Foreclosure. Any Mortgagee who comes into possession of the Property, or any part thereof, by any means whether pursuant to foreclosure of the mortgage or deed of trust or deed in lieu of such foreclosure or otherwise, shall take the Property or any part thereof subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no

Mortgagee shall have an obligation or duty under this Agreement to perform any of Landowner's obligations or other affirmative covenants of Landowner hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by Landowner is a condition precedent to the performance of a covenant by the City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 13 of this Agreement.

29. Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties hereto that the Project is a private development, that City has no interest in or responsibility for, or duty to third persons concerning any of the improvements set forth in the City Approvals. Landowner shall have full power, over and exclusive control of the Property subject only to the limitations and obligations of Landowner under this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement.

30. Indemnity and Hold Harmless Agreement. Landowner (herein "Indemnitor") and its successors-in-interest and assigns, hereby agree to and shall defend and hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from any and all liability for damages or claim for damages for personal injury or bodily injury including death, as well as from claims for property damage which may arise from any acts, omissions, or operations of Indemnitor, or of Indemnitor's contractors, subcontractors, agents or employees under this Agreement, whether such operations be by Indemnitor or by any of Indemnitor's contractors or subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for, Indemnitor or Indemnitor's contractors or subcontractors, unless such damage or claim arises from the negligence or willful misconduct of City. The foregoing indemnity obligation of Indemnitor shall not apply to any liability for damage or claims for damage with respect to any damage to or use of any public improvements after the completion and acceptance thereof by the City. In addition to the foregoing indemnity obligation, Indemnitor agrees to and shall defend, indemnify and hold the City, its elected and appointed boards, commissions, officers, agents and employees harmless from any suits or actions at law or in equity arising out of the execution, adoption or implementation of this Agreement, the Project, Development Approvals or Subsequent Approvals exclusive of any such actions brought by Indemnitor, its successors in interest or assigns.

31. Notice. Notices, demands, correspondence and communications between City and Landowner shall be sufficiently given if: (a) personally delivered; (b) dispatched by overnight delivery by a reputable carrier such as Federal Express or UPS to the offices of the City and Landowner, and City's and Landowner's representatives, indicated below, provided that receipt for delivery is provided; or (c) sent by registered or certified mail, or express mail, return receipt requested, with postage prepaid.

City: City Manager
City of Coachella
1515 Sixth Street

Coachella, CA 92236

With a copy to:	City Attorney City of Coachella 1515 Sixth Street Coachella, CA 92236
Landowner:	PSAV, LLC LLSE Holdings, LLC c/o New West Communities 5055 West Patrick Lane #101 Las Vegas, NV 89118
With a copy to:	Lewis Brisbois Bisgaard & Smith, LLP Attn: Kelly M. Alhadeff-Black One Ridgegate Drive, Suite 245 Temecula, CA 92590

Any Party may change its mailing address at any time by giving written notice of such change to the other Party in the manner provided herein at least ten (10) days prior to the date such change is affected. All notices under this Agreement shall be deemed given and received on the earlier of the date personal delivery is affected or on the delivery date or attempted delivery date shown on the return receipt or air bill.

32. Miscellaneous.

32.1 Enforced Delay, Extension of Times of Performance. Neither Party shall be deemed to be in Default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, natural disasters or other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the Party's control (including the Party's employment force), government regulations, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulations, court actions (such as restraining orders or injunctions), or any similar basis for excused performance or any other causes beyond the Party's control. If any such event shall occur, the Term or any Option Term of this Agreement and the time for performance by either Party of any of its obligations hereunder may be extended by the written agreement of the Parties for the period of time that such events prevented such performance, provided that the Term or any Option Term of this Agreement shall not be extended under any circumstances for more than two (2) years. A market or business downturn, recession or other change in the business cycle shall not qualify as an event for which an extension may be granted pursuant to this Section..

32.2 Bankruptcy. The obligations of this Agreement shall not be dischargeable in bankruptcy.

32.3 City Law/Venue/Attorney's Fees and Costs. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Any legal actions under this Agreement, other than those specifically outlined in Section 25.3, shall be brought only in the Superior Court of the County of Riverside, State of California. Should any legal action or arbitration be brought by either Party because of an alleged breach of this Agreement or to enforce any provision of this Agreement, the prevailing Party shall be entitled to reimbursement of all reasonable attorneys' fees and any such other costs as may be found by the court or arbitrator.

32.4 Further Assurances. Each Party covenants, on behalf of itself and its successors, heirs and assigns to take all actions, perform all tasks and to execute, with affidavit, acknowledgement or notarization if required, any and all documents and writings that may be necessary or proper to achieve the purposes and objectives of this Agreement.

32.5 Severability. Except as otherwise specifically provided herein, if any provision of this Agreement, or the application of this Agreement to any person or entity, be held invalid or unenforceable, the remainder of this Agreement, or its application to persons or entities, shall not be affected except as necessarily required by the determination of invalidity, and each term of this Agreement shall be valid and enforced to the fullest extent permitted by law unless amended or modified by mutual consent of the Parties, except if the effect of such a determination of invalidity is to deprive a Party of an essential benefit of its bargain under this Agreement, then the Party so deprived shall have the option to terminate this entire Agreement from such determination.

32.6 Joint and Several Obligations. If, at any time during the Term or any Option Term of this Agreement, there is more than one Master Developer for the Property, all obligations of such Master Developers under this Agreement shall be joint and several, and the Default of any such Master Developer shall be the Default of all such Master Developers. Moreover, the Default of any individual Landowner, builder, planning area or tract map developer, or any other entity having obligations under this Agreement shall be joint and several with any Master Developer for purposes of compliance with this Agreement. No individual Landowner, builder, planning area or tract map developer, or any other entity shall have any joint and several liability with any Master Developer or other Party if that individual Landowner, builder, planning area or tract map developer is not in Default under this Agreement. No Landowner of a single lot that has been finally subdivided and sold to such Landowner as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement except as expressly provided herein.

32.7 Nondiscrimination. Landowner covenants by and for itself and any successors in interest that there shall be no discrimination against, or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status,

ancestry, sexual orientation or national origin in the development of the Property in furtherance of this Agreement. The foregoing covenant shall run with the land.

32.8 Landowner Right to Rebuild. City agrees that Landowner may renovate or rebuild a development located on the Property within the Term of this Agreement should it become necessary due to man-made or natural disaster. Any such renovation or rebuilding shall comply with the City Law and this Agreement.

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

32.10 Entire Agreement. This Agreement, including its Recitals and Exhibits, is executed in one original, which constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof. This Agreement supersedes all negotiations or previous agreements between the Parties respecting the subject matter of this Agreement. Except as otherwise specifically provided herein, any prior correspondence, memoranda, agreements, warranties or representations of any kind are all hereby superseded in totality by this Agreement.

32.11 Interpretation. This Agreement is the product of mutual negotiations and participation by both the City and Landowner. For purposes of construing the meaning or effect of this Agreement, or any portion hereof, it shall be presumed this Agreement was drafted by both Parties and not as if it had been prepared by one Party or the other. Each Party to this Agreement specifically acknowledges that it had sufficient opportunity to review the Agreement, confer with its separate legal counsel regarding the meaning of this Agreement and any provision contained herein, and negotiate revisions to this Agreement. Each Party relies solely upon its own judgment and the advice of its counsel in interpreting the provisions of this Agreement and is not relying on any representation, interpretation, presumed assent, or implied agreement of the other Party which is not expressly contained in this Agreement. Accordingly, neither Party shall use or rely upon California Civil Code Section 1654 in order to interpret any uncertainty in the meaning of this Agreement.

32.12 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the Riverside County Recorder, State of California, by the Clerk of the City Council, or his or her designee, within ten (10) days following the execution of this Agreement by all Parties, in accordance with Section 65868.5 of the Government Code. If the Parties to this Agreement, or their successors in interest, amend or cancel this Agreement, or if the City modifies or terminates this Agreement, the City Clerk shall have notice of such action recorded with the Riverside County Recorder. The failure of the City to record this Agreement shall not affect the validity of and binding understandings and obligations set forth in this Agreement.

32.13 Signature Pages; Facsimile Signatures and Execution in Counterparts. For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages in counterparts which, when attached to this Agreement, shall constitute that as one complete Agreement.

32.14 Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of Landowner and the City and their successors-in-interest, heirs and assigns. No other person or entity shall have any right of action based upon any provision in this Agreement.

32.15 City Finding. The City hereby finds and declares that the execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with all applicable City Laws including, without limitation, the General Plan as that same may be, from time to time, amended.

32.16 Enforceability. The City specifically and expressly agrees that unless this Agreement is amended, terminated or cancelled pursuant to the terms and conditions contained herein or in the Enacting Ordinance, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or building regulation adopted by City, or by initiative which changes, alters or amends the rules, regulations and policies applicable to the Property and the Project at the time of approval of this Agreement, as provided by California Government Code Section 65866.

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

31.16. Consent. Where the consent or approval of City or Landowner is needed to implement the Project under this Agreement, the consent or approval shall not be unreasonably withheld, delayed, or conditioned, except where this Agreement expressly authorizes a Party to act in its sole discretion.

31.17 Covenant of Cooperation. City and Landowner shall cooperate and deal with each other in good faith and assist each other in the performance of the provisions of this Agreement. Such cooperation shall include entering into Implementing Agreements to implement the obligations established in this Agreement.

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

31.19 Date of Execution. City and Landowner have executed this Agreement on the dates set forth below.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF COACHELLA,
a municipal corporation

By:_____
Eduardo Garcia , Mayor

Dated: _____

ATTEST:

_____
City Clerk

Approved as to form:

_____
Carlos Campos, City Attorney

PSAV, LLC/LLSE Holdings, LLC

By: _____

Dated: _____

LLSE Holdings, LLC

By: _____

Dated: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, 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.

_____
Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, 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.

_____
Notary Public

RECORDED AT REQUEST OF
AND WHEN RECORDED RETURN TO:

City of Coachella
1515 Sixth Street
Coachella, California 92236
Attn: City Manager

Exempt from Recording Fee
Pursuant to Government
Code Section 27383

Space above this line for Recorder's Use Only

DEVELOPMENT AGREEMENT

By and Between

THE CITY OF COACHELLA

And

PSAV, LLC, a Delaware Limited Liability Company

And

LLSE HOLDINGS, LLC, a New Jersey Limited Liability Company

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