AGENDA ITEM NO. 5.a.

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Garden Grove City Council
and
Garden Grove Agency for Community Development

To:	Matthew Fertal	From:	Economic Development
Dept:	Agency Director		
Subject:	DISPOSITION AND DEVELOPMENT AGREEMENT WITH LAND & DESIGN, INC. AND RELATED ENVIRONMENTAL REVIEW	Date:	June 14, 2011

OBJECTIVE

The purpose of this report is to provide information to the Garden Grove City Council (the "City") and the Garden Grove Agency for Community Development (the "Agency") in connection with a joint Public Hearing to consider the approval of a Disposition and Development Agreement (the "Agreement") between the Agency and Land & Design, Inc. (the "Developer") and the adoption of a Negative Declaration related thereto.

The Developer has proposed an Upper Upscale Hotel with approximately nineteen (19) stories and between three hundred (300) and four hundred rooms (400), including not less than ten thousand (10,000) square feet of meeting space (the "Upper Upscale Hotel"), as well as a minimum of ten thousand (10,000) and a maximum of sixty-five thousand (65,000) square feet of retail/restaurant/ entertainment, including one (1) or more restaurants (the "Retail/ Restaurant/Entertainment Component"), and a Parking Structure. In addition, Developer has also proposed up to two (2) Limited/Select/Focus Service/Suites/Extended Stay type hotels (collectively, the "Limited Service Hotels" and each a "Limited Service Hotel"), consisting of approximately 125 – 200 rooms each (the "Project").

At a minimum, the Developer will be required to construct the following: the Retail/Restaurant/Entertainment Component, the Parking Structure plus (i) an Upper Upscale Hotel consisting of not less than 400 rooms, or (ii) an Upper Upscale Hotel of 300 or more rooms, plus not less than one (1) additional Hotel of not less than one hundred twenty-five (125) rooms, or (iii) two (2) Upper Upscale Hotels consisting in the aggregate of not less than four hundred fifty (450) rooms.

BACKGROUND/DISCUSSION

The Developer is a diversified real estate company headquartered in San Diego, California.

On March 22, 2011, the Developer submitted a conceptual site plan and profoma for Site C. Staff believes that the project's development program, including the Upper Upscale Hotel, including a conference center, is consistent with the City's and Agency's vision for this site. As a result, staff has prepared a proposed Disposition and Development Agreement (Attachment 1), which is attached for City Council and Agency review.

Summary of the Disposition and Development Agreement (AGREEMENT) Proposed Deal Points

The Agreement contains the business terms for implementing the Project. It establishes the obligations and responsibilities for both the Agency and the Developer. The Agreement terms are summarized as follows:

1. Land Purchase Price

The Agency will convey the site to the Developer free of encumbrances and at no cost. The Agency is required to pay for the cost of all off-site infrastructure required as a condition of development approval. The site is comprised of 14 parcels some of which are owned by the Agency ("Agency Parcels") and some of which are owned by third parties ("Third Party Property") as shown on Attachment 1. As a condition precedent to the closing, the Agency will seek to acquire the Third Party Property. The budget for the Agency Improvement Costs, including acquisition of the Third Party Property, is estimated to be $15.8 Million, which includes the land acquisition, tenant relocation, and demolition of building structures.

2. Upper Upscale Covenant Consideration

The Developer will receive an amount equivalent to fifty-eight percent (58%) of the Annual Transient Occupancy Tax (TOT) generated through June 30, 2034, which is the sunset of the redevelopment project area. After the Developer receives an amount equal to fifty-eight percent (58%) of the TOT, the Agency will deduct an amount equal to fourteen and 29/100 percent (14.29%) of the Agency Improvement Costs each year until the total amount of the Agency Improvement Costs has been recouped by the Agency, the Developer will receive an amount equal to fifty percent (50%) of all TOT, Sales Tax and Net Increment Revenues for twelve (12) years from the date on which Completion of Construction occurs.

3. Limited Service/Select Service Covenant Consideration

The Developer will receive an amount equivalent to fifty percent (50%) Annual Transient Occupancy Tax (TOT), Sales Tax and Revenue and Net Tax Increment generated by the Limited Service Hotel(s) for a ten (10) year period.

4. The Sunbelt Property Lease (Mann)

The Developer will assume all terms and conditions of the lease between the Agency and Mann. The Developer will receive an amount equal to fifty percent (50%) of the Net Tax Increment Revenues and Sales Tax Revenues generated by the Sunbelt Property for a period of ten (10) years from the date on which Completion of Construction occurs.

5. Deposit

Developer will pay the Agency a Deposit of $50,000, which Deposit may be used by the Agency to cover its costs in connection with implementation of this Agreement. The unexpended portion of the Deposit will be (1) returned to the Developer at the Close of Escrow; (2) returned to the Developer upon termination of the Agreement if the Agreement is terminated without default of the Developer; or (3) retained by the Agency in the event termination of the Agreement is a result of default by the Developer.

6. Site Remediation

The Agency will pay up to $250,000 for site remediation if it is determined that site remediation is required.

7. Escrow

Escrow is scheduled to close on/or before June 15, 2012.

8. Closing-Time Extension

As long as the Franchise Agreement is still operative, the schedule of performance allows for two (2) - six (6) month extensions.

9. Reuse Valuation

Based on cost and revenue numbers provided by the Developer, Horwath, Hospitality and Leisure, LLC (Horwath), the Agency's economic consultant, concluded that the Project's development costs compared to the estimated income and development values reasonably expected from the Project, generates a negative reuse value inclusive of the Agency's assistance of Thirty Five Million Four Hundred Thousand Dollars ($35,400,000). This financial gap is consistent within industry standards for a project of this type.

Summary Report

In accordance with Section 33433 of the California Health and Safety Code, Horwath prepared a Summary Report (Attachment 4) to inform the City Council, Agency and the public about the transaction. As such, Horwath has determined that the consideration is not less than the reuse value. The Summary Report includes the following: the cost of the Agreement to the Agency; the estimated fair market value of the property; the estimated fair reuse value of the property; the consideration to the Agency, and an explanation of how the sale or lease will assist in the elimination of blight. As such, Horwath has determined that the consideration is not less than the fair market value at its highest and best use.

Environmental Review

In conjunction with the preparation of the Agreement, staff has prepared and circulated a Negative Declaration in accordance with the California Environmental Quality Act. The analysis is based, in substantial part, on the Environmental Impact Report certified in conjunction with the 2002 Redevelopment Plan Amendment and the Environmental Impact Report certified in conjunction with the General Plan Update in 2008.

FINANCIAL IMPACT

- It is estimated that this project will generate new City and Agency revenue of $4,400,000 annually when the Project is complete.

Upper Upscale Hotel Project Revenue	$2.9 Million
First Limited Service/Select Service Hotel Project Revenue	$750,000
Second Limited Service/Select Service Hotel Project Revenue	$750,000
Grand Total Revenue	$4.4 Million

- The Project is projected to generate approximately 750 to 1025 construction jobs and permanent and temporary hotel restaurant and retail jobs.

RECOMMENDATION

Staff recommends that the City Council:

- Conduct a joint Public Hearing with the Agency; and

- Adopt the attached Resolution (Attachment 2) consenting to the approval of the Disposition and Development Agreement between the Agency and Land & Design, Inc.

Staff recommends the Agency:

- Conduct a joint Public Hearing with the City Council; and
- Adopt the attached Resolution (Attachment 3) approving the Negative Declaration and the attached Disposition and Development Agreement with Land & Design, Inc. for the development of the 5-acre site in the City of Garden Grove known as Site C.
- Authorize the Agency Director to execute the Disposition and Development Agreement and any other pertinent documents to effectuate the Agreement.

Greg Blodgett

By: GREG BLODGETT
Senior Project Manager

Attachment 1: Disposition and Development Agreement
Attachment 2: City Resolution
Attachment 3: Agency Resolution
Attachment 4: Summary Report
Attachment 5: Negative Declaration

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Approved for Agenda Listing

Matthew Fertal

Matthew Fertal
City Manager

DISPOSITION AND DEVELOPMENT AGREEMENT

By and Between

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT

and

LAND & DESIGN, INC.

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LIST OF EXHIBITS

DISPOSITION AND DEVELOPMENT AGREEMENT

This **DISPOSITION AND DEVELOPMENT AGREEMENT** (this "Agreement") dated for purposes of identification only as of June __, 2011 (the "Date of this Agreement"), is entered into by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), and **LAND & DESIGN, INC.**, a California corporation (the "Developer").

RECITALS

A. The Redevelopment Plan for the Garden Grove Community Project was approved and adopted by the City Council of the City of Garden Grove by Ordinance No. 1339, as amended by Ordinance Nos. 1388, 1476, 1548, 1576, 1642, 1699, 1760, 2035 and 2232; said ordinances and the Redevelopment Plan as so approved and amended (the "Redevelopment Plan") are incorporated herein by reference. The property within the geographical boundaries of the Redevelopment Plan are described in the Redevelopment Plan and are referred to as the "Project Area."

B. The property which is the subject of this Agreement is approximately five acres (5) acres located within the boundaries of the Project Area and is comprised of certain property owned by the Agency ("Agency Property") and property currently owned by third parties ("Third Party Property"). The Agency Property and Third Party Property are shown on the Site Map (Exhibit A) and legally described in the Legal Description (Exhibit B) (the "Site").

C. The Developer has proposed a hotel with approximately nineteen (19) stories and between three hundred (300) and four hundred rooms (400), including not less than ten thousand (10,000) square feet of meeting space (collectively, the "Upper Upscale Hotel"), as well as a minimum of ten thousand (10,000) and a maximum of sixty-five thousand (65,000) square feet of retail/restaurant/entertainment, including one (1) or more restaurants (the "Retail/Restaurant/Entertainment Component"), a Parking Structure, all as more specifically described in the Scope of Development (Exhibit C), and such other improvements as may be required by the Land Use Approvals (collectively, the "Upper Upscale Hotel Component"). In addition, Developer has also proposed up to two (2) Limited/Select/Focus Service/Suites/Extended Stay type hotels (collectively, the "Limited Service Hotels" and each a "Limited Service Hotel"), consisting of approximately 125 – 200 rooms each. The Limited Service Hotels are more specifically described in the Scope of Development. The Upper Upscale Hotel, the Limited Service Hotels, Retail/Restaurant/Entertainment Component, Parking Structure, and the other improvements required to be constructed on the Site pursuant to this Agreement and the Land Use Approvals are collectively referred to herein as the "Developer Improvements" or "Project," and individually "Separate Component(s)."

D. The Agency and the Developer desire by this Agreement, and subject to its terms and provisions, (1) to provide for the Agency, (a) to sell the Site to the Developer in accordance with the terms contained herein, (b) to pay the Covenant Consideration, (c) to accommodate, if economically feasible and legally permissible, the financing of the Parking Facility, and (d) to

construct the Agency Improvements, and (2) for the Developer (a) to purchase the Site, and (b) to construct and operate the Developer Improvements.

E. The development and operation of the Project on the Site, as provided in this Agreement, is in the vital and best interest of the City and the welfare of its residents and is in accordance with the public purposes and provisions of applicable state and local laws. Without limiting the foregoing, development and operation of the Project will result in substantial benefits to the City and Agency, which includes (i) elimination of blight, (ii) job creation and enhanced revenues to the City resulting from construction and operation of the Project, including property taxes, sales taxes, and transient occupancy taxes, (iii) enhanced marketability that is likely to extend out-of-town leisure and convention visitors' lengths of stay in the City as a result of additional attractions and high-quality retail shopping and dining opportunities, and (iv) additional high-quality entertainment, restaurant and retail opportunities for the residents of Garden Grove and the surrounding area(s).

NOW, THEREFORE, the Agency and the Developer hereby agree as follows:

100. INTRODUCTORY PROVISIONS

101. Definitions. Capitalized terms within this Agreement shall have the meanings set forth below, or if not defined in this Section 101, shall have the meaning ascribed thereto when such terms are first used herein:

"Agency" means the Garden Grove Agency for Community Development, a public body, corporate and politic, exercising governmental functions and powers and organized and existing under Chapter 2 of the Community Redevelopment Law, and any assignee of or successor to its rights, powers and responsibilities.

"Agency Director" means the executive director of the Agency, or his designee.

"Agency Improvements" is defined in Section 301.2.

"Agency Improvement Costs" is defined in Section 301.2.

"Agency Property" means that certain property shown as Agency Property on the Site Map and described in the Legal Description.

"***Agency's Conditions Precedent***" is defined in Section 205.1.

"Agreement" means this Disposition and Development Agreement by and between the Agency and Developer, including all exhibits.

"***ALTA Policies and Endorsements***" is defined in Section 203.

"Amendment/Estoppel Costs" is defined in Section 621.

"Applicable Covenants Consideration Period" means, with respect to any portion of the Site and/or Developer Improvements, the period during which any of the Covenants

Consideration with respect to the applicable portion of the Site and/or Developer Improvements is required to be paid pursuant to Sections 409, 410, and 411 hereof.

"Assignment and Assumption Agreement" is attached hereto as Exhibit E and incorporated herein by reference.

"Breach" is defined in Section 501.

"CFD" means a community facilities district formed pursuant to Mello-Roos Community Facilities Act of 1982 (Government Code §§ 53311 *et seq.*).

"CFD Bonds" means bonds issued by a CFD.

"CFD Financing" is defined in Section 301.3.

"City" means the City of Garden Grove, a California municipal corporation.

"Closing" or ***"Close of Escrow"*** is defined in Section 201.5.

"Closing Date" is the date upon which conveyance of the Site is consummated in accordance with Section 201.5 hereof.

"CLTA Policy" is defined in Section 203.

"Commence Construction" or ***"Commencement of Construction"*** means the commencement of construction of the applicable portion of the Developer Improvements pursuant to a validly issued building permit, it being agreed that the pouring of foundations for such portion of the Developer Improvements constitutes commencement of construction thereof (without limiting other indicia of such commencement).

"Community Redevelopment Law" means California Health and Safety Code Sections 33000, *et seq.* as the same now exists or may hereafter be amended.

"Completion of Construction" or ***"Complete(s) Construction"*** or ***"Completed Construction"*** or "**Completing Construction**" means the completion of construction of the Developer Improvements, or any applicable Phase thereof, as evidenced by a final Certificate of Occupancy issued by the City, certification by the Project Architect and the Agency Director that the Developer Improvement are complete in accordance with the Construction Drawings and, in the case of a Hotel, the Hotel and all its rooms are open and available to the public.

"Conceptual Site Plan" is attached hereto as Exhibit J and incorporated herein by reference and generally depicts the proposed development and use of the Site, as the same may be hereafter modified as provided in this Agreement.

"Conditions Precedent" shall mean the Agency's Conditions Precedent and Developer's Conditions Precedent set forth in Section 205.

"***Conditions Precedent to Third Party Acquisition***" is defined in Section 201.2

"Construction Commencement Date" means, with respect to each Hotel, the date that is set forth in the Schedule of Performance as the date upon which the Commencement of Construction of such Hotel is to occur.

"Construction Drawings" is defined in Section 302.

"Construction Financing" is defined in Section 311.1 hereof.

"Construction Lender" is defined in Section 311.

"Conveyance" means the conveyance of the Site to the Developer by Grant Deed.

"Cost of the Agency Improvements" means the actual and direct costs of the Agency Improvements.

"Cost Reimbursement Deposit" is defined in Section 201.3.

"Covenants" means the covenants, obligations and promises of Developer hereunder, including without limitation the covenants, obligations and promises set forth in Section 102.2, 103, 204.2, 204.3, 304 through 309, inclusive, 400, 503 and 603, which Covenants shall survive the Closing, run with the land and be binding upon heirs, successors and assigns of Developer.

"Covenants Consideration" means, collectively, the aggregate amounts to be paid to Developer pursuant to Sections 409, 410, 411 and 412 hereof.

"***Covenants Consideration Computation Example***" is attached hereto as Exhibit M and incorporated herein by reference.

"Date of this Agreement" means the date of approval of the Agreement by the Agency.

"Declaration" means a Declaration of Covenants, Conditions and Restrictions which will be entered into by the parties prior to Closing which Declaration shall address the management, operation, rules of conduct, security and access rights and other easements with respect to the Project.

"Default" is defined in Section 501.

"Deposit" is defined in Section 201.3.

"Developer" means Land & Design, Inc., a California corporation, and any affiliate, assignee or successor thereto permitted pursuant to the terms of this Agreement. As of the date of this Agreement, Matthew Reid and David Rose have, in the aggregate, (i) at least a fifty-one percent (51%) ownership interest in Land & Design, Inc., and (ii) subject to the customary rights of other non-managerial members, partners or shareholders, as applicable, operational and managerial control of Developer and, subject to Section 103 hereof, will retain same until the issuance of Release of Construction Covenants.

"Developer Improvements" means the Phase 1 Developer Improvements and so much of the Phase 2 Developer Improvements as Developer elects, in Developer's sole discretion, to develop (and without the obligation to develop the same), each as generally described in Recital C above and more particularly described herein and in the Scope of Development.

"Developer Parties" means collectively Developer, Matthew Reid and David Rose.

"Developer/Agency Request" is defined in Section 621.

"***Developer's Conditions Precedent***" is defined in Section 205.2.

"Development Agreement" means a development agreement pursuant to Government Code Section 65864 *et seq*.

"Due Diligence Date" means ninety (90) days following the later of (a) Date of this Agreement or (b) the date the Agency has fee title to all of the Site.

"Enforced Delay" is defined in Section 602.

"Environmental Law" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC §§ 9601 *et seq*.), the Hazardous Materials Transportation Act, as amended (49 USC §§ 1801 *et seq*.), the Resource Conservation and Recovery Act of 1976, as amended (42 USC §§ 6901 *et seq*.), the Toxic Substances Control Act (15 USC §§ 2601 *et seq*.), the Insecticide, Fungicide, Rodenticide Act (7 USC §§ 136 *et seq*.), the Superfund Amendments and Reauthorization Act (42 USC §§ 6901 *et seq*.), the Clean Air Act (42 USC §§ 7401 *et seq*.), the Safe Drinking Water Act (42 USC §§ 300f *et seq*.), the Solid Waste Disposal Act (42 USC §§ 6901 *et seq*.), the Surface Mining Control and Reclamation Act (30 USC §§ 1201 *et seq*.), the Emergency Planning and Community Right to Know Act (42 USC §§ 11001 *et seq*.), the Occupational Safety and Health Act (29 USC §§ 655 and 657), the California Underground Storage of Hazardous Substances Act (Health and Safety Code §§ 25280 *et seq*.), the California Hazardous Substances Account Act (Health & Safety Code §§ 25300 *et seq*.), the Porter-Cologne Water Quality Act (Water Code §§ 13000 *et seq*.), together with any amendments of or regulations promulgated thereunder and any other federal, state, and local laws, statutes, ordinances, or regulations now in effect that pertain to occupational health or industrial hygiene.

"Escrow" is defined in Section 201.5.

"Escrow Agent" is defined in Section 201.5.

"Franchisor" is defined in Section 103.6.

"Franchise Agreement" is defined in Section 103.6.

"Governmental Requirement(s)" means all valid and enforceable laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State, the County, the City or any other political subdivision in which the Site is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the Agency, the Developer or

the Site, including, without limitation, all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation (to the extent applicable), Labor Code Sections 1770 *et seq.*, the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

"Grant Deed" means a grant deed in the form of Exhibit F attached hereto and incorporated herein by reference, by which the Agency shall convey fee title to the Site to Developer.

"Hazardous Materials" means any toxic substance, material, or waste which is now regulated by any local governmental authority, the State of California, or the United States Government under any Environmental Law including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117, or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) a petroleum or refined petroleum product, including without limitation petroleum-based paints and solvents, (vi) asbestos, (vii) polychlorinated biphenyls, (viii) methyl tertiary butyl ether (MTBE); (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (x) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1317), (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, (xii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.*, (xiii) any flammable or explosive materials, (xiv) a radioactive material, or (x) lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, PCBs and similar compounds and including any different products and materials which have been found to have adverse effects on the environment or the health and safety of persons.

"Holder" is defined in Section 311.2.

"Hotel(s)" means the Upper Upscale Hotel and, if constructed, the Limited Service Hotels, and "***Hotel***" means any one (1) of the Upper Upscale Hotel and the Limited Service Hotels.

"Hotel Operator" is defined in Section 103.6.

"Indemnify" means indemnify, defend, pay for and hold harmless.

"Indemnitees" means the Agency and the City, and their respective representatives, officers and employees.

"Insurance" is defined in Section 306 *et seq.*

"Land Use Approvals" is defined in Section 303.

"Legal Description" means the legal description of the Site attached hereto as Exhibit B and incorporated herein by reference.

"Liabilities" means liabilities, suits, actions, claims, demands, penalties, damages (including without limitation, penalties, fines, and monetary sanctions), giving rise to losses, costs or expenses (including, without limitation, consultants' fees, and reasonable attorneys' fees) of any kind or nature and for any damages, including damages to property or injuries to person, including accidental death, (including reasonable attorneys' fees and costs in connection therewith).

"Limited Service Hotels" is defined in Recital C above, and, subject to Section 301.1 hereof, the minimum standards for which are described therein and in Section 301.1 and in Scope of Development. "***Limited Service Hotel***" means one of the Limited Service Hotels.

"Loan Balance" means, with respect to any Holder and its mortgage or deed of trust, the sum of the following amounts: (a) the aggregate unpaid amount (including, but not limited to, principal, protective advances, interest, fees, costs and expenses) owing to the Holder under the loan documents ("Holder Loan Documents") secured by such Holder's mortgage or deed of trust upon the Site (or any part thereof) immediately prior to the revesting of title in Agency (referred to herein as "Revesting") in accordance with this Agreement, whether Agency exercises such right of Revesting prior to such Holder's acquisition of Site (or portion thereof) by foreclosure or deed in lieu of foreclosure, or after completion of a foreclosure under such Holder's mortgage or deed of trust (or acceptance and recordation of a deed-in-lieu of such foreclosure); plus (b) all third party costs and expenses reasonably incurred by such Holder (and/or such Holder's Nominee) under, or in connection with the enforcement of the applicable Holder Loan Documents, including, without limitation, foreclosure costs and expenses (or deed-in-lieu of foreclosure costs and expenses) (such costs and expenses to include, but not be limited to, title charges, default interest, appraisals, environmental assessments and reasonable attorneys' fees and expenses); plus (c) if Agency commences the exercise of its Revesting after such Holder's (or its Nominee's) acquisition of the Site (or any portion thereof) by foreclosure or deed-in-lieu of foreclosure, all third party costs and expenses, if any, reasonably incurred by such Holder (and/or such Holder's Nominee) in connection with the management and operation of the Site subsequent to the date upon which a foreclosure under such mortgage or deed of trust is completed [or such Holder or its Nominee accepts a deed in lieu of foreclosure]; plus (d) all third party costs and expenses reasonably incurred by such Holder (and/or such Holder's Nominee) in connection with the construction, Developer Improvements (including tenant improvements), restoration, repair and equipping of the Site (or any portion thereof); plus (e) if Agency commences the exercise of its right of Revesting after such Holder's (or its Nominee's)

acquisition of the Site (or any portion thereof) by foreclosure or deed-in-lieu of foreclosure, an amount equal to the interest that would have accrued on the aggregate of the amounts described above under the Holder Loan Documents had all such amounts become part of the debt secured by such Holder's mortgage or deed of trust and had such debt continued in existence from the date of such foreclosure (or acceptance of a deed-in-lieu of foreclosure) by such Holder or its Nominee to the date the Revesting occurs and Agency reenters in accordance with this Agreement. (For purposes of this definition, the Agency's right to Revest in accordance with this Agreement shall not be deemed to have occurred prior to the date the Loan Balance is paid to the Holder (or its Nominee) in accordance with the Agreement). Each Holder (or its Nominee) shall provide Agency with its calculations of the Loan Balance and documents in support thereof within ten (10) days after written demand therefore by the Agency.

"Memorandum of Agreement" is attached hereto as Exhibit K and incorporated herein by reference.

"***Negotiated Purchase Agreement***" is defined in Section 201.1.

"***Net Tax Increment Revenues***" means seventy percent (70%) of the Tax Increment Revenues.

"Nominee" means an entity which is owned and controlled by any Holder.

"Notice" is defined in Section 601.

"Official Records" means the official records of the Office of the Registrar Recorder of Orange County, California.

"***Parcel(s)***" means one or more of the parcels into which the Site is divided pursuant to the Parcel Map.

"Parcel Map" means a parcel map, lot line adjustment and/or other subdivision in compliance with all applicable laws, creating five (5) or more separate legal parcels (with each of the Hotels, the Parking Structure and the Retail/Restaurant/Entertainment Component (and/or individual pads within the Retail/Restaurant/Entertainment Component) to be located on separate legal parcels) to the extent and in size and location required by Developer and approved by the Agency acting in its reasonable discretion.

"Parking Structure" is the multi-level parking structure described in the Scope of Development.

"***Permitted Transferee[s]***" is defined in Section 103.2.

"**Phase**" means the Phase 1 Developer Improvements or the Phase 2 Developer Improvements, as applicable.

"***Phase 1 Developer Improvements***" means the Retail/Restaurant/Entertainment Component, the Parking Structure plus (i) an Upper Upscale Hotel consisting of not less than 400 rooms, or (ii) an Upper Upscale Hotel of 300 or more rooms plus not less than one (1)

additional Hotel of not less than one hundred twenty-five (125) rooms, or (iii) two (2) Upper Upscale Hotels consisting in the aggregate of not less than four hundred fifty (450) rooms.

"***Phase 2 Developer Improvements***" means the Developer Improvements that are not included in the Phase 1 Developer Improvements.

"Phase 1 Environmental Assessment" means an assessment to identify Recognized Environmental Concerns defined under ASTM Standards E-1527-00 as the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, past release, or material threat of a release of any hazardous substance or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property.

"Phase II Environmental Assessment" means an evaluation of the Recognized Environmental Concerns identified in the Phase I Environmental Site Assessment for the purpose of providing sufficient information regarding the nature and extent of contamination.

"Pre-Approved Limited Service Flag(s)/Operator(s)" is attached hereto as Exhibit L and incorporated herein by reference.

"Pre-approved Retail/Restaurant/Entertainment Tenant(s)/Operator(s)" is attached hereto as Exhibit L and incorporated herein by reference.

"Pre-Approved Upper-Upscale Flag(s)/Operator(s)" is attached hereto as Exhibit L and incorporated herein by reference.

"Presence" means the presence, release, use, generation, discharge, storage and disposal of any Hazardous Materials.

"Prevailing Wage and Public Works Requirements" are attached hereto as Exhibit I and incorporated herein by reference.

"Project" means the development and operation of the Developer Improvements.

"Project Architect" means the architect retained by the Developer to prepare the Construction Drawings and supervise construction of the Project.

"Project Area" is defined in Recital A.

"Recognized Environmental Concerns" means the presence or possible presence of any hazardous substances or petroleum products on the Site under conditions that indicate an existing or possible release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the Site or into the ground, ground water, or surface water of the Site. The term is not intended to include de minimis conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. Conditions determined to be de minimis are not Recognized Environmental Conditions.

"Redevelopment Plan" is defined in Recital A.

"Release of Construction Covenants" means the document which evidences Developer's satisfactory Completion of Construction of the Developer Improvements, or a part thereof, as set forth in Section 310, in the form of Exhibit G attached hereto and incorporated herein by reference.

"Remaining Revenues" is defined in Section 4.09(b).

"Retail/Restaurant/Entertainment Component" is defined in Recital C and, as provided therein, means the retail/restaurant/entertainment portion of the Upper Upscale Hotel, consisting of a minimum of ten thousand (10,000) square feet and a maximum of sixty-five thousand (65,000) square feet, including at least one (1) restaurant, as shown on the Conceptual Site Plan.

"Revesting" is defined in the definition of "Loan Balance."

"Right of Entry" is described in Section 204 hereof and attached hereto as Exhibit H and incorporated herein by reference.

"Sales Tax Revenue" means the sales tax received by the City pursuant to the Bradley-Burns Uniform Sales and Use Tax Law (Revenue Code Sections 7200 *et seq.*) with respect to applicable Separate Components.

"Separate Components of the Developer Improvements" means each Hotel, the Retail/Restaurant/Entertainment Component and the Parking Structure, and/or the separate parcels comprising each.

"Schedule of Performance" means that certain Schedule of Performance attached hereto as Exhibit D and incorporated herein by reference, setting out the dates and/or time periods by which certain obligations set forth in this Agreement must be accomplished. The Schedule of Performance is subject to revision from time to time due to the application of Section 602 hereof and as set forth therein or as otherwise mutually agreed upon in writing between Developer and the Agency Director, and the Agency Director is authorized to make such revisions as he deems reasonably necessary.

"Scope of Development" means that certain Scope of Development attached hereto as Exhibit C, which describes the scope, amount and quality of development of the Developer Improvements to be completed by Developer and Agency Improvements to be completed by Agency pursuant to the terms and conditions of this Agreement.

"Site" means, collectively, the Agency Property and Third Party Property.

"Site Condition" is defined in Section 204.2.

"Site Map" means the map of the Site which is attached hereto as Exhibit A and incorporated herein by reference.

"State" means the State of California.

"Sunbelt Property" is that certain Third Party Property as shown on the Site Map. Agency has a right to lease the Sunbelt Property and is willing to assign that lease to Developer hereunder at the Closing pursuant and subject to Section 201.

"Tax Increment Revenues" means the total amount of taxes allocated to and received by the Agency pursuant to Health & Safety Code Section 33670(b) with respect to the applicable Separate Component(s).

"Tenant(s)" mean the tenant(s) of the Retail/Restaurant/Entertainment Component.

"Third Party Property" means that certain property shown on the Site Map as Third Party Property and owned by third parties, the legal descriptions and assessor parcel numbers of which are set forth on Exhibit B attached hereto. Without limiting the foregoing, Developer shall have the right to elect to have the Sunbelt Property constitute a portion of the Third Party Property for purposes of this Agreement, as provided in and pursuant to Section 201.

"Title Company" is defined in Section 202 hereof.

"TID Assessment" means an assessment pursuant to the Property and Tourist Improvement which was formed December 13, 2010 by the City of Garden Grove and the City of Anaheim to fund the marketing of the Anaheim/Orange County Visitors and Convention Bureau and other Anaheim Resort improvements.

"Title Polices" means the CLTA Policy and the ALTA Policies and Endorsements as defined in Section 203 hereof.

"Title Report" is defined in Section 202.

"Transfer" means any total or partial sale, transfer, conveyance, assignment, subdivision, financing, refinancing, lease or sublease of the Site or any portion thereof.

"Transferee" means a voluntary or involuntary successor in interest to the Developer.

"Transient Occupancy Tax Revenues" means those revenues imposed and collected by the City with respect to the Hotel pursuant to Section 3.12.010 of the Garden Grove Municipal Code.

"Upper Upscale Hotel Component" is defined in Recital C and includes the Upper Upscale Hotel, the Retail/Restaurant/Entertainment Component, the Parking Structure and such improvements as may be required by the Land Use Approvals.

"Upper Upscale Hotel" is defined in Recital C above and, as provided therein, means a Hotel, the minimum standards for which are described therein and in Section 301.1 and the Scope of Development.

102. Representations, Warranties and Covenants.

102.1 Agency Representations Warranties and Covenants. The Agency hereby makes the representations, warranties and covenants contained below in this Section 102.1. All of

the representations and warranties set forth in this Section 102.1 are effective as of the Date of this Agreement, are true in all material respects as of the Date of this Agreement, and shall be true in all material respects as of the Closing Date, and each shall survive the execution of this Agreement without limitation as to time.

(a) The Agency is a public body, corporate and politic, validly created and existing pursuant to the Community Redevelopment Law, which has been authorized to transact business pursuant to action of the City. The execution and delivery of this Agreement by the Agency has been fully authorized by all requisite actions.

(b) The Agency's execution and delivery of this Agreement does not violate any applicable laws, regulations, or rules nor to the best of Agency's knowledge after due inquiry, will it constitute a breach or default under any contract, agreement, or instrument to which the Agency is a party, or any judicial or regulatory decree or order to which the Agency is a party or by which it is bound; provided however that while Agency believes this Agreement to be enforceable in accordance with its terms, Agency makes no representations or warranties regarding the enforceability hereof.

(c) The Agency has not made an assignment for benefit of creditors, filed a petition in bankruptcy, been adjudicated insolvent or bankrupt, petitioned a court for the appointment of any receiver of or trustee for it or any substantial part of its property, or commenced any proceeding relating to the Agency under any reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or later in effect. There has not been commenced nor is there pending against the Agency any proceeding of the nature described in the first sentence of this subsection (c). No order for relief has been entered with respect to the Agency under the Federal Bankruptcy Code.

(d) All documents, instruments and other information delivered by the Agency to Developer pursuant to this Agreement, other than documents, instruments and other information received by Agency from third parties, are, to the best of Agency's knowledge, true, accurate, correct and complete in all material respects.

(e) The Agency has taken all legally required actions, and no further consent, approval, or authorization of any third person is required with respect to the Agency's execution delivery, and performance of this Agreement, other than consents, approvals, and authorizations which have already been unconditionally given.

(f) Contingent upon the acquisition of the Third Party Property, the Agency has or will have at the Closing, full right, power and lawful authority to grant, sell and convey the Third Party Property as provided herein.

(g) The Agency is not a "foreign person" within the parameters of Foreign Investors in U.S. Real Property Tax Act ("FIRPTA"), or is exempt from the provisions of FIRPTA, or the Agency has complied and will comply with all the requirements under FIRPTA.

(h) Until the Closing Date and thereafter, the Agency shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 102.1 not to be true as of the Closing Date, give written notice of such fact or condition to Developer as soon as is reasonably practicable.

Each of the foregoing items (a) through (h), inclusive shall be deemed to be ongoing representations, warranties and covenants.

102.2 Developer's Representations, Warranties and Covenants. Developer hereby makes the representations, warranties and covenants contained below in this Section 102.2. All of the representations and warranties set forth in this Section 102.2 are effective as of the Date of this Agreement, are true in all material respects as of the Date of this Agreement, and shall be true in all material respects as of the Closing Date, and each shall survive the execution of this Agreement without limitation as to time.

(a) Developer is a duly organized California corporation and in good standing under the laws of the State of California and is authorized to carry on its business in California as such business is now conducted and to own and operate its properties and assets now owned and being operated by it, and as set forth in and anticipated by this Agreement. Developer has full right, power and lawful authority to enter into this Agreement and the execution and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of Developer. Developer has provided the Agency with true and correct copies of documentation reasonably acceptable to the Agency Director, or his/her designee, designating the party authorized to execute this Agreement on behalf of Developer.

(b) Developer's execution, delivery and performance of its obligations under this Agreement will not violate any applicable laws, regulations, or rules nor to the best of Developer's knowledge after due inquiry, will it constitute a breach or default under any contract, agreement, or instrument to which Developer is a party, or any judicial or regulatory decree or order to which Developer is a party or by which it is bound.

(c) Developer has not made an assignment for the benefit of creditors, filed a petition in bankruptcy, been adjudicated insolvent or bankrupt, petitioned a court for the appointment of any receiver of or trustee for it or any substantial part of its property, or commenced any proceeding relating to Developer under any reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or later in effect. There has not been commenced nor is there pending against Developer any proceeding of the nature described in the first sentence of this subsection (c). No order for relief has been entered with respect to Developer under the Federal Bankruptcy Code.

(d) All documents, instruments, and other information delivered by Developer to the Agency pursuant to this Agreement are, to the best of Developer's knowledge, true, accurate, correct and complete in all material respects.

(e) This Agreement and all documents to be delivered by Developer pursuant to this Agreement, when executed by Developer and delivered, shall constitute the legal, valid and binding obligation of Developer. The Developer has taken all legally required actions, and no further consent, approval, or authorization of any third person is required with respect to the Developer's execution delivery, and performance of this Agreement, other than consents, approvals, and authorizations which have already been unconditionally given.

(f) Until the Closing Date and thereafter, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this

Section 102.2 not to be true as of the Closing Date, immediately give written notice of such fact or conditions to the Agency.

Each of the foregoing items (a) to (f), inclusive shall be deemed to be ongoing representations, warranties and covenants.

102.3 Agency and Developer Representation Re Authority and Enforceability. Agency and Developer hereby covenant, represent and warrant to each other that neither will assert the lack of authority or enforceability of this Agreement against the other.

103. Transfers of Interest in Site or Agreement.

103.1 Prohibition Against Transfer Prior to Release of Construction Covenants. The qualifications and identity of Developer are of particular concern to the Agency. It is because of those qualifications and identity that the Agency has entered into this Agreement with Developer. Except as expressly set forth in Section 103.2 below, for the period commencing upon the Date of this Agreement and until the issuance of the Release of Construction Covenants, no Transferee shall acquire any rights or powers under this Agreement, nor shall Developer make any Transfer, of the whole of the Site or any part, or the Developer Improvements without the prior written approval of the Agency, which approval may be granted or withheld in the sole and absolute discretion of the Agency. Following the issuance of the Release of Construction Covenants, any Transfer shall be governed by Section 103.3. Agency and Developer hereby acknowledge that, subject to Section 103.2 below, Developer likely will form separate legal entities to own and develop the separate components (i.e., each Hotel, the Parking Structure, the separate pads comprising the Retail/Restaurant/Entertainment Component, etc.) of the Developer Improvements.

103.2 Permitted Transfers. Notwithstanding any other provision of this Agreement to the contrary, both before and after the issuance of the Release of Construction Covenants, the Agency approval of an assignment of this Agreement or Transfer of the Site (or any portion thereof), shall not be required in connection with any of the following (each of which shall be "Permitted Transfer"):

(a) The conveyance or dedication of any portion of the Site to the City, Agency or other appropriate governmental agency, or for the purpose of the granting of easements, permits or similar rights to facilitate construction, use and/or operation of the Developer Improvements.

(b) Any Transfer for Construction Financing purposes (subject to such Construction Financing being in compliance with Section 311.1 herein), including the grant of a deed of trust to secure the funds necessary for land acquisition, construction and permanent financing of the Developer Improvements, as applicable.

(c) Any collateral assignment of the Covenant Consideration for purposes of borrowing money to be used on the Project.

(d) Any Transfer to an entity in which (i) Developer and/or Matthew Reid and David Rose, or any combination thereof, retain operational control over the management, development and construction of the Developer Improvements (subject to the right of non-managerial members, partners, or shareholders, as applicable, to exercise voting rights with respect to

so-called "major decisions") and (ii) Developer and/or Matthew Reid and/or David Rose in the aggregate have not less than fifty-one percent (51%) ownership interest; provided, however, that a Transfer to an entity in which Matthew Reid and David Rose in the aggregate have not less than ten percent (10%) ownership interest, or the subsequent reduction of the ownership interest held by Matthew Reid and/or David Rose in any entity, shall be permitted without Agency's approval if such Transfer or reduction is required by an equity participant or joint venture partner as a condition to providing additional funds for the development of the Developer Improvements or applicable portion thereof.

(e) Any Transfer to a Holder, or its Nominee by foreclosure or deed in lieu of foreclosure, or to a third party purchaser at a foreclosure sale or after foreclosure by the Holder or its Nominee.

(f) Any Transfer to a lessee or sublessee of a portion of the Project that is incidental to the primary purpose of the Developer Improvements (by example only, and not as a limitation, lease of restaurant space), provided such lessee or sublessee is consistent with the overall purposes of the Development Improvements.

(g) Any Transfer of a separate legal parcel within the Site and the Hotel(s) thereon after the Applicable Covenants Consideration Period with respect thereto has expired.

103.3 Agency Consideration of Requested Transfer After Release of Construction Covenants. Subject to and in accordance with the provisions of this Section 103.3, and without limiting Developer's rights under Section 103.2 above, the Developer shall have the right, without the Agency's consent, to Transfer (i) the entire Site following issuance of a Release of Construction Covenants with respect to all of the Developer Improvements; and/or (ii) a specific Parcel and the Developer Improvements thereon following issuance of a Release of Construction Covenants with respect to such Parcel and Developer Improvements provided that such Developer Improvements are being operated as a Pre-Approved Upper-Upscale Flag(s)/Operator(s), a Pre-Approved Limited Service Flag(s)/Operator(s), or a Pre-approved Retail/Restaurant/Entertainment Tenant(s)/Operator(s), as applicable. In the event of any other proposed Transfer following the issuance of a Release of Construction Covenants with respect to all of the Developer Improvements, Developer shall deliver written Notice to Agency requesting approval of such Transfer, which Notice shall be accompanied by sufficient evidence regarding the proposed Transferee's net worth, development and operational qualifications and experience, and its financial resources, in sufficient detail to enable the Agency to evaluate the proposed Transferee pursuant to the criteria set forth hereinbelow and as reasonably determined by the Agency. In this regard, and to the extent approval is required by this Section 103.3, the Agency agrees that it will not unreasonably withhold approval of a request of a Transfer made after the issuance of the Release of Construction Covenants with respect to the applicable portion of the Site. The Agency shall evaluate each proposed Transferee over which Agency has approval rights on the basis of its qualifications and experience, and its financial commitments and resources. Agency may not disapprove any such proposed Transferee that demonstrates to the reasonable satisfaction of the Agency that the transferee/assignee or its guarantor has a net worth sufficient to provide the prerequisite equity and access to debt offered by an institutional commercial real estate lender so as to permit the financing of the acquisition and operation of the Developer Improvements located on the applicable portion of the Site and transferee/assignee and/or its contract manager or the individual within the contract management

entity responsible for management of such Developer Improvements has at least ten (10) years recent experience owning or operating hotel/retail/restaurant projects similar to such Hotel(s).

103.4 Assignment and Assumption Agreement. An executed Assignment and Assumption Agreement (or a document effecting a Transfer that includes the substantive provisions of the Assignment and Assumption Agreement) shall also be required for all proposed Transfers prior to the expiration of the Redevelopment Plan with respect to the portion of the Site so transferred whether or not Agency's consent is required with respect to such Transfer. If the Transfer involves the obligation of the Transferee to construct specific Developer Improvements, Agency is hereby granted the right to compel Developer to enforce any such construction obligation. Upon the full execution of an Assignment and Assumption Agreement, the Transferee thereafter shall have all of the rights and obligations of the Developer under this Agreement with respect to the portion of the Site and the Developer Improvements Transferred thereto and/or developed thereby.

103.5 Agency Action Re Requested Transfer. Within thirty (30) days after the receipt of a written Notice requesting Agency approval of a Transfer pursuant to Sections 103.3 and 103.7, the Agency shall either approve or disapprove such proposed assignment or shall respond in writing by stating what further information, if any, the Agency reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, Developer shall promptly furnish to the Agency such further information as may be reasonably requested.

103.6 Initial Selection and/or Transfers with Respect to the Hotel Operator, Franchisor, and Tenants; Approval of the Franchise Agreement. The selection of the operator ("Hotel Operator") and brand or franchisor for a Hotel (the "Franchisor"), as well as the franchise agreement or management agreement between Franchisor and Developer for such Hotel (the "Franchise Agreement"), shall be subject to approval by the Agency, acting in its reasonable discretion and based on consistency with the quality of the Hotel as described in Section 301.1 and the Scope of Development both initially and until expiration of the Applicable Covenants Consideration Period for such Hotel. During the Applicable Covenants Consideration Period, Agency shall also have the right to approve, acting in its reasonable discretion, the Tenants based on consistency with the quality of the Hotel as required herein. Notwithstanding anything to the contrary contained herein, the Pre-Approved Upper-Upscale Flag(s)/Operator(s), Pre-Approved Limited Service Flag(s)/Operator(s) and Pre-approved Retail/Restaurant/Entertainment Tenant(s)/Operator(s) are each hereby approved by the Agency for all purposes of this Agreement.

103.7 Transfer of Covenant Consideration. Notwithstanding anything herein to the contrary (i) both before and after the issuance of the Release of Construction Covenants, except as to a collateral assignment described in Section 103.3(c), the approval of an assignment of the Covenant Consideration separate and apart from a Transfer of the Site or the corresponding part thereof (i.e., an assignment of the Covenant Consideration not in conjunction with the Transfer of the applicable portion of the Site and Hotel(s)), shall require the consent of the Agency which consent shall be granted or withheld in the absolute discretion of the Agency; and (ii) no separate or additional approval of an assignment of the applicable Covenant Consideration that is made in conjunction with a Transfer of the Site or the corresponding part thereof shall be required from the Agency.

200. DISPOSITION OF THE SITE

201. Conveyance of the Site to Developer. Subject to the satisfaction of the Conditions Precedent set forth hereinbelow, on or before the date set forth in the Schedule of Performance, but in no event later than the Outside Date, the Agency shall cause the Conveyance of the Site to Developer in the condition described in Sections 201.4, 204.2 and 301.2 and the Scope of Development in consideration for compliance with the terms and conditions of this Agreement and Developer shall accept Conveyance in accordance with the terms of this Section 201.

201.1 Acquisition of Third Party Property by Negotiated Purchase. Subject to the availability of funds, as determined in the absolute discretion of the Agency, the Agency agrees to use its commercially reasonable efforts to acquire by negotiation the Third Party Property, subject to the terms, covenants and conditions of this Agreement, and the Agency may enter into an agreement for the purchase of the Third Party Property (a "Negotiated Purchase Agreement") without further approval by Developer, provided Developer has approved the terms and conditions of the Negotiated Purchase Agreement as it relates to the title and condition of the property being acquired. Notwithstanding anything to the contrary contained herein, and if and as required by Developer, Agency shall assign the lease of the Sunbelt Property to Developer or sublease the Sunbelt Property to Developer, in each case on terms agreed upon by Agency and Developer within the Due Diligence Period. Notwithstanding the foregoing or any such assignment or sublease, Agency shall remain responsible for all (and Developer shall not be required to pay any) rental to be paid under the lease(s) of the Sunbelt Property or otherwise until such time as Developer commences the precise grading of the construction pads located on the Sunbelt Property. In addition, Agency acknowledges that Developer has informed Agency that Developer considers the rent to be paid under the lease between Agency and the owner of the Sunbelt Property to be substantially "above market", and Developer and Agency acknowledge and agree that Agency will remain responsible for and shall pay the difference between the rental amount Developer determines during the Due Diligence Period to be "market" for the Sunbelt Property and the amount that Agency agreed to pay under such lease.

201.2 Acquisition of Third Party Property by Eminent Domain. If the Agency's efforts to negotiate the purchase of the Third Party Property pursuant to Section 201.1 are unsuccessful, the Agency shall consider adoption of a resolution of necessity to acquire the Third Party Property by eminent domain. In no event shall the Agency's decision not to adopt a resolution of necessity to acquire the Third Party Property be considered a Default of the Agency's obligations under this Agreement, it being understood and acknowledged by the Developer that the Agency retains full and complete discretion with respect to the adoption of such a resolution. Subject to the provisions of this Agreement, if the Agency, in its discretion, adopts a resolution of necessity to acquire the Third Party Property, the Agency shall pursue to completion the acquisition of such Third Party Property through eminent domain (or settlement) as long as Developer is not in Default hereunder.

Notwithstanding any other provision of this Agreement to the contrary, if:

(a) The Agency provides to the Developer a copy of an effective, non-appealable order of prejudgment possession as to the Third Party Property for which fee title has not yet been acquired, free and clear of any other right of possession, together with a covenant in favor of Developer that Agency will not abandon the eminent domain action.

(b) The Agency delivers effective possession of the Third Party Property and the Title Company issues to the Developer (and Developer's Holder) the Title Policies provided for in Section 203 hereof (subject only to delivery to Title Company of an agreement mutually approved by Agency for Agency to indemnify Title Company as set forth in Section 204); and

(c) The right of possession of, and the covenant to vest all, subsequently acquired title to the Third Party Property conveyed by the Agency to the Developer is sufficient to allow Developer to close the Construction Financing without additional expense, interest or concessions and commence construction of the Developer Improvements;

then the Agency shall convey and the Developer shall, in such event, accept possession of the Third Party Property and the right to subsequently acquire title thereto, and the Developer shall proceed with the development of the Third Party Property in accordance with the Schedule of Performance, with the date of transfer of possession from the Agency to the Developer treated the same as the date for the Close of Escrow for purposes of the Developer's obligation to proceed with and complete construction of the Developer Improvements.

201.3 Consideration for Site. The consideration for the Conveyance will be the Developer's construction and operation of the Project in accordance with this Agreement, and its promise to otherwise be bound by the Covenants set forth herein; provided however, Developer has deposited with the Agency the sum of Fifty Thousand Dollars ($50,000) ("Cost Reimbursement Deposit") which Cost Reimbursement Deposit the Agency may use to pay for costs incurred by Agency in connection with the implementation of the Agreement. Developer will be refunded the unexpended portion of the Cost Reimbursement Deposit in the event that Developer acquires the Site pursuant to this Agreement (in which case the unexpended portion of the Cost Reimbursement Deposit will be refunded to Developer upon the Commencement of the Phase 1 Developer Improvements) or this Agreement is terminated (in which case the unexpended portion of the Cost Reimbursement Deposit will be refunded to Developer upon the termination of this Agreement) other than due to a Default by Developer.

201.4 Condition of Site. EXCEPT AS SET FORTH IN SECTIONS 204 AND 301.2, DEVELOPER HAS AGREED TO ACCEPT POSSESSION OF THE SITE ON THE CLOSING DATE ON AN "AS IS" BASIS. AGENCY AND DEVELOPER AGREE THAT, SUBJECT TO SECTIONS 204 AND 301.2 HEREOF, THE PROPERTY SHALL BE SOLD "AS IS, WHERE IS, WITH ALL FAULTS" WITH NO RIGHT OF SET OFF OR REDUCTION IN CONSIDERATION, AND, EXCEPT AS SET FORTH IN SECTIONS 204 AND 301.2 HEREOF, SUCH SALE SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION, WARRANTY OF INCOME POTENTIAL, OPERATING EXPENSES, USES, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), AND SELLER DISCLAIMS AND RENOUNCES ANY SUCH REPRESENTATION OR WARRANTY.

201.5 Opening and Close of Escrow. The Conveyance of the Site shall be consummated on the date ("Closing Date") set forth in the Schedule of Performance but in no event later than June 15, 2013 ("Closing" or "Close of Escrow"). The scheduled Closing of June 15, 2013, is an outside date, Section 602 notwithstanding, but is subject to extension as provided in the Schedule of Performance, through an escrow (the "Escrow") established at West Coast Escrow or another escrow company mutually agreeable to the parties (the "Escrow Agent") which Escrow shall be opened within thirty (30) days following the Date of this Agreement. Escrow Agent is hereby

authorized to effect the Closing upon satisfaction of the Conditions to Closing set forth in Section 205 by taking the following actions:

(a) Current real property taxes, personal property taxes, and installments of assessments and all items of income (if any) and expense regarding the Site shall be prorated as of the Closing.

(b) Concurrently with the Closing of Escrow, Escrow Agent shall cause the Title Company to issue the Title Policy, as described in Section 203.

(c) Escrow Agent shall pay and charge: (i) Developer for the following: (aa) the recording cost of the Grant Deed and other closing documents, (bb) the premium for the CLTA Policy, (cc) the additional premium for the ALTA Policies and Endorsements (as hereinafter defined), if any, (dd) half of the escrow fees charged by the Escrow Agent, (ee) Developer's share of proration; and (ii) Agency for the following (ff) Agency's share of prorations, (gg) one-half (1/2) the cost of the CLTA Policy and (hh) any transfer taxes or fees.

(d) Escrow Agent shall record, in the following order, the following documents:

(i) The Declaration;

(ii) The Grant Deed; and

(iii) The Memorandum of Agreement.

all duly executed and acknowledged by the appropriate party.

201.6 Submittal of Documents.

(a) At least two (2) days prior to the Close of Escrow, Developer shall execute and submit to Escrow Agent the following:

(i) Two (2) originals of a certificate of acceptance of the Grant Deed duly executed by Developer and acknowledged.

(ii) Two (2) originals of the Declaration and Memorandum of Agreement duly executed by Developer and acknowledged.

(iii) Any documents to be recorded as part of Developer's financing of the Project which Agency has approved in writing pursuant to Section 311, along with a request for notice of default executed by the Agency.

(b) At least two (2) days prior to the Close of Escrow, Agency shall execute and deliver to Escrow the following:

(i) Two (2) originals of the Grant Deed duly executed by Agency and acknowledged; and

(ii) Two (2) originals of the Declaration and Memorandum of Agreement duly executed by Agency and acknowledged.

201.7 Post-Closing Deliveries by Escrow.

(a) After the Close of Escrow, the Developer shall be delivered the following documents:

(i) The Grant Deed duly executed by the appropriate party or parties and recorded in the Official Records of Orange County.

(ii) A non-foreign affidavit in a form reasonably acceptable to Developer.

(iii) A conformed copy of the Declaration.

(iv) A conformed copy of the Memorandum of Agreement.

(b) After the Close of Escrow, Agency shall be delivered the following documents:

(i) A conformed copy of the recorded Grant Deed and this Agreement.

(ii) The recorded original of the Declaration.

(iii) The recorded original of the Memorandum of Agreement.

(iv) The recorded original of the request for notice of default.

(c) At Close of Escrow, the Agency and Developer shall each execute counterpart closing statements in customary form together with such other documents as are reasonably necessary to consummate the Closing.

201.8 Payment of Escrow Costs. At Close of Escrow, both parties shall pay their respective costs by wire transfer, or by cashier's check drawn on a bank reasonably acceptable to the Escrow Agent. In the event of termination of this Agreement prior to the Close of Escrow due to failure of a condition set forth in Section 205, the parties shall each be responsible for one-half of any Escrow cancellation costs. In the case of termination prior to the Close of Escrow due to a default by one of the parties hereto, such defaulting party shall pay one hundred percent (100%) of all Escrow Cancellation Costs.

202. Review of Title. Within ten (10) days after the Date of this Agreement, Agency shall cause First American Title Insurance Company, or another title company mutually agreeable to both parties (the "Title Company"), to deliver to Developer a preliminary title report (the "Title Report") with respect to the Site, together with legible copies of all documents underlying the exceptions ("Exceptions") set forth in the Title Report. Developer shall cause the preparation, at its cost and expense, of a ALTA Survey prepared by a California licensed surveyor (the "ALTA Survey"). Developer shall have thirty (30) days from its receipt of the Title Report and ALTA Survey within which to give written notice to Agency of Developer's approval or disapproval of any of such

Exceptions. No deeds of trust, mortgages or other liens (all of which shall be removed by Agency prior to Closing), except for the lien of property taxes and assessments not yet due, shall be approved Exceptions. If Developer notifies Agency of its disapproval of any Exceptions in the Title Report or ALTA Survey, Agency shall have thirty (30) days from Agency's receipt of such notification to advise Developer that it will use commercially reasonable efforts or provide assurances satisfactory to Developer that such Exception(s) will be removed on or before the Closing. If Agency does not provide assurances satisfactory to the Developer that such Exception(s) will be removed on or before the Closing, Developer shall have thirty (30) days after the expiration of such thirty (30) day period to either give the Agency written notice that Developer elects to proceed with the purchase of the Site subject to the disapproved Exceptions and conditions set forth in the ALTA Survey (and conditioned upon the issuance of any endorsements necessary to render title acceptable to Developer), or to give the Agency written notice that the Developer elects to terminate this Agreement in which event, the Agency and Developer shall each be responsible for one-half of any Escrow cancellation charges and neither Developer nor Agency shall have any further rights or obligations hereunder except as set forth in Section 307. The Developer shall have the right to approve or disapprove any Exceptions reported by the Title Company or conditions set forth on the ALTA Survey after Developer has approved the condition of title for the Property hereunder. The foregoing periods of time shall be reasonably extended if any updates in the Title Report are provided to Developer after Developer approval of the Exceptions. Agency shall not voluntarily create any new exceptions to title following the Date of this Agreement, except for the recordation of documents in connection with the Closing as required herein. The Developer shall assume all non-delinquent assessments and taxes not specifically disapproved as provided herein.

203. Title Policy. At the Closing, the Title Company, as insurer, shall issue in favor of Developer, as insured, a CLTA owner's standard coverage policy or policies of title insurance with endorsements, if any, as may be required in Section 202 hereof with liability in an amount equal to the value of the Site as determined by the parties prior to Closing but not to exceed Ten Million Dollars ($10,000,000) ("CLTA Policy"), or, at Developer's option and expense, an ALTA extended policy of title insurance and/or lender's policy of title insurance with any endorsements and/or increased coverage amounts requested by Developer or its lender ("ALTA Policies and Endorsements") (collectively, the "Title Policies"), subject to the following:

(a) All nondelinquent general and special real property taxes and assessments for the current fiscal year; and

(b) If a CLTA policy is issued, the standard printed conditions and exceptions contained in the CLTA standard owner's policy of title insurance regularly issued by the Title Company.

(c) The Redevelopment Plan.

(d) The provisions of this Agreement, the Grant Deed and the Declaration.

(e) Any Exceptions to title approved by Developer pursuant to Section 202.

The Title Policies shall be combined with a policy insuring the personal property (Eagle 9 policy from the Title Company) with tie-in endorsements to cover the full insurable cost of the Project paid for by Developer.

204. Studies, Reports.

204.1 Site Investigation. Representatives of the Developer and any prospective users, following execution of the Right of Entry Agreement, shall have the right of access to the Agency Property, and to the Third Party Property at such time, if ever, as Agency has the right of access to the Third Party Property, for the purpose of making necessary or appropriate inspections, including geological, soils and/or additional environmental assessments. If Developer determines that there are Hazardous Materials in, on, under or about the Site, including the groundwater, or that the Site is or may be in violation of any Environmental Law, or that the condition of the Site is otherwise unacceptable to Developer, then the Developer shall notify the Agency and Escrow Holder prior to the Due Diligence Date. Agency and Developer shall thereafter have thirty (30) days to negotiate an agreement with respect to remediation of the Site, pursuant to which Agency shall commit to expend up to Two Hundred Fifty Thousand Dollars ($250,000) for Site remediation. If, at the end of such thirty (30) day period, Developer and Agency have not come to an agreement with respect to remediation of the Site, Developer shall, within three (3) days thereafter notify Agency of whether it elects to go forward with the acquisition of the Site and pay all remediation costs in excess of Two Hundred Fifty Thousand Dollars ($250,000), or whether it elects to terminate this Agreement, in which event the Developer and Agency shall each be responsible for one-half of any Escrow cancellation charges and neither Developer nor Agency shall have any further rights or obligations hereunder except as set forth in Section 307.

204.2 As-Is Environmental Condition. Subject to the terms of this Agreement, if the Developer elects to proceed with Close of Escrow, the Site shall be conveyed to the Developer in an "as is" environmental condition, with no warranty, express or implied by the Agency, as to the condition of the Site, the soil, its geology, the Presence of known or unknown faults, the suitability of soils for the intended purposes or the presence of known or unknown Hazardous Materials or toxic substances.

204.3 Indemnities and Release Re Hazardous Material.

(a) **Developer Indemnity.** As of the Closing, Developer hereby agrees and hereby shall Indemnify the Indemnitees from and against all Liabilities arising from, related in any respect to, or as a result of (i) the Presence of Hazardous Materials on the Site (excluding Public Streets) which Presence first occurred either before or after Close of Escrow, and (ii) the Presence of Hazardous Materials on the Site, which Hazardous Materials were not Hazardous Materials at the time of the Close of Escrow, but became Hazardous Materials after Close of Escrow as a result of an amendment to, or interpretation of, the Environmental Law; provided, that none of the same were directly and proximately caused by Agency or any of its agents, employees or contractors. Agency shall cooperate with Developer to ensure that Agency has assigned to Developer any and all rights that Agency acquired in its acquisition of the Site or any portion thereof to permit Developer's prosecution of claims against any third parties who are potentially responsible for such Hazardous Materials.

(b) **Developer Release.** As of the Closing, Developer agrees to and hereby shall release the Indemnitees from and against all Liabilities arising from, related in any respect to, or as a result of (i) the Presence of Hazardous Materials on the Site that first existed on the Site as of the Close of Escrow, but were discovered after Close of Escrow, and (ii) the Presence of Hazardous Materials on the Site, which Hazardous Materials were not identified and/or defined as such under the Environmental Laws at the time of Close of Escrow, but became Hazardous Materials

after Close of Escrow as a result an amendment to, or interpretation of, the Environmental Law. Notwithstanding the foregoing, Developer is not releasing any person or entity other than the Indemnitees.

205. Conditions to Closing. The Closing is conditioned upon the satisfaction of the following terms and conditions, which the parties shall exercise their best efforts to satisfy, within the times designated below:

205.1 Agency's Conditions Precedent. Agency's obligation to proceed with the Closing is subject to the fulfillment or waiver in writing by Agency of each and all of the conditions precedent (a) through (m), inclusive, described below ("Agency's Conditions Precedent"), which are solely for the benefit of Agency, and which shall be fulfilled or waived by the time periods provided for herein:

(a) No Default. Prior to the Close of Escrow, Developer shall not be in Default in any of its obligations under the terms of this Agreement.

(b) Execution of Documents. The Developer shall have executed any documents required hereunder and delivered such documents into Escrow.

(c) Payment of Funds. Prior to the Close of Escrow, Developer shall have paid all required costs of Closing into Escrow in accordance with Section 201.5 hereof.

(d) Land Use Approvals. The Developer shall have received all Land Use Approvals and a building permit shall have issued with respect to not less than the Phase 1 Developer Improvements.

(e) Insurance. The Developer shall have provided proof of insurance as required by Section 306 hereof.

(f) Financing. The Agency shall have approved the Construction Financing as defined in Section 311.1 hereof, for construction of not less than the Phase 1 Developer Improvements as provided in Section 311.1 hereof, and such Construction Financing shall have closed and funded or be ready to close and fund upon the Closing in substantial accordance with the commitment for Construction Financing.

(g) Declaration. The parties shall have mutually agreed upon the terms of the Declaration and the same shall be ready for recordation concurrently with the Close of Escrow.

(h) Agency's Acquisition of the Third Party Property. Agency has acquired the Third Party Property in accordance with Sections 201.1 and/or 201.2 hereof.

(i) Approval of Hotel Operator, Franchisor and Franchise Agreement. The Developer shall have provided Agency and, to the extent required by this Agreement, Agency shall have approved the Hotel Operator, Franchisor and a Franchise Agreement, which approval shall be granted if each comply with the terms of this Agreement, including without limitation, Section 301.1, and the Scope of Development.

(j) Pre-leasing and Approval of Tenant. Agency has approved the Tenant(s)/Operator(s) unless included in the list of Pre-approved Restaurant Tenant(s)/Operator(s). The Tenant(s) listed in Exhibit M are hereby approved.

(k) Hazardous Material Insurance. Agency and Developer shall have obtained or waived Hazardous Material Insurance pursuant to Section 204.4.

(l) Agency Improvements. Agency has determined, acting in its reasonable discretion, the cost of the Agency Improvements will not exceed Fifteen Million, Eight Hundred Thousand Dollars ($15,800,000).

(m) Health & Safety Code Section 33445 Finding. The Agency and the City, each acting in its sole and absolute discretion, have adopted resolutions pursuant to Health & Safety Code Section 33445, approving the expenditure of funds for the infrastructure improvements required by Section 301.2.

205.2 Developer's Conditions Precedent. Developer's obligation to proceed with the Closing is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent (a) through (o), inclusive, described below ("Developer's Conditions Precedent"), which are solely for the benefit of Developer, and which shall be fulfilled or waived by the time periods provided for herein:

(a) No Default. Prior to the Close of Escrow, Agency shall not be in default in any of its obligations under the terms of this Agreement.

(b) Execution of Documents. The Agency shall have executed the Grant Deed and any other documents required hereunder and delivered such documents into Escrow.

(c) Review and Approval of Title. Developer shall have reviewed and approved the condition of title of the Site, as provided in Section 202 hereof.

(d) Site Condition. Developer shall have determined, in its sole and absolute discretion, and advised Agency in writing that, to Developer's knowledge, the Site Condition is satisfactory in accordance with Sections 201.4, 204 and 301.2 hereof.

(e) Relocation, Demolition and Clearance of the Site. The Agency shall have relocated occupants and demolished and cleared the Site and removed all above ground structures located thereon and all substructures under existing buildings as required by Section 301.2. Notwithstanding anything to the contrary contained herein, this Condition Precedent shall not be deemed satisfied until such time as (i) any such relocation has been approved officially by the appropriate governmental authorities through duly authorized and appropriate action and all administrative appeals periods related thereto shall have expired, and (ii) if any litigation or administrative challenge of such relocation shall have been filed relating thereto, there has been a final non-appealable resolution of any such litigation or challenge affirming the validity of such action by the Agency.

(f) Title Policy. The Title Company shall, upon payment of Title Company's regularly scheduled premium, have agreed to provide to the Developer the Title Policy for the Site upon the Close of Escrow, in accordance with Section 203 hereof.

(g) Land Use Approvals. The Developer shall have received all Land Use Approvals and building permits shall have issued with respect to the Improvements required pursuant to Section 303 hereof.

(h) Financing. The Developer shall have obtained the Construction Financing as provided in Section 311.1 hereof, and such construction financing shall have closed and funded or to close and fund upon the Closing in accordance with the Construction Financing.

(i) Agency's Acquisition of the Third Party Property. Agency has acquired the Third Party Property in accordance with Sections 201.1 and/or 201.2 hereof.

(j) Adverse Conditions. No lawsuit (including by private parties), moratoria, or similar judicial or administrative proceeding or government action shall exist which would materially delay or significantly increase the cost of constructing the Agency Improvements.

(k) Approval of Hotel Operator, Franchisor and Franchise Agreement. The Developer shall have provided Agency and, to the extent required by this Agreement, Agency shall have approved the Hotel Operator, Franchisor and a Franchise Agreement, which approval shall be granted if each comply with the terms of this Agreement, including without limitation, Section 301.1.

(l) Pre-leasing and Approval of Tenant. Agency has approved the Tenant(s)/Operator(s) unless included in the list of Pre-approved Restaurant Tenant(s)/Operator(s).

(m) Declaration. The parties shall have mutually agreed upon the terms of the Declaration and the same shall be ready for recordation concurrently with the Close of Escrow.

(n) Development Agreement. Developer and City have executed a Development Agreement.

(o) Health & Safety Code Section 33445 Finding. The Agency and the City, each acting in its sole and absolute discretion, have adopted resolutions pursuant to Health & Safety Code Section 33445, approving the expenditure of funds for the infrastructure improvements required by Section 301.2.

300. DEVELOPMENT OF THE SITE

301. Scope of Development.

301.1 Improvements. Developer shall develop the Site in conformance with the Conceptual Site Plan, Land Use Approvals and the Scope of Development, within the time periods set forth in the Schedule of Performance. Once the Construction Drawings are approved by the Agency, as provided below, and the City, Developer's obligations under this Agreement with respect to Development Improvements shall be limited to ensuring that the Developer Improvements are constructed in accordance with the Construction Drawings. Developer shall improve the Site with the Developer Improvements. Notwithstanding anything to the contrary contained herein, Developer may elect to develop one (1) or both of the Limited Service Hotel(s) as an additional Upper Upscale Hotel (but consisting only of not less than one hundred fifty (150) rooms, 5,000 square feet of meeting space and a full-service restaurant and otherwise satisfying the hotel furniture, fixture and

equipment standards for an Upper Upscale Hotel set forth in Section I(B) of Exhibit C attached hereto), in which event the provisions of Section 409 hereof shall apply to such Hotel in lieu of the provisions of Section 410 hereof. The physical quality of the Developer Improvements, including, without limitation, construction quality, finish material, lighting, landscaping and site amenities shall be comparable, at a minimum, to each of the chosen Hotel's respective brand standards. In addition, as to the Upper Upscale Hotel(s) the physical quality, finish materials, lighting, landscaping and site amenities shall be set forth in the Scope of Development. Following the issuance of the Release of Construction Covenants for the Developer Improvements and thereafter until the expiration or termination of the Applicable Covenants Consideration Period with respect to each Hotel, the applicable Hotel and repair and maintenance thereof shall remain comparable in terms of quality and level of amenities to such Hotel as of the date of issuance of the Release of Construction Covenants; provided the foregoing is not intended to require Developer to take any action that might cause a violation of any Governmental Requirement, including without limitation, any regulations or building codes or, as a result of changes in laws, regulations or codes or other changed circumstances, require Developer to take any action to comply with the same that would make performance of the foregoing obligations commercially infeasible.

301.2 Agency Improvements. Subject to a determination by the Agency, acting in its reasonable discretion as to whether or not the cost (collectively "Agency Improvement Costs") of the Agency Improvements of the items described in (a), (b) and (c) below (collectively "Agency Improvements") exceeds Fifteen Million, Eight Hundred Thousand Dollars ($15,800,000) (the "Agency Improvements Contribution Cap"), Agency shall cause, at its cost and expense, the following within the time set forth in the Schedule of Performance:

(a) Acquisition of the Site and relocation of all occupants of the Site in compliance with all applicable federal, state and local laws and regulations concerning displacement and relocation in accordance with Section 201.1 and 201.2, as applicable;

(b) The demolition and removal of all existing structures and improvements including foundations, and, subject to and as provided in Section 204, remediation of any Hazardous Materials on the Site, the proper disposal and mitigation of lead-based paint, asbestos and other environmental hazards pursuant to the requirements of the Department of Health Services in compliance with all applicable federal, state and local laws and regulations with respect to demolition and/or disposal and mitigation as described above; and

(c) Installation and completion of all offsite infrastructure required by the Land Use Approvals, including CEQA mitigation; provided, however, that the Agency and the City, each acting in its sole and absolute discretion, have adopted resolutions pursuant to Health & Safety Code Section 33445 approving the expenditure of funds for the infrastructure required by this subsection (c) of Section 301.2.

The Agency's determination of the Agency Improvement Costs shall be made no later than the date set forth in the Schedule of Performance by written notice to the Developer. If Agency determines that the Agency Improvements Costs exceeds the Agency Improvements Contribution Cap, it shall give notice to the Developer of such disapproval in accordance with the Schedule of Performance and such notice shall include (a) the specific amount by which any cost exceeds the Agency Improvements Contribution Cap and (b) back up information supporting the Agency's determination of its own budgeted expenses for such costs in sufficient detail to allow Developer to

determine whether or not, without obligation, to pay any such excess of such Agency Improvement Costs above the Agency Improvements Contribution Cap in lieu of termination of the Agreement.

301.3 Parking Structure. The Developer Improvements will include a Parking Structure, as described more fully in the Scope of Development and generally shown on the Conceptual Site Plan ("Parking Structure") which will serve the Project. The Parking Structure shall remain open and available to the public subject to Developer's right to impose parking charges and fees to the extent not prohibited by Governmental Requirements and/or the CFD Financing.

The financing for the Parking Structure may be (i) part of the Construction Financing or (ii) financed through CFD Bonds ("CFD Financing"). In the case of CFD Financing, if so requested by Developer, and if economically and legally feasible, the Agency will undertake the requisite actions to cause CFD Bonds to be issued with respect to the financing of the Parking Structure, provided that the Developer (or an agent engaged by Developer and reasonably approved by the Agency) provides completion guarantees and/or credit enhancements (conditioned upon receipt of the CFD Financing funds) in a form, amount and quality reasonably acceptable to Agency, the bonds or certificates of participation will be rated not less than BBB or its equivalent, and such bonds or certificates of participation will be at no cost to the Agency. In the event of CFD Financing, the parties will determine, each acting in their sole and absolute discretion, the manner in which the Parking Structure will be constructed, operated and maintained as a public parking structure.

301.4 Design Review. The Developer Improvements shall be subject to design review by the Agency within the timeframe set forth in this Agreement and in the Schedule of Performance.

302. Construction Drawings and Related Documents. The Developer shall submit, within the time frames set forth in the Schedule of Performance, and the Agency Director or his designee shall approve, within the time periods set forth in the Schedule of Performance, preliminary building elevations, final building elevations, construction drawings, landscape plans, and related documents required for the development of the respective portions of the Site (individually and collectively, the "Construction Drawings"). The City shall have the right to review and approve all Construction Drawings. In addition to processing Construction Drawings through the City, the Agency shall have the right to review and approve the Construction Drawings as to their compliance with the description of the applicable Developer Improvements as set forth herein, and their consistency with the previously approved design review and the Land Use Approvals. The Agency shall not have the right to disapprove any current set of Construction Drawings unless they are materially inconsistent with the review requirements of the immediately preceding sentence.

303. Land Use Approvals. Except as otherwise expressly set forth herein, prior to commencement of construction of the Developer Improvements upon the Site and in accordance with the Schedule of Performance, Agency shall, at its sole cost and expense (other than the cost of any plans, specifications and other design materials, the cost of which shall be paid by Developer), secure any and all land use and other entitlements and approvals which the City may require for the construction and operation of the Developer Improvements, the Parcel Map, design review by the Agency and/or any other entitlements, permits or approvals required by or from any other governmental agency (collectively, the "Land Use Approvals"). Notwithstanding anything to the contrary herein, Developer and Agency acknowledge and agree that Agency shall prepare, at Agency's expense, and process all documentation required by the California Environmental Quality Act ("CEQA") with respect to the Project. Except as to the Agency Improvements, costs of any

Project related on-site (as described in Paragraph I.E. of the Scope of Development) CEQA mitigation shall be borne by Developer, the cost of which shall be subject to Developer's approval as a condition to Developer's obligation to proceed with any such mitigation. Developer acknowledges that compliance with any such CEQA mitigation shall be a condition under applicable law for proceeding with the Project. Agency shall provide Developer with copies of all applications and other submittals for the Land Use Approvals and the CEQA compliance not less than fifteen (15) days prior to submitting them to any other Governmental Authority for Developer's prior review and written approval, and Agency shall not agree to any conditions, exactions and impositions related to the Developer Improvements or the Site without the prior written approval thereof from Developer. Notwithstanding anything to the contrary contained herein, the Land Use Approvals shall not be deemed obtained or secured until such time as (i) Developer has approved all conditions, exactions and impositions related thereto, in Developer's sole discretion, and (ii) the Land Use Approvals: (a) have been approved officially by the appropriate governmental authorities through duly authorized and appropriate action and all administrative appeals periods related thereto shall have expired, (b) are not subject to any further discretionary approvals of any kind, and (c) if any litigation or administrative challenge shall have been filed relating thereto, there has been a final non-appealable resolution of any such litigation or challenge affirming the validity of the Land Use Approvals.

304. Schedule of Performance. Provided that the Agency has timely met its respective obligations under the Schedule of Performance and subject to the application of Section 602 hereof, Developer shall submit the Construction Drawings, Commence Construction and Complete Construction of the Developer Improvements, and satisfy all other obligations and conditions of this Agreement which are the obligation of Developer within the times established therefor in the Schedule of Performance. The Schedule of Performance is subject to revision from time-to-time as provided therein and as otherwise mutually agreed upon in writing by Developer and the Agency Director.

305. Cost of Construction. Except as otherwise expressly set forth herein, including Sections 201, 204, 301 and 303 and costs relating to Agency Improvements, all of the cost of planning, designing, developing and constructing all of the Developer Improvements, including but not limited to payment or other satisfaction of development impact fees payable in connection with the Developer Improvements, shall be borne solely by Developer.

306. Insurance Requirements. Developer shall obtain and maintain at its sole cost and expense, or shall cause its contractor or contractors to take out and maintain at their sole cost and expense, until the issuance of the Release of Construction Covenants pursuant to Section 310 of this Agreement, the insurance coverages described in this Section 306, with the coverage limits, conditions, and endorsements defined herein.

306.1 Insurance Coverage. Prior to the earlier to occur of the (i) Developer's exercise of a right of entry under the Right of Entry Agreement or (ii) the approval of building permits, the following policies shall be obtained and maintained by Developer or its contractor or contractors covering all activities relating to construction of Developer Improvements at the Site:

(a) Comprehensive general liability insurance in the amount no less than One Million Dollars ($1,000,000) per occurrence, Two Million Dollars ($2,000,000) in the aggregate for claims arising out of bodily injury, personal injury and property damage. Coverage will include contractual, owners, contractors' protective policy and products and completed operations. In

addition, an excess policy in an amount of Four Million Dollars ($4,000,000) covering the same terms and conditions will remain in force during the term of the Project.

(b) Comprehensive automobile liability insurance in the amount of One Million Dollars ($1,000,000), combined single limit per occurrence (bodily injury and property damage liability), including coverage for liability arising out of the use of owned, non-owned, leased, or hired automobiles for performance of the work. As used herein the term "automobile" means any vehicle licensed or required to be licensed under the California or any other applicable state vehicle code. Such insurance shall apply to all operations of Developer or its contractors and subcontractors both on and away from the Site. In the event that any drivers are excluded from coverage, such drivers will not be permitted to drive in connection with construction of the Developer Improvements.

(c) Workers' compensation insurance as required by law.

Except for workers compensation insurance which shall be placed with The State Compensation Fund, acceptable insurance coverage shall be placed with carriers admitted to write insurance in California, or carriers with a rating of or equivalent to A:VII by A.M. Best Company. Any deviation from this rule shall require specific approval in writing from the Agency's risk manager or City Attorney. Any deductibles or self-insured retentions in excess of $250,000 must be declared to and approved the Agency.

306.2 Policy Provisions. A certificate or certificates evidencing coverage described in subsections (a) through (c) above (the "Insurance") shall be submitted to the Agency prior to issuance of building permits for and commencement of the construction of the Developer Improvements, which certificates shall be accompanied by appropriate policy endorsements stating that:

(a) The Insurance shall be primary insurance for losses at the Site, and will be noncontributing with respect to any other insurance carried by Developer or its contractor(s) with respect to any losses which do not arise out of the construction of Developer Improvements, and any other insurance carried by the Agency or City which may be applicable shall be deemed to be excess insurance and the Insurance shall be primary for all purposes despite any conflicting provision in the Insurance to the contrary;

(b) Not less than ten (10) days advance notice shall be given in writing to the Agency and the City prior to any cancellation or termination of the Insurance;

(c) The City and the Agency are named as additional insureds. Coverage provided hereunder by Developer shall be primary insurance and not be contributing with any insurance maintained by the Agency or the City.

Upon request by Agency, Developer shall provide Agency with copies of complete insurance policies evidencing coverage as required herein. Certificates and endorsements for each insurance policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. If required by Agency, Developer shall, from time to time, increase the limits of its general and automobile liability insurance to reasonable amounts customary for owners of improvements similar to those on the Site.

Notwithstanding anything to the contrary set forth in this Section, Developer's obligations to carry the insurance provided for herein may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Developer or its affiliate; provided, however, (i) that the City of Garden Grove and the Agency shall be named as an additional insureds as its interest may appear and (ii) that the coverage afforded Agency, et. al., will not be reduced or diminished by reason of the use of such blanket policy of insurance, and (iii) that the requirements set forth herein are otherwise satisfied.

The obligations set forth in this Section 306.2 shall remain in effect as to any portion of the Site only until a Release of Construction Covenants has been furnished for such portion of the Site as hereafter provided in Section 310 of this Agreement.

306.3 Mutual Waivers. Except as otherwise set forth in Section 307 hereof, Agency and Developer hereby waive any rights each may have against the other, on account of any loss or damage occasioned to Agency and any additional insured parties and Developer, as the case may be, or the Site, arising from any loss generally covered by all-risk insurance; and the parties each, on behalf of their respective insurance companies insuring the property of either Agency and Developer against any such loss, waive any right of subrogation that such insurer or insurers may have against Agency and Developer, as the case may be. The foregoing mutual waivers of subrogation shall be mutually operative only so long as available in the state in which the Site is situated and provided further that no such policy is invalidated thereby.

307. Developer's Indemnity; Agency Indemnity. Except as set forth in Section 204 and except to the extent caused by a failure of Agency's warranties for representations or Default by Agency hereunder, Developer shall Indemnify (with one (1) counsel reasonably acceptable to the Agency, unless there is a conflict of interest by, among or between any of the Indemnitees, whether individuals or entities in which case separate counsel shall be provided by Developer for each such Indemnitee) the Indemnitees from and against any and all Liabilities which result from the performance of this Agreement by Developer or Developer's ownership, development, use, or operation of the Site or any portion thereof excepting those Liabilities which are caused by the Indemnitees' (or any of them) gross negligence or willful misconduct. The Agency, City and Developer agree to fully cooperate with one another in any case where no conflict of interest between the parties is apparent. Without limiting the generality of the foregoing, Developer specifically agrees to indemnify, defend and hold harmless Agency and City from any Liabilities resulting from Developer's failure to comply with all applicable laws in accordance with Section 309 hereof. Agency shall Indemnify (with one (1) counsel reasonably acceptable to Developer) the Developer Parties from and against any and all Liabilities which result from the Agency's relocation of the occupants as required by this Agreement.

308. Rights of Access. Representatives of the Agency shall have the right of access to the Site, without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including but not limited to, the inspection of the work being performed in constructing the Developer Improvements and so long as Agency representatives comply with all safety rules and do not unreasonably interfere with the work of Developer. Agency shall defend, indemnify, assume all responsibility for and hold the Developer Parties harmless from and against any and all third party liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, and reasonable attorneys' fees of any kind or nature and for any damages, including damages to property or injuries to persons, including accidental death (including

reasonable attorneys' fees and costs), which result from the exercise of such entry. Representatives of the Developer shall have the right of access to those portions of the Site owned by Agency without charges or fees during normal construction hours for the purpose of Investigation and Grading (as those terms are defined in the Right of Entry and Reimbursement Agreement).

309. Compliance with Governmental Requirements. Developer shall carry out the design, construction and operation of the Project in conformity with all Governmental Requirements.

309.1 Nondiscrimination in Employment. Developer certifies and agrees that all persons employed or applying for employment by it, its affiliates, subsidiaries, or holding companies, and all subcontractors, bidders and vendors, with respect to the construction and operation of the Project, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sections 2000, *et seq.*, the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Sections 621, *et seq.*, the Immigration Reform and Control Act of 1986, 8 U.S.C. Sections 1324b, *et seq.*, 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, California Government Code Sections 12900, *et seq.*, the California Equal Pay Law, California Labor Code Sections 1197.5, California Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Sections 12101, *et seq.*, and all other anti-discrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended. Developer shall allow representatives of the Agency access to its employment records related to this Agreement during regular business hours at Developer's principal office in Garden Grove, California to verify compliance with these provisions when so requested by the Agency.

310. Release of Construction Covenants. Following Completion of the Phase 1 Developer Improvements and/or Phase 2 Developer Improvements in conformity with this Agreement and within thirty (30) calendar days following receipt of a written request from Developer, the Agency shall furnish Developer with a Release of Construction Covenants for the completed Developer Improvements or portion thereof. The Agency shall not unreasonably withhold or delay such Release of Construction Covenants. The Release of Construction Covenants shall be conclusive determination of satisfactory Completion of Construction of the Developer Improvements (or the part thereof identified in the Release of Construction Covenants) and the Release of Construction Covenants shall so state. Any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site (or part thereof which is the subject of Release of Construction Covenants) shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement except for those continuing covenants as set forth in Sections 400 of this Agreement. If the Agency refuses or fails to furnish the Release of Construction Covenants for the Site (or part thereof) after written request from Developer, the Agency shall, within thirty (30) working days of receiving such written request, provide Developer with a written statement setting forth the reasons the Agency has refused or failed to furnish the Release of Construction Covenants for the Site (or part thereof). The statement shall also contain a list of the actions Developer must take to obtain a Release of Construction Covenants, which list shall be based on the requirements set forth in the Construction Documents. If the reason for the Agency's refusal to issue the Release of Construction Covenants is due to lack of availability of specific landscape and/or finish materials, the Developer may provide a completion bond reasonably acceptable to the Agency, in which case the Developer shall thereby become entitled to the Release of Construction Covenants.

Such Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the Developer Improvements, or any part thereof. Such Release of Construction Covenants is not a notice of completion as referred to in the California Civil Code, Section 3093.

311. Financing of the Developer Improvements.

311.1 Approval of Financing. Prior to the Close of Escrow and in accordance with the Schedule of Performance, Developer shall have submitted evidence to the Agency that Developer has equity capital and/or a lender commitment from one (1) or more institutional lender(s) (individually and collectively, the "Construction Lender") for the construction of the Hotels in accordance with this Agreement ("Construction Financing"). In addition, such Construction Financing shall be funded or to fund at the Closing in accordance with the Schedule of Performance as provided in accordance with Sections 205.1(f) and 205.2(h) hereof. Agency shall have the right to review and approve any such Construction Financing in its reasonable discretion. The Agency shall approve Construction Financing if the debt portion, if any, is issued by an institutional lender, together with Developer's equity (and, if applicable, the commitment of a Tenant to reimburse the Developer for all or any portion of the costs of the Developer Improvement), is in an amount not less than the cost of the Developer Improvements and conditioned only upon Closing and other customary construction loan closing and funding requirements. Developer and Agency agree that Developer shall be solely responsible for all financial obligations under such financing.

311.2 Holder Not Obligated to Construct Developer Improvements. The holder of any mortgage or deed of trust authorized by this Agreement (a "Holder") shall not be obligated by the provisions of this Agreement to construct or Complete the Construction of the Developer Improvements or any portion thereof, or to guarantee such construction or Completion of Construction; nor shall any covenant or any other provision in this Agreement be construed so to obligate such Holder. Nothing in this Agreement shall be deemed to construe, permit or authorize any such Holder to devote the Site to any uses or to construct any improvements thereon, other than those uses or Developer Improvements provided for or authorized by this Agreement.

311.3 Notice of Default to Mortgagee or Deed of Trust Holders; Right to Cure. With respect to any mortgage or deed of trust granted by Developer as provided herein, whenever the Agency delivers any notice of default ("Notice of Default") or demand to Developer with respect to any Breach or Default by Developer in the construction of the Developer Improvements, and if Developer fails to cure the Default within the time set forth in Section 501, the Agency shall deliver to each Holder of record of any mortgage or deed of trust authorized by this Agreement a copy of such notice or demand. Each such Holder shall (insofar as the rights granted by the Agency are concerned) have the right, at its option, within thirty (30) days after the receipt of the notice, to cure or remedy or commence to cure or remedy and thereafter to pursue with due diligence the cure or remedy of any such Default and to add the cost thereof to the mortgage debt and the lien of its mortgage; provided, however if the Holder is legally prevented from curing such default because of a bankruptcy by the Developer or because such cure requires physical possession of the Site then the thirty (30) day period shall be tolled until such bankruptcy is confirmed, rejected or otherwise resolved or the Holder has obtained lawful physical possession of the Site. Nothing contained in this Agreement shall be deemed to permit or authorize such Holder to undertake or continue the construction or Completion of Construction of the Developer Improvements, or any portion thereof (beyond the extent necessary to conserve or protect the improvements or construction already made)

without first having expressly assumed Developer's obligations to the Agency by written agreement reasonably satisfactory to the Agency which election to assume may be made within ninety (90) days following Holder's securing of title to the Property. Such assumption shall not have the effect of causing the Holder to be responsible for any prior damage obligations of Developer to the Agency. The Holder, in that event, must agree to Complete Construction, in the manner provided in this Agreement, the Developer Improvements. Any such Holder properly Completing the Construction of the Developer Improvements or portion thereof shall be entitled, upon compliance with the requirements of Section 310 of this Agreement, to a Release of Construction Covenants. It is understood that a Holder shall be deemed to have satisfied the thirty (30) day time limit set forth above for commencing to cure or remedy a Developer default which requires title and/or possession of the Site (or portion thereof) if and to the extent any such Holder has within such thirty (30) day period commenced foreclosure proceedings to obtain title and/or possession and thereafter the Holder diligently pursues such proceedings to completion and cures or remedies the default.

311.4 Failure of Holder to Complete the Construction of the Developer Improvements. In any case where, thirty (30) days after the Holder of any mortgage or deed of trust creating a lien or encumbrance upon the Site or any part thereof receives a Notice of Default by Developer in Completion of construction of any of the Developer Improvements under this Agreement, and the Holder has not exercised the option to construct as set forth in Section 311.3, or if it has exercised the option but has defaulted thereunder and failed to timely cure such default, the Agency may, by giving written notice to the Holder, purchase the mortgage or deed of trust by payment to the Holder of the amount of the unpaid mortgage or deed of trust debt, including principal and interest and all other sums secured by the mortgage or deed of trust. If the ownership of the Site or any part thereof has vested in the Holder, the Agency, if it so desires, shall be entitled to a conveyance of title to the Site or such portion thereof from the Holder to the Agency upon payment to the Holder of an amount equal to the sum of the following:

(a) The unpaid mortgage or deed of trust debt at the time title became vested in the Holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

(b) All expenses with respect to foreclosure including reasonable attorneys' fees;

(c) The net expense, if any (exclusive of general overhead), incurred by the Holder as a direct result of the subsequent management of the Site or part thereof;

(d) The costs of any Developer Improvements made by such Holder;

(e) Any prepayment charges, default interest, and/or late charges imposed pursuant to the loan documents and agreed to by Developer; and

(f) An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Agency.

311.5 Right of the Agency to Cure Mortgage or Deed of Trust Default. In the event Developer receives a notice of default on any mortgage or deed of trust prior to the Completion of Construction of the Developer Improvements and issuance of a total Release of Construction

Covenants, Developer shall immediately deliver to the Agency a copy of such notice of default. If the Holder of any mortgage or deed of trust has not exercised its option to construct, the Agency shall have the right but not the obligation to cure the default. The Agency shall be entitled to reimbursement from Developer of all proper costs and expenses incurred by the Agency in curing such default. The Agency shall also be entitled to a lien upon the Site to the extent of such costs and disbursements.

400. COVENANTS AND RESTRICTIONS

401. Covenant to Develop, Use and Operate the Site in Accordance with Redevelopment Plan, Land Use Approvals, and this Agreement. Until expiration of the Redevelopment Plan, Developer covenants and agrees for itself and its successors, assigns, and every successor in interest to such portion the Site, or any part thereof that Developer and such successors and assignees, shall use and operate the Site in accordance with the Redevelopment Plan, the Land Use Approvals, and this Agreement, and except for a Holder who, pursuant to Section 311, has not elected to assume Developer's obligations hereunder to construct, shall construct and Complete Construction of the Developer Improvements in accordance with the Land Use Approvals, Scope of Development, Section 301.1, and Schedule of Performance.

402. Maintenance and Security Covenants. Developer covenants and agrees for itself, its successors and assigns and any successor in interest to the Site or part thereof to maintain, at Developer's sole cost and expense, the Site and all Developer Improvements thereon, in compliance with the terms of the Declaration, the Redevelopment Plan and with all applicable Governmental Requirements. The operation, use, security and maintenance of the Site, shall be accomplished in accordance with the Covenants and Declaration (to be approved by the parties prior to Closing) consistent with other first-class hotel/retail/restaurant projects in Orange County, and shall include regular landscape maintenance, graffiti removal, and trash and debris removal.

403. Nondiscrimination. The Developer 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, physical or mental disability or medical condition, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Improvements or the Site, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Project or the Site. The foregoing covenants shall run with the land.

All deeds, leases or contracts with respect to the Project or the Site shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

a. **In deeds:** "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of

discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

b. **In leases:** "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

c. **In contracts:** "There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants,

sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

404. Assessed Value. The Developer, and its successors in interest, shall not appeal the assessed value of the Project prior to the expiration of the Redevelopment Plan so as to achieve a total assessed value after Completion, of less than the greater of $75,000,000.00 with respect to the Phase 1 Improvements and $25,000,000.00 with respect to the Phase 2 Improvements or the assessed value imposed by the County Assessor in the fiscal year following the year in which the Completion of Construction of the Phase 1 Developer Improvements or the Phase 2 Developer Improvements, as applicable, occurred.

405. Prevailing Wages. With respect to the construction of the Developer Improvements on the Site set forth herein and in the Scope of Work, Developer and its contractors and subcontractors shall pay prevailing wages and employ apprentices in compliance with Labor Code Section 1770, *et seq.*, and shall be responsible for the keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, and complying with all regulations and statutory requirements pertaining thereto. Such requirements are set forth in greater detail in Exhibit J attached hereto and incorporated herein by reference. The referenced Labor Code sections and Exhibit J are referred to herein collectively as the "Prevailing Wage Requirements." Upon the periodic request of the Agency, the Developer shall certify to the Agency that it is in compliance with the requirements of this Section 405. Notwithstanding anything to the contrary contained in this Agreement, Developer shall not be required to comply with the Prevailing Wage Requirements with respect to any discreet portions of the Developer Improvements if and to the extent the Prevailing Wage Requirements are inapplicable to such discreet portions. Developer shall indemnify, protect, defend and hold harmless the Agency and its officers, employees, contractors and agents, with counsel reasonably acceptable to Agency, from and against any and all loss, liability, damage, claim, cost, expense and/or "increased costs" (including reasonable attorneys fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction, and/or operation of the Developer Improvements, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by Developer with any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages); (2) the implementation of Section 1781 of the Labor Code, as the same may be amended from time to time, or any other similar law; and/or (3) failure by Developer to provide any required disclosure or identification as required by Labor Code Section 1781, as the same may be amended from time to time, or any other similar law. It is agreed by the parties that, in connection with the development of the Developer Improvements, including, without limitation, any and all public works (as defined by applicable law), Developer shall bear all risks of payment or non-payment of prevailing wages under California law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law. "Increased costs," as used in this Section 405, shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be amended from time to time. The foregoing indemnity shall survive termination of this Agreement and shall continue after Completion of Construction of the Developer Improvements by the Developer.

406. Point of Sale and/or Use. The Developer, for itself and for its general contractor and subcontractor, agrees to obtain a State Board of Equalization sub-permit for the jobsite and allocate all eligible use tax payments to the City of Garden Grove and provide the Agency with either a copy

of the sub-permit or a statement that the use tax does not apply to this portion of the job, to insure that the City of Garden Grove is the point of sale and/or use under the Bradley Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code, as amended from time to time).

407. Agency Use of Hotel Facility. During the period of twelve (12) years commencing upon the date the Hotel opens for business to the public, Developer will provide Agency with ten (10) hotel room nights per year, free of charge, and will allow the Agency to use the conference and/or banquet facilities and services at the Hotels on at least three (3) occasions per year (an "occasion" means an event lasting up to two (2) days) at a fifteen percent (15%) discount from the lowest rate charged during the past twelve (12) months on a space available basis, excluding services or goods provided by third parties. However, Agency's right to such free or discounted use of rooms and/or conference and/or banquet facilities may not be exercised during prime convention and/or tourist season, and the number of rooms shall be limited to five (5) at any given time.

408. Effect of Violation of the Terms and Provisions of this Agreement. The Agency is deemed the beneficiary of the terms and provisions of this Agreement and of the Covenants, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the Covenants have been provided, without regard to whether the Agency has been, remains or is an owner of any land or interest therein in the Site. The Agency shall have the right (subject to Section 501 below), upon a Default by Developer of this Agreement, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and Covenants may be entitled. Except as otherwise provided therein, the Covenants contained in Sections 103, 301, 309, and 401, 402, 404 and 406, and the Declaration shall survive Closing and remain in effect until the expiration of the Redevelopment Plan, as it may be amended from time to time. The Covenants set forth in Sections 204.2, 204.3, 307, 403, and 603 shall survive Closing and remain in effect in perpetuity. The Covenants described in Sections 304, 305, 306, 308, 405 and 503 shall survive Closing and remain in effect with respect to a portion of the Site until the issuance of a Release of Construction Covenants with respect to such portion of the Site and so long thereafter as shall be necessary to enforce a Default(s) thereunder. The Covenants set forth in Section 407, 409, 410, 411 and 412 shall survive Closing and remain in effect in accordance with the terms set forth therein.

409. Upper Upscale Hotel Covenant Consideration. In consideration for the granting of the Covenants by the Developer to the Agency, Agency shall pay to the Developer annually, within thirty (30) days after receipt by the City of transient Occupancy Tax attributable to the Upper Upscale Hotel, from the date on which Completion of Construction of the Upper Upscale Hotel occurs:

(a) through June 30, 2034, an amount equal to fifty-eight percent (58%) of the Transient Occupancy Tax Revenues which have been paid to and received by the City in each calendar year during such period with respect to the Upper Upscale Hotel(s); and

(b) for a period of twelve years, an amount equal to fifty percent (50%) of the Remaining Revenues in each calendar year during such period.

For purposes of this Section 409, "Remaining Revenues" means (i) an amount equal to the balance of the Transient Occupancy Tax attributable to the Upper Upscale Hotel after

deducting the amounts described in (a) above (i.e., the remaining 42% of the Transient Occupancy Tax Revenues attributable to the Upper Upscale Hotel), (ii) Net Tax Increment Revenues attributable to the Upper Upscale Hotel Component in each calendar year during such period, and (iii) Sales Tax Revenues attributable to the Upper Upscale Hotel Components in each calendar year during such period, after deducting an amount equal to fourteen and 29/100 percent (14.29%) of the Agency Improvement Costs each such calendar year until the total amount of the Agency Improvement Costs has been reached.

Examples of the above are shown in the Covenant Consideration Computation Example.

410. Limited Service Hotel Covenant Consideration. In consideration for the granting of the Covenants by the Developer to the Agency, and with respect to each Limited Service Hotel on the Site, Agency shall pay to the Developer annually, for the period commencing on the date on which Completion of Construction of such Limited Service Hotel(s) has occurred and expiring ten (10) years thereafter, an amount equal to fifty percent (50%) of (i) the Transient Occupancy Tax Revenues which have been paid to and received by the City in each calendar year during such period with respect to each such Limited Service Hotel, (ii) the Net Tax Increment attributable to the Limited Service Hotel(s) in each calendar year during such period, and (iii) Sales Tax Revenues attributable to the Limited Service Hotel(s) in each calendar year during such period. Such payments will be made to Developer within thirty (30) days after receipt of such revenues by the City or Agency, as applicable.

Examples of the above are shown in the Covenant Consideration Computation Example.

411. Sunbelt Property Covenant Consideration. In consideration for the granting of the Covenants by the Developer to the Agency, and without limiting the amounts payable pursuant to Sections 409 and 410 above, Agency shall pay to the Developer annually with respect to the Sunbelt Property, from and after Completion of Construction of any portion of the Retail/Restaurant/Entertainment Component on the Sunbelt Property, an amount equal to fifty percent (50%) of the Net Tax Increment Revenues and Sales Tax Revenues attributable to Retail/Restaurant/Entertainment Component of the Sunbelt Property for a period of ten (10) years from the date on which Completion of Construction of each such portion of the Retail/Restaurant/Entertainment Components on the Sunbelt Property (i.e., there shall be separate 10-year payment periods for each such portion of the Retail/Restaurant/Entertainment Components on the Sunbelt Property), in each case as received by the City in each calendar year during such period. The payments required by this Section 411 shall be prorated for any partial years at the beginning or end of the applicable periods and paid to Developer within thirty (30) days after receipt of such revenues by the City or Agency, as applicable.

412. Allocation of Covenant Consideration. Notwithstanding the allocations of Covenant Consideration described in Sections 409, 410, and 411, the Developer may, without the approval of the Agency, reallocate the Covenant Consideration between and among the separate development entities who own the Separate Components, as described in Section 103.2.

500. DEFAULTS AND REMEDIES

501. Default Remedies. Subject to Enforced Delay and compliance with the provisions of this Agreement which provide for the protection of Mortgagee rights, including the provisions of Section 311 of this Agreement, failure or delay by either party to perform any material term or

provision of this Agreement (a "Breach") following notice and failure to cure as described hereafter constitutes a "Default" under this Agreement.

The nondefaulting party shall give written notice of any Breach to the party in Breach, specifying the Breach complained of by the nondefaulting party ("Notice of Default"). Delay in giving such Notice of Default shall not constitute a waiver of any Breach nor shall it change the time of Breach. Upon receipt of the Notice of Default, the party in Breach shall promptly commence to cure the identified Breach at the earliest reasonable time after receipt of the Notice of Default and shall complete the cure of such Breach not later than thirty (30) days after receipt of the Notice of Default, or, if such Breach cannot reasonably be cured within such thirty (30) day period, then as soon thereafter as reasonably possible, provided that the party in Breach shall diligently pursue such cure to completion ("Cure Period"). Failure of the party in Breach to cure the Breach within the Cure Period set forth above shall constitute a "Default" hereunder.

Any failures or delay by either party in asserting any of its rights and remedies as to any Breach or Default shall not operate as a waiver of any Breach or Default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either 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.

AGENCY SHALL ALSO BE REQUIRED TO SEND NOTICES OF DEFAULT TO EACH MORTGAGEE FOR WHICH AGENCY HAS RECEIVED A MORTGAGEE NOTICE.

502. Institution of Legal Actions. In addition to any other rights or remedies and subject to the restrictions otherwise set forth in this Agreement, any party may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any Default, to recover damages for any Default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Orange, State of California, in an appropriate municipal court in that county, or in the United States District Court for the Central District of California.

503. Re-entry and Revesting of Title in the Agency After the Closing and Prior to Completion of Construction. Without limiting the rights as set forth in Section 311, and without affecting the priority of the lien of the Holder's deed of trust or mortgage, the Agency has the right, at its election, to reenter and take possession of a portion of the Site with all Developer Improvements thereon, and terminate and Revest in the Agency the estate conveyed to the Developer with respect to a portion of the Site only if after the Closing and prior to the issuance of the final Release of Construction Covenants with respect to such portion of the Site, the Developer (or its successors in interest) shall:

(a) fail to start the construction of the Developer Improvements on such portion of the Site as required by this Agreement for a period of ninety (90) days after Notice thereof from the Agency subject to extension pursuant to Section 602; or

(b) abandon or substantially suspend construction of the Developer Improvements on such portion of the Site required by this Agreement for a period of ninety (90) days after Notice thereof from the Agency subject to extension pursuant to Section 602; or

(c) contrary to the provisions of Section 103 hereof, Transfer or suffer any involuntary Transfer in violation of this Agreement, and such Transfer, if it is a Transfer requiring approval by the Agency, is not rescinded within thirty (30) days of Notice thereof from Agency to Developer.

Such right to reenter, terminate and Revest is subject to the quiet enjoyment, and, if applicable, the right to continue to complete construction by (i) Tenants or other occupants who have (a) executed leases or subleases and (b) incurred substantial expenses in connection with the design and/or construction of improvements required to be constructed by such Tenant under such lease or sublease and (ii) Developer, in the case where the Developer is in Default and, vis a vis a Holder or its Nominee, shall be exercisable only if:

1. Such Holder (or its Nominee) (a) shall have failed to cure any Default within the applicable cure periods granted to such Holder (or its Nominee), or (b) shall have given Agency written notice that it will not cure any such Default or condition or that it will otherwise not comply with the terms and conditions of this Agreement, and

2. Agency, within ninety (90) days after the occurrence of any events described in subparagraph 1. immediately above, shall commence the exercise of its right of entry and shall pay to Holder (or its Nominee) in immediately available funds, the Loan Balance prior to Revesting.

In the event of a failure or refusal to cure a Default, as described in subparagraph 1. above, Agency's sole remedy *vis a vis* Holder shall be the exercise of the re-entry right and Revesting in accordance herewith. Nothing herein shall be construed to prohibit or limit the Agency's exercise of its power of eminent domain.

The conditions to the commencement of the exercise of the Agency's right to re-enter and Revest as described above shall be applicable whether the re-entry and Revesting occurs (a) prior to foreclosure (or deed in lieu of foreclosure) by the Holder (or its Nominee) under its mortgage or deed of trust; or (b) after Holder (or its Nominee) acquires title to the Site by foreclosure (or deed-in-lieu of foreclosure) under its mortgage or deed of trust.

The applicable Grant Deed shall contain appropriate reference and provision to give effect to the Agency's right as set forth in this Section 503, under specified circumstances prior to recordation of the Release of Construction Covenant, to reenter and take possession of the Site, with all improvements thereon, and to terminate and Revest in the Agency the estate conveyed to the Developer. Upon the Revesting in the Agency of title to the Site, as provided in this Section 503, the Agency shall, pursuant to its responsibilities under state law, use its reasonable efforts to resell the Site, as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan, as it exists or may be amended, to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of constructing or completing the Developer Improvements, or such improvements in their stead as shall be satisfactory to the Agency and in accordance with the uses specified for such Site, or part thereof in the Redevelopment Plan. Upon such resale of the Site, the net proceeds thereof, shall be applied:

(i) First, to reimburse the Agency, on its own behalf or on behalf of the City, all costs and expenses incurred by the Agency, excluding City and Agency staff costs, but specifically,

including, but not limited to, any expenditures by the Agency or the City in connection with the recapture, management and resale of the Site, or part thereof (but less any income derived by the Agency from the Site, or part thereof in connection with such management); all taxes, assessments and water or sewer charges with respect to the Site, or part thereof which the Developer has not paid (or, in the event that the Site is exempt from taxation or assessment of such charges during the period of ownership thereof by the Agency, an amount, if paid, equal to such taxes, assessments, or charges as would have been payable if the Site were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Site, or part thereof at the time or Revesting of title thereto in the Agency, or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the constructing or completion of the improvements or any part thereof on the Site, or part thereof; and any amounts otherwise owing the Agency, and in the event additional proceeds are thereafter available, then

(ii) Second, to reimburse the Developer, its successor or transferee, up to the amount equal to the sum of (a) actual and direct third party costs incurred by the Developer for the Developer Improvements existing on the Site, at the time of the re-entry and possession, less (b) any gains or net income received by the Developer from the Site, or the improvements thereon.

Any balance remaining after such reimbursements shall be retained by the Agency as its property. The rights established in this Section 503, except as may otherwise be provided in this Section 503, are not intended to be exclusive of any other right, power or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy authorized herein or now or hereafter existing at law or in equity. These rights are to be interpreted in light of the fact that the Agency will have conveyed the Site, to the Developer for redevelopment purposes, and not for speculation in undeveloped land.

504. Rights and Remedies Are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

505. Inaction Not a Waiver of Default. Any failures or delays by either 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, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

506. Applicable Law. The laws of the State shall govern the interpretation and enforcement of this Agreement.

600. GENERAL PROVISIONS

601. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice ("Notice") required or permitted under this Agreement must be in writing and shall be sufficiently given if delivered by hand (and a receipt therefore is obtained or is refused to be given) or dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by telecopy, or email or overnight delivery service to:

To Agency:	Garden Grove Agency for Community Development 11222 Acacia Parkway Garden Grove, California 92840 Attention: Agency Director
with a copy to:	Stradling, Yocca, Carlson & Rauth 660 Newport Center Drive, Suite 1600 Newport Beach, California 92660 Attention: Thomas P. Clark, Jr.
To Developer:	Land & Design, Inc. 8130 La Mesa Boulevard, #808 La Mesa, California 91942 Attention: Matthew Reid
with a copy to:	E-Ticket Hospitality, LLC 420 McKinley Street, Suite 111 Corona, California 92879 Attention: David Rose
with a copy to:	Allen Matkins Leck Gamble Mallory & Natsis, LLP 501 West Broadway, 15th Floor San Diego, California 92101 Attention: Tom Crosbie

Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section.

602. Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in Default, and all performance and other dates specified in this Agreement shall be extended, where delays are due to ("Enforced Delay"): litigation challenging the validity of this transaction or any element thereof or the right of either party to engage in the acts and transactions contemplated by this Agreement; eminent domain actions filed by the Agency pursuant to Section 201.2 including, without limitation, relocation obligations in connection therewith and inverse condemnation actions, inability to secure necessary labor materials or tools; actions in connection with the remediation of Hazardous Materials, including groundwater contamination; war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; acts of terrorism; epidemics; quarantine restrictions; freight embargoes; unanticipated subsurface conditions that delay performance; lack of transportation; governmental restrictions or priority; building moratoria; unusually severe weather; or acts or omissions of the other party; acts or failures to act of the City or any other public or governmental agency or entity (other than the acts or failures to act of the Agency which shall not excuse performance by the Agency); or during the pendency of any dispute between Agency or Developer, regarding Developer's construction obligations hereunder provided that the party claiming the right to an extension of time is determined to be the prevailing party in such dispute. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period reasonably attributable to the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such

extension is sent to the other party within thirty (30) days of the later of commencement of the cause or such party's discovery of such cause. Times of performance under this Agreement may also be extended in writing by the mutual agreement of the Agency and/or Developer. Notwithstanding any provision of this Agreement to the contrary, the lack of funding to Complete the Developer Improvements shall not constitute grounds of enforced delay pursuant to this Section 602.

603. Non Liability of Officials and Employees of Agency, City and Developer. No member, official, shareholder or employee of either party or of the City shall be personally liable to the other party or the City, or any successor in interest, in the event of any Default or Breach by the either party or for any amount which may become due to either party or their successors, or on any obligations under the terms of this Agreement.

604. Relationship Between Agency and Developer. It is hereby acknowledged that the relationship between the Agency and Developer is not that of a partnership or joint venture and that the Agency and Developer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein or in the Exhibits hereto, the Agency shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Site.

605. Agency Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by the Agency, the Agency Director or his or her designee is authorized to act on behalf of Agency unless specifically provided otherwise or the context should require otherwise.

606. Commencement of Agency Review Period. The time periods set forth herein and in the Schedule of Performance for the Agency's approval of agreements, plans, drawings, or other information submitted to the Agency by Developer and for any other Agency consideration and approval hereunder which is contingent upon documentation required to be submitted by Developer shall only apply and commence upon the submittal of all the reasonably required information. In no event shall a materially incomplete submittal by Developer trigger any of the Agency's obligations of review and/or approval hereunder; provided, however, that the Agency shall notify Developer of an incomplete submittal as soon as is practicable.

607. Successors and Assigns. All of the terms, covenants, conditions, representations, and warranties, of this Agreement shall be binding upon Agency and Developer and their respective permitted successors and assigns. Whenever the term "Developer" or "Agency," as the case may be, is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

608. Assignment by Agency. The Agency may assign or transfer any of its rights or obligations under this Agreement with the approval of Developer, which approval shall not be unreasonably withheld; provided, however, that the Agency may assign or transfer any of its interests hereunder to the City at any time without the consent of Developer provided that such assignment does not negatively affect any of Developer's rights or increase Developer's obligations hereunder.

609. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. This Agreement is executed in three (3) originals, each of which is deemed to be an original.

610. Integration. This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each party is entering this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material. This Agreement includes pages 1 through 42 (includes signature page) and Exhibits A through M, (each such Exhibit incorporated in this Agreement as if fully set forth herein) which together constitute the entire understanding and agreement of the parties, notwithstanding any previous negotiations or agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

611. Attorneys' Fees. In any action between the parties to interpret, enforce, reform, modify, rescind or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing party in the action shall be entitled, in addition to damages, injunctive relief or any other relief to which it might be entitled, reasonable costs and expenses including, without limitation, litigation costs and reasonable attorneys' fees. Costs recoverable for enforcement of any judgment shall be deemed to include reasonable attorneys' fees.

612. Administration. This Agreement shall be administered and executed by the Agency Director, or his/her designated representative, following approval of this Agreement by the Agency. The Agency shall maintain authority of this Agreement through the Agency Director (or his/her authorized representative). The Agency Director shall have the authority but not the obligation to issue interpretations, waive provisions, approve the Declaration, extend time limits, make minor modifications to prior Agency design approvals, and/or enter into amendments of this Agreement on behalf of the Agency so long as such actions do not substantially change the uses or development permitted on the Site, or add to the costs to the Agency as specified herein as agreed to by the Agency Board, and such amendments may include extensions of time specified in the Schedule of Performance. All other waivers or amendments shall require the written consent of the Agency Board.

613. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. Reference to Section numbers are to sections in this Agreement, unless expressly stated otherwise.

614. Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both parties.

615. No Waiver. A waiver by either party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

616. Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

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

618. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day escrow opens) and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded in which case such day is the day following the excluded day(s). The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time.

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

620. Time of Essence. Time is expressly made of the essence with respect to the performance by the Agency and Developer of each and every obligation and condition of this Agreement.

621. Cooperation. Each party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful or appropriate to carry out the purposes and intent of this Agreement. In this regard, Developer and the Agency agree to mutually consider reasonable requests for amendments to this Agreement and/or other estoppel documents. The party making the request shall be responsible for the costs incurred by the other party, including without limitation attorneys' fees, (the "Amendment/Estoppel Costs") in connection with any amendments to this Agreement and/or estoppel documents which are requested by such party (the "Developer/Agency Request") regardless of the outcome of the Developer/Agency Request.

622. Conflicts of Interest. No member, official or employee of the Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his/her personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

623. Time for Acceptance of Agreement by the Agency. This Agreement, when executed by Developer and delivered to the Agency, must be authorized, executed and delivered by the Agency on or before thirty (30) days after signing and delivery of this Agreement by Developer or this Agreement shall be void, except to the extent that Developer shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement.

624. Consideration of Agreement Modification. The Parties recognize that due to the changing economic conditions as it relates to hotel development, there is a possibility that the terms described herein will need to be modified based on requirements of the Franchisor, Hotel Operator and/or Construction Lender and/or other debt or equity contributors. With this in mind, the parties agree that in such event, the Parties agree that they will discuss any such requested modifications with the idea in mind of modifying or amending this Agreement, if required, with each Party acting in their sole and absolute discretion and without any commitment to the other to agree to any such requested modification or revision.

625. Recordation of Memorandum of Agreement. The Memorandum of Agreement shall be recorded concurrently with the Close of Escrow and the terms hereof shall survive Closing and run with the land for the period of time set forth herein.

[*SIGNATURES ON NEXT PAGE*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates set forth below.

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

Dated: _____, 2011

By: _____

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Thomas P. Clark, Jr.
Agency General Counsel

DEVELOPER

LAND & DESIGN INC., a California corporation

Dated: _____, 2011

By: _____
Matthew Reid

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates set forth below.

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

Dated: _____, 2011

By: _____

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Thomas P. Clark, Jr.
Agency General Counsel

DEVELOPER:

LAND & DESIGN, INC., a California corporation

Dated: 6/10/2011, 2011

By: _____
Matthew Reid

EXHIBIT A

SITE MAP

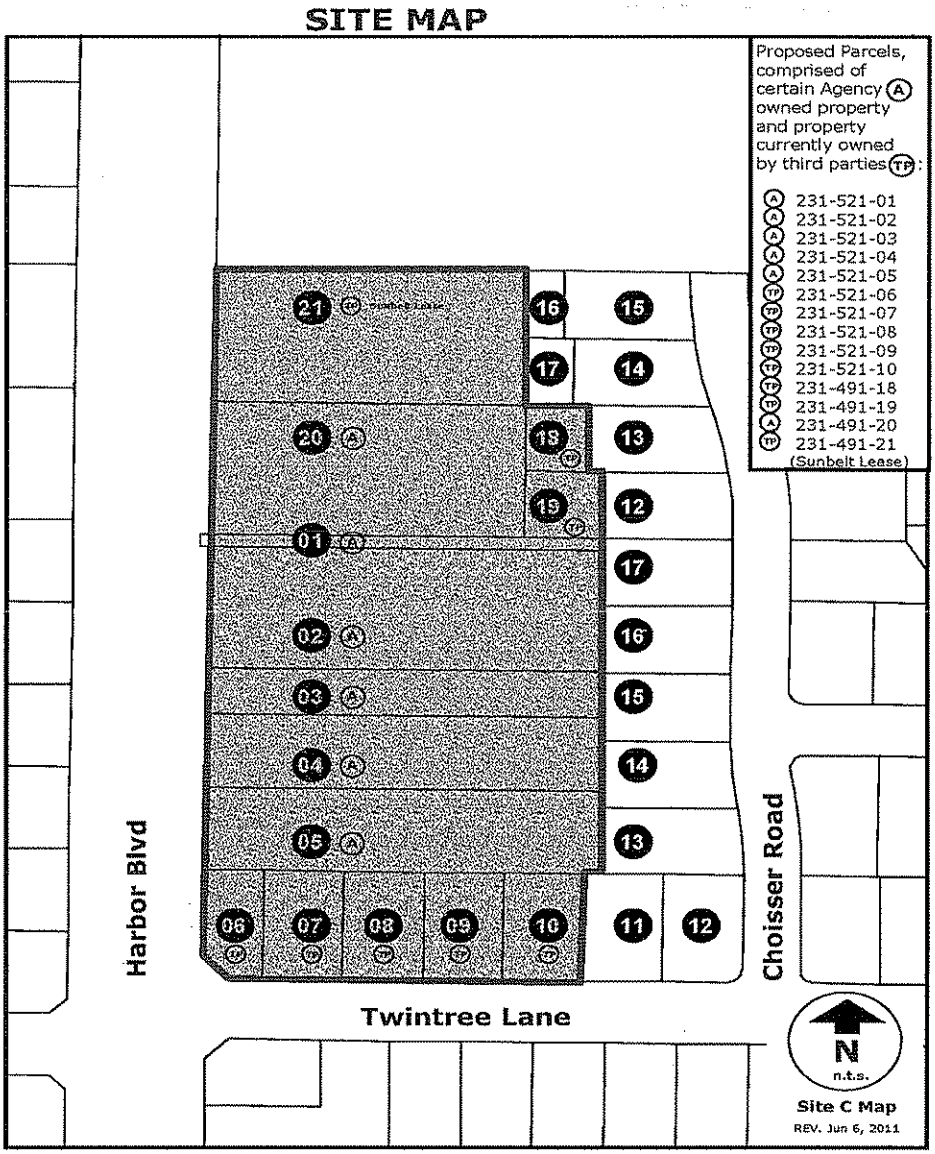

EXHIBIT B

NEED LEGAL DESCRIPTION

EXHIBIT C

SCOPE OF DEVELOPMENT

Unless otherwise specified herein, all capitalized terms in the Scope of Development shall have the meaning(s) set forth for the same Disposition and Development Agreement to which this Scope of Development is attached (DDA).

I. DEVELOPER IMPROVEMENTS

A. RETAIL/RESTAURANT/ENTERTAINMENT

The following shall be the sole cost and expense of the Developer:

1. The Developer shall construct on the Site the Retail/Restaurant/Entertainment Component(s) consisting of a minimum of ten thousand (10,000) square feet of gross leaseable area and required parking (subject to parking structure). Exhibit L, contained herein, shall be considered the agency pre-approved list of Retail/Restaurant and Entertainment uses. The Developer, from time to time, may submit additional lists of possible restaurants for Agency review and approval, which shall not be unreasonably withheld. Notwithstanding anything to the contrary contained in the DDA or this Exhibit C, the use of the Sunbelt Property shall be restricted to portion(s) of the Retail/Restaurant/Entertainment Component(s).

   The design and architecture of the improvements for the restaurant(s) shall follow the City's General Plan, the Redevelopment Plan, the Harbor Corridor Specific Plan, and all other requirements and provisions of this Agreement, as applicable.

B. HOTEL

The following shall be the sole cost and expense of the Developer:

1. The Developer shall construct the Upper Upscale Hotel consisting a minimum of three hundred (300) rooms shall also include required parking, as well as a central lobby, full-service/specialty restaurant (with room service), cocktail bar, spa, gift shop(s), business center, fitness center, concierge service, and not less than ten thousand (10,000) square feet of meeting and business space in accordance with the Agency approved Upper Upscale Hotel list. Exhibit L, contained herein, shall be considered the pre-approved list of Upper Upscale Hotel Flags. The Developer, from time to time, may submit additional lists of possible Upper Upscale Hotel Flags/Operators for Agency review and approval, which shall not be unreasonably withheld.

Similarly, all guest rooms shall range in size from 300 gross square feet to over 400 gross square feet. All rooms will include flat screen TV's and high speed internet access, and other standard items such as alarm clocks, hair dryer, iron and ironing board. A limited number of larger suites will provide separate bedrooms, private bathrooms, and separate seating/living areas. There will also be luxury suites with king beds, flat screen televisions and wireless internet access.

The Developer shall construct the Limited Service Hotels consisting of a minimum of one hundred twenty-five (125) rooms each. The Limited Service Hotels shall also include required parking, as well as a central lobby, business center, and fitness center in accordance with the Agency approved Limited Service Hotel list. Exhibit L, contained herein, shall be considered the pre-approved list of Upper Upscale Hotel Flags. The Developer, from time to time, may submit additional lists of possible Limited Service Hotel Flags/Operators for Agency review and approval, which shall not be unreasonably withheld.

Similarly, all guest rooms range in size from 300 gross square feet to over 400 gross square feet. All rooms will include flat screen TV's and high speed internet access, and other standard items such as alarm clocks, hair dryer, iron and ironing board.

The design and architecture of the Limited Service Hotels shall follow the City's General Plan, the Redevelopment Plan, the Harbor Corridor Specific Plan and the all other requirements and provisions of this Agreement, as applicable. The architecture shall be consistent with the cost estimates for construction provided in the Developer's Pro Forma, the Basic Concept and Design Development Drawings and the Construction Plans and Drawings. Particular attention shall be paid to massing, scale, color, and materials.

In addition to the minimum standards for the Hotel(s) associated with the Pre-Approved Limited Service Flag(s)/Operator(s) and Pre-Approved Upper Upscale Flag(s)/Operator(s), (i) the standards attached hereto as Attachment No. 1 shall also apply to the Hotel(s), and (ii) notwithstanding anything to the contrary contained in the DDA or this Exhibit C, the finishes, standards and quality of (a) the Upper Upscale Hotel(s) shall equal or exceed those of the Westin Pasadena as of the date of the DDA, and (b) of the Limited Service Hotel(s) shall equal or exceed those of the Homewood Suites Garden Grove as of the date of the DDA.

C. PARKING STRUCTURE

The following shall be the sole cost and expense of the Developer subject to City assistance previously mentioned:

1. The Developer shall construct, maintain and operate the Parking Structure Parcel as shown on the Conceptual Site Plan.

   The vehicular entry points to the Parking Structure shall be located as shown on the Conceptual Site Plan.

   The Parking Structure shall be designed for ease of operations and patron convenience with one-way traffic lanes, angled parking stalls, no parking on ramps, two lanes of continuous vertical traffic flow, and separated inbound/outbound lanes.

2. The Developer shall provide an architectural solution for the Parking Structure for the elevations that face the residential areas.

D. IMPROVEMENTS

The following shall be the sole cost and expense of the Developer:

1. The Developer shall construct all improvements from the back of the curb face, including sidewalks, driveways, street lights, pedestrian light standards, signs, parkway landscape (but excluding traffic or pedestrian or traffic signal poles which are the responsibility of the Agency). All such improvements shall be constructed in accordance with the Harbor Boulevard Streetscape Improvement Plan. Improvements include the east side of Harbor Boulevard from the most south boundary portion of the Site to the most north boundary portion of the Site.

E. TENTATIVE AND FINAL MAP

At Developer's direction, the Agency shall pay for, prepare and process a tentative and final parcel map for the Site.

II. AGENCY IMPROVEMENTS

The following shall be the sole cost and expense of the Agency:

1. Acquisition of the Site and relocation of all occupants of the Site in compliance with all applicable federal, state and local laws and regulations concerning displacement and relocation in accordance with Section 201.1 and 201.2, as applicable;

2. The demolition and removal of all existing structures and improvements, including foundations, and, subject to and as provided in Section 204, remediation of any Hazardous Materials on the Site, the proper disposal and mitigation of lead-based paint, asbestos and other environmental hazards pursuant to the requirements of the Department of Health Services in compliance with all applicable federal, state and local laws and regulations with respect to demolition and/or disposal and mitigation as described above; and

3. Installation and completion of all offsite infrastructure required by the Land Use Approvals, including CEQA mitigation.

III. ARCHITECTURE AND DESIGN

A. BUILDING DESIGN

The following shall be the sole cost and expense of the Developer:

1. The Developer shall develop construction plans and design documents shall be developed in compliance with the Land Use Approvals and shall be consistent with the Conceptual Site Plan. The architecture is expected to create an unique identity with a cohesive, integrated architectural style that complements the surrounding developments. Particular attention shall be paid to massing, scale, color, and materials in order to articulate the buildings elevations. The elevations shall, to extent as possible, avoid flat or one-dimensional elevations. Architectural attention shall be given to the main entrance/lobby of the building, which shall include a porte-cochere that complements the main building.

B. BUILDING SERVICE, PROJECT TRAFFIC AND MANAGEMENT

The following shall be the sole cost and ~~expense~~ of the Developer:

1. The Developer shall develop a building service, project traffic and management plan. The Declaration shall include the following:

   (a) A service plan that includes general times for deliveries, trash collection, street cleaning and the agreed upon routing for such service-vehicles. This plan shall include routing and stopping for patron drop-off and small service-vehicles including mail, overnight delivery and messengers as well as conference facility deliveries. This plan shall also include routing and marked areas for emergency services.

   (b) A traffic plan that includes the Developer's commitment to pay for traffic control officers at the entrances to the Parking Structure during holiday peak periods and for special events that are expected to generate large volumes of traffic.

   (c) A maintenance and management plan that includes cleaning and refuse policing, no visibility into service areas from public streets, degreasing and deodorizing (particularly for the service, trash and garbage areas), re-stripping, re-painting, re-lighting, drainage cleaning, signage, graffiti management and security.

   The Project shall be consistent with Section 301.1 of the DDA.

C. LANDSCAPING

All areas of the Site that are not used for buildings, sidewalks, driveways or other hardscape improvements shall be landscaped in accordance with a landscaping plan to be approved by the Agency. The Developer, at its sole cost and expense, shall be responsible for all these area. Landscaping shall consist of ground cover, trees, potted plants, and fountains, pools, or other water features, if applicable. A permanent automatic water sprinkler system shall be provided in all landscaped areas as required for adequate coverage/maintenance.

D. REFUSE

Refuse areas shall be provided in accordance with the requirements of the Land Use Approvals.

E. SIGNS

The following shall be the sole cost and expense of the Developer:

1. The Developer shall develop a sign program. The Project shall have a comprehensive graphics/logos and sign program that shall govern the entire Project; all signs shall conform as to location, size, shape, illumination system, cabinet and copy face colors, letter style, shall be complementary to the overall architectural theme, and comply with the high standards of Underwriter Laboratories. The sign program to be approved by the Agency.

F. UTILITIES

The following shall be the sole cost and expense of the Developer:

The Developer shall be responsible for utility installations for the Project and hookups to public utility lines. All utility service for the Project shall be installed underground or concealed within buildings and any mechanical, electrical, fire sprinkler or plumbing equipment that may be at ground level shall be aesthetically screened except where not permitted by the Garden Grove Municipal Code.

ATTACHMENT NO. 1

HOTEL STANDARDS

Upper Upscale Hotel Prototype Summary

Cast in place concrete frame construction

Program room mix - to be determined after significant market analysis and research with specificity to the Anaheim Resort Areas market needs

Swimming pool with spa

Exterior sun deck

Upper-Upscale Hotel Workout area

Porte-cochere sized to accommodate multiple vehicles

Efficient layout with a cost effective FTE requirement

Line chute

In-house food and beverage operations

Laundry operations

Upper-Upscale Hotel Executive Club Lounge

Elevators - 3 guest, 1 service; all traction with a gearless upgrade option

Public Area Features

Full designed Urban Bar & Eatery concept for the food and beverage outlets

Flexible private dining area

Outlet seating; Eatery - 82 / Bar – 37, exact seating based upon market demand

Wireless high speed internet access throughout all public and function space

Free standing front desk POD design

Movable partitions with a 54 STC rating

Separate function space arrival area

Meeting space minimum pursuant to scope of work, divisible into independent rooms, full back serviced

Pre-function space as required including exterior pre-function area

Audio/Visual system

Full designed, FF&E specified, sourced and priced

Self-service sundry/business center area adjoining the front desk

Upper-Upscale Hotel's express checkout service

Guestroom Features

The Upper-Upscale Hotel Bed in accordance with Flag specified bed

Mixture of Large, three and four-fixture Baths

Upper-Upscale Hotel designed model room

Guestroom HVAC - 2-pipe specified with a 4-pipe option and digital wall thermostats

Two, two-line phone handsets and High Speed Internet Access

Large flat panel LCD television

Pay per view movie system

In room refreshment center

In room safe

Upper-Upscale Hotel Green Program

Electronic card key locks

Full designed, FF&E specified, sourced and priced

Upper-Upscale Hotel brand standard OS&E; specified, sourced and priced

EXHIBIT D

SCHEDULE OF PERFORMANCE – CONDENSED SCHEDULE

	PERFORMANCE ITEM	DATE
1.	Agency and Developer execute DDA.	On or before June 15, 2011.
2.	Agency and Developer open Escrow.	Within thirty (30) days after Agency and Developer execute DDA.
3.	Agency acquires/has control of all Third Party Property.	On or before March 15, 2012.*
4.	Developer completes its Site Investigation pursuant to Section 204.	On or before the Due Diligence Date.
5.	Developer submits and Agency approves the identity of the Hotel Operator, Franchisor, and Franchise Agreement and Developer executes the Franchise Agreement.	On or before January 1, 2013.
6.	Developer submits completed application for PUD/Site Plan approval.	On or before June 1, 2012.
7.	City approves, conditionally approves or rejects PUD/Site Plan	On or before August 1, 2012.
8.	Agency approves or rejects cost of Agency Improvements pursuant to Section 205.1(m).	On or before January 1, 2012.
9.	Developer provides evidence of financing.	On or before March 15, 2013.
10.	Agency completes demolition, Site clearance and remediation, if applicable, pursuant to Paragraph II.1. of the Scope of Development	On or before March 15, 2013.
11.	Developer completes Construction Drawings	On or before January 1, 2013.

* If the Agency does not acquire all of the Third Party Property by such date, then each subsequent date set forth in this Schedule of Performance will be extended on a day-for-day basis for each day after March 15, 2012 through and including the date upon which Agency acquires all of the Third Party Property.

	PERFORMANCE ITEM	DATE
12.	Developer and Agency Close Escrow and Developer commences grading.	On or before June 15, 2013.[1]
13.	Construction Commencement Date.	On or before June 15, 2013.
14.	Off Site Improvements Completed by Agency	Concurrently with completion of the Developer Improvements.
15.	Developer Completes Construction of the Developer Improvements	Within twenty six (26) month after Close of Escrow.

[1] Although the outside date for the Closing of June 15, 2013, may not be extended for the events described in Section 602, the Closing may be extended until December 15, 2012 provided that, as of December 15, 2013, the Franchise Agreement for the Upper Upscale Hotel is still operative and neither the Developer or the Franchisor is in breach or default thereunder. The Closing may also be extended until June 15, 2014 if on December 15, 2013, the Franchise Agreement for the Upper Upscale Hotel is still operative and neither the Developer or Franchisor are in breach or default thereunder.

EXHIBIT E

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment") is hereby made as of _____, 20___, by and between _____, a _____ ("_____"), and _____, a _____ ("Assignee").

RECITALS

A. Assignor and the Garden Grove Agency for Community Development (the "Agency") have entered a Disposition and Development Agreement dated _____, 2011 (the "DDA"). Pursuant to the DDA, the Agency agreed to convey [or conveyed] to the Assignor a parcel of real property referred to in the DDA as the "Site," and the Assignor agreed to construct [among other things] _____ thereon.

B. Assignor and Assignee desire to provide by this Assignment for Assignor to assign to Assignee all of its rights and obligations under the DDA [with respect to the portion of the Site described on Exhibit "A" hereto] and for Assignee to accept such assignment and assume all rights and obligations thereunder [with respect to such portion of the Site].

C. Pursuant to Section 103 of the DDA, Agency approval of a Transfer of Assignor's interest in the DDA is required in connection with the construction of _____.

D. The parties also desire for Agency to consent to such assignment and assumption, and acknowledge that such assignment and assumption is permitted pursuant to Section 103 of the DDA.

NOW, THEREFORE, Assignor and Assignee hereby agree as follows:

1. Assignment and Assumption. Assignor hereby assigns to Assignee all of its right, title and interest in and to the DDA [with respect to the portion of the Site described on Exhibit "A" hereto], and Assignee hereby accepts such assignment and assumes performance of all terms, covenants and conditions on the part of Assignor to be performed, occurring or arising under the DDA [with respect to such portion of the Site], from and after the date hereof with respect to _____. From and after the date hereof, Assignor shall be released from and have no further obligations under the DDA [with respect to such portion of the Site], excluding actual claims of Default which Agency made against Assignor in writing prior to the date hereof, the responsibility for which claims have not been assumed by Assignee.

2. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of Assignor and Assignee, their respective successors and assigns and Agency as third party beneficiary hereof.

3. **Governing Law**. This Assignment has been entered into, is to be performed entirely within, and shall be governed by and construed in accordance with the laws of the State of California.

4. **Further Assurances**. Each party hereto covenants and agrees to perform all acts and things, and to prepare, execute, and deliver such written agreements, documents, and instruments as may be reasonably necessary to carry out the terms and provisions of this Assignment.

NOW, THEREFORE, the parties hereto have executed this Assignment as of the date set forth above.

ASSIGNOR:

_____,
a _____

By:_____

Its:_____

By:_____

Its:_____

ASSIGNEE:

_____, a
_____

By:_____

Its:_____

CONSENT OF AGENCY TO ASSIGNMENT

Agency hereby acknowledges and consents to the above assignment, and releases Assignor from any further liability under the DDA, except in Assignor's capacity as a member of Assignee.

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT,
a public body, corporate and politic

By:_____

ATTEST:

_____
Agency Secretary

STRADLING YOCCA CARLSON & RAUTH

_____
Agency Special Counsel

EXHIBIT F

GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO
AND SEND TAX STATEMENTS TO:

Garden Grove Agency for
Community Development
11222 Acacia Parkway
Garden Grove, California 92840
Attention: Agency Director

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged,

A. The Redevelopment Plan for the Garden Grove Community Project was approved and adopted by the City Council of the City of Garden Grove by Ordinance No. 1339, as amended by Ordinance Nos. 1388, 1476, 1548, 1576, 1642, 1699, 1760, 2035 and 2232; said ordinances and the Redevelopment Plan as so approved and amended (the "Redevelopment Plan") are incorporated herein by reference.

B. The Grantee shall refrain from restricting the rental, sale or lease of the applicable portion of the Site or the Developer Improvements on the basis of race, color, creed, religion, sex, marital status, national origin or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

1. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

2. In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

> "That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

3. In contracts: "There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

The covenants against discrimination, set forth in this Section B shall continue in effect in perpetuity.

C. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest permitted by this Grant Deed or the DDA; provided, however, that any subsequent owner of the Site shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

D. All of the terms, covenants and conditions of this Grant Deed shall be binding upon the Grantee and its successors and assigns. Whenever the term "Grantee" is used in this Grant Deed, such term shall include any other successors and assigns as herein provided.

E. All covenants without regard to technical classification or designation shall be binding for the benefit of the Grantor, the City of Garden Grove, and their respective successors and assigns. Such covenants shall be covenants running with the land in favor of the Grantor, the City of Garden Grove, and their respective successors and assigns for the entire period during which such covenants shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. The

Grantor, in the event of any breach of any such covenants, shall have the right to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized, this _____ day of _____, 2011.

GRANTOR:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

Dated: _____, 2011

By: _____

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Thomas P. Clark, Jr.
Agency General Counsel

The undersigned Grantee accepts title subject to the covenants hereinabove set forth.

GRANTEE:

_____
a _____

Dated: _____, 2011

By: _____
Its: _____

EXHIBIT G

RELEASE OF CONSTRUCTION COVENANTS

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

_____

_____

_____, California _____

Attention: _____

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

RELEASE OF CONSTRUCTION COVENANTS

This RELEASE OF CONSTRUCTION COVENANTS (the "Release") is made by the GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic (the "Agency"), in favor of _____, a _____ (the "Developer"), as of the date set forth below.

RECITALS

A. The Agency and the Developer have entered into that certain Disposition and Development Agreement dated _____ (the "DDA") concerning the redevelopment of certain real property situated in the City of Garden Grove, California as more fully described in Exhibit "A" attached hereto and made a part hereof.

B. As referenced in Section 310 of the DDA, the Agency is required to furnish the Developer or its successors with a Release of Construction Covenants (as defined in Section 100 of the DDA) upon completion of construction of the Developer Improvements (as defined in Section 100 of the DDA) or a portion thereof, which Release is required to be in such form as to permit it to be recorded in the Recorder's office of Orange County. This Release is conclusive determination of satisfactory completion of the construction and development required by the DDA of the Developer Improvements or such portion thereof as described in Exhibit "A" attached hereto and incorporated herein by reference.

C. The Agency has conclusively determined that such construction and development has been satisfactorily completed.

NOW, THEREFORE, the Agency hereby certifies as follows:

1. The Developer Improvements or portion thereof to be constructed by the Developer has been fully and satisfactorily completed in conformance with the DDA and is free of any claims and/or liens. Any operating requirements and all use, maintenance, security or nondiscrimination covenants contained in the DDA and other documents executed and recorded pursuant to the DDA shall remain in effect and enforceable according to their terms.

2. Nothing contained in this instrument shall modify in any other way any other provisions of the DDA.

IN WITNESS WHEREOF, the Agency has executed this Release this _____ day of _____, 20___.

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

Dated: _____, 2011

By: _____
Agency Director

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Agency Special Counsel

DEVELOPER

_____
a _____

Dated: _____, 2011

By: _____
Its: _____

STATE OF CALIFORNIA)
) ss.
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 names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal

_____
SIGNATURE OF NOTARY PUBLIC

STATE OF CALIFORNIA)
) ss.
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 names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal

_____
SIGNATURE OF NOTARY PUBLIC

EXHIBIT H

RIGHT OF ENTRY AGREEMENT

This RIGHT OF ENTRY AGREEMENT (the "Agreement") is entered into _____, 2011, by and between _____, a _____ ("GRANTEE") and the GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic ("GRANTOR").

RECITALS

A. GRANTOR, as "Agency," and GRANTEE, as "Developer," entered into that certain Disposition and Development Agreement dated _____ (the "DDA"), pursuant to which the GRANTOR agreed, subject to the fulfillment of the Agency's Conditions Precedent to convey the Site to the GRANTEE and GRANTEE agreed, subject to Developer's Conditions Precedent to accept Conveyance of the Site and construct the Developer Improvements thereon. All capitalized terms not defined herein shall have the meaning set forth in the DDA, unless the context dictates otherwise.

B. GRANTOR currently owns the Agency Parcels and is in the process of acquiring the Third Party Property. If and to the extent the GRANTOR acquires the Third Party Property or is granted the right of entry with respect to the Third Party Property such Third Party Property shall be deemed to be part of the Agency Parcels hereunder.

RIGHT OF ENTRY AGREEMENT

1. Grant of Right of Entry. The GRANTOR hereby grants the GRANTEE, its employees, consultants, contractors, subcontractors, agents, tenants, purchasers, and designees, permission to enter upon the Agency Parcels ("Right of Entry") for the purpose of performing or causing to be performed environmental, soils, and/or topographical tests and surveys ("Investigation") and for the purpose of clearing, demolishing and rough grading ("Grading").

2. Termination. This Agreement shall terminate upon the earlier to occur of (i) _____, 20____, (ii) the Closing or (iii) termination of the DDA, unless otherwise extended by mutual agreement of the parties.

3. Assumption of Risk. GRANTEE enters the Agency Parcels and performs or causes to be performed the Investigation, at its own risk and subject to whatever hazards or conditions may exist on the Agency Parcels.

4. Condition of Agency Parcels Upon Termination of DDA Prior to Conveyance. If the DDA and this Agreement are terminated prior to Conveyance (a) in the case of Investigation, GRANTEE shall repair or replace any landscaping, structures, fences, driveways, or other improvements that are removed, damaged, or destroyed by Grantee's employees, contractors, subcontractors, agents and designees, and (b) in the case of Grading of the Agency Parcels, the Developer shall provide a rough graded level site.

5. Indemnification and hold harmless. GRANTEE shall indemnify, defend and hold harmless the GRANTOR and City, their officers, directors, employees, contractors, subcontractors, agents, and volunteers ("Indemnitees") from any and all claims, suits or actions of every name, kind and description, brought forth on account of injuries to or the death of any person or damage to property arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by the GRANTEE or any person directly or indirectly employed by or acting as agent for GRANTEE in the performance of this Right of Entry, except that such indemnity shall not apply to the extent such matters are caused by the negligence or willful misconduct of the GRANTOR, its officers, agents, employees or volunteers.

It is understood that the duty of GRANTEE to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

Acceptance of insurance certificates and endorsements required under this Right of Entry does not relieve GRANTEE from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

6. Insurance. During the term of this Right of Entry, GRANTEE and its contractors, subcontractors and agents shall fully comply with the terms of the law of the State of California concerning worker's compensation and shall provide insurance in accordance with the DDA.

7. Recording. Neither GRANTOR nor GRANTEE shall record this Right of Entry.

8. Attorney's Fees. If any legal action or proceeding arising out of or relating to this Right of Entry is brought by either party to this Right of Entry, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs, and expenses incurred in the action or proceeding by the prevailing party.

9. Notices. All notices required or permitted under the terms of this DDA shall be in writing and sent to:

To Grantor:	Garden Grove Agency for Community Development 11222 Acacia Parkway Garden Grove, California 92840 Attention: Agency Director
with a copy to:	Stradling, Yocca, Carlson & Rauth 660 Newport Center Drive, Suite 1600 Newport Beach, California 92660 Attention: Thomas P. Clark, Jr.
To Grantee:	Matthew Reid Land & Design, Inc. 8130 La Mesa Boulevard #808 La Mesa, California 91942

With a copy to: Allen Matkins Leck Gamble Mallory & Natsis LLP
501 West Broadway, 15th Floor
San Diego, California 92101
Attention: Tom Crosbie

10. Time is of the Essence; Entire Agreement. Time is of the essence of the terms and provisions of this Right of Entry. This Right of Entry constitutes the entire agreement between GRANTEE and GRANTOR with respect to the matters contained herein, and no alteration, amendment or any part thereof shall be affective unless in writing signed by parties sought to be charged or bound thereby.

11. Assignment. This Agreement shall be assignable as security to Grantee's Holder for the purposes and with the limitations set forth herein.

APPROVED BY:

GRANTEE

LAND & DESIGN, INC.,
a California corporation

Dated: _____, 2011

By: _____

Its: _____

GRANTOR:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

Dated: _____, 2011

By: _____

Its: _____

EXHIBIT I

PREVAILING WAGE AND PUBLIC WORKS REQUIREMENTS

I. Developer's Requirements:

(1) Obtain the prevailing wage rate from the Director of Industrial Relations in accordance with Labor Code Sections 1771 and 1773.

(2) Specify the appropriate prevailing wage rates, in accordance with Labor Code Sections 1773.2 and 1777.5.

(A) The posting requirement is applicable for each job site.

EXCEPTION: If more than one worksite exists on any project, then the applicable rates may be posted at a single location which is readily available to all workers.

(B) If a wage rate for a craft, classification or type of worker is not published in the Director's general prevailing wage determinations, a request for a special determination should be made by the awarding body to Chief, Division of Labor Statistics and Research, P.O. Box 420603, San Francisco, CA 94142, at least 45 days prior to the project bid advertisement date.

(3) Notify the Division of Apprenticeship Standards, Department of Industrial Relations. See Labor Code Section 1773.3.

(4) Inform prime contractors, to the extent feasible, of relevant public work requirements:

NOTE: Requirement information may be disseminated at a pre-acceptance of bid conference or in a call for bids or at an award of bid conference.

The public works requirements are:

(A) the appropriate number of apprentices are on the job site, as set forth in Labor Code Section 1777.5.

(B) workers' compensation coverage, as set forth in Labor Code Sections 1860 and 1861.

(C) keep accurate records of the work performed on public works projects, as set forth in Labor Code Section 1812.

(D) inspection of payroll records pursuant to Labor Code Section 1776, and as set forth in Section 16400 (e) of Title 8 of the California Code of Regulations.

(E) and other requirements imposed by law.

(5) Withhold monies. See Labor Code Section 1727.

(6) Ensure that public works projects are not split or separated into smaller work orders or projects for the purpose of evading the applicable provisions of Labor Code Section 1771.

(7) Deny the right to bid on public work contracts to contractors or subcontractors who have been debarred from bidding on public works contracts, as set forth in Labor Code Section 1777.7.

(8) Not permit workers on public works to work more than eight hours a day or 40 hours in any one calendar week, unless compensated at not less than time and a half as set forth in Labor Code Section 1815.

EXCEPTION: If the prevailing wage determination requires a higher rate of pay for overtime work than is required under Labor Code Section 1815, then that higher overtime rate must be paid, as specified in subsection 16200(a)(3)(F) of Title 8 of the California Code of Regulations.

(9) Not take or receive any portion of the workers' wages or accept a fee in connection with a public works project, as set forth in Labor Code Sections 1778 and 1779.

(10) Comply with those requirements as specified in Labor Code Sections 1776(g), 1777.5, 1810, 1813, and 1860.

II. Contractor and Subcontractor Requirements.

The contractor and subcontractors shall:

(1) Pay not less than the prevailing wage to all workers, as defined in Section 16000 of Title 8 of the California Code of Regulations, and as set forth in Labor Code Sections 1771 and 1774;

(2) Comply with the provisions of Labor Code Sections 1773.5, 1775, and 1777.5 regarding public works jobsites;

(3) Provide workers' compensation coverage as set forth in Labor Code Section 1861;

(4) Comply with Labor Code Sections 1778 and 1779 regarding receiving a portion of wages or acceptance of a fee;

(5) Maintain and make available for inspection payroll records, as set forth in Labor Code Section 1776;

(6) Pay workers overtime pay, as set forth in Labor Code Section 1815 or as provided in the collective bargaining agreement adopted by the Director of Industrial Relations as set forth in Section 16200 (a) (3) of Title 8 of the California Code of Regulations;

(7) Comply with Section 16101 of Title 8 of the California Code of Regulations regarding discrimination;

(8) Be subject to provisions of Labor Code Section 1777.7 which specifies the penalties imposed on a contractor who willfully fails to comply with provisions of Section 1777.5;

(9) Comply with those requirements as specified in Labor Code Sections 1810 and 1813; and

(10) Comply with other requirements imposed by law.

EXHIBIT J

CONCEPTUAL SITE PLAN

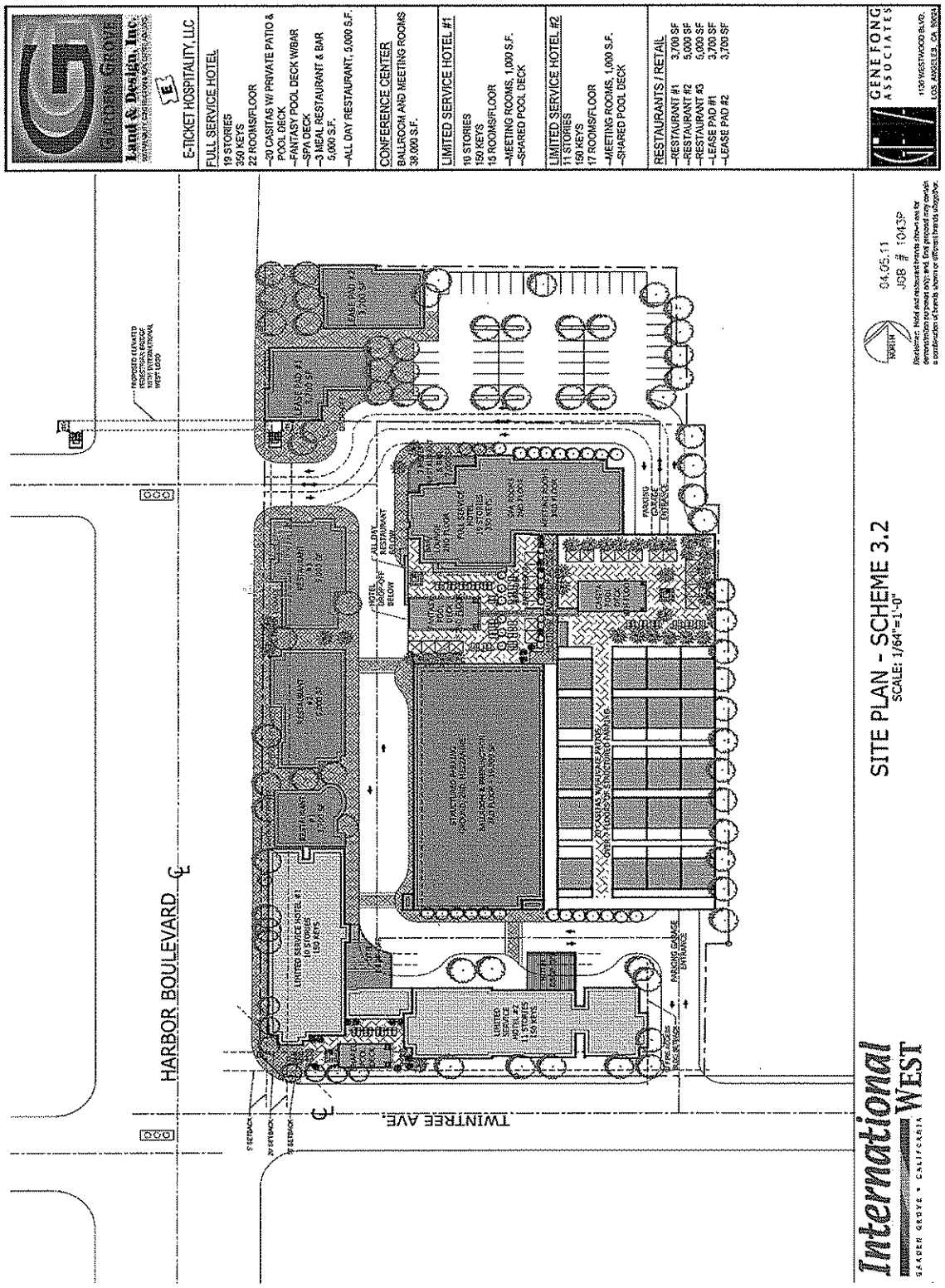

EXHIBIT K

MEMORANDUM OF AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO
AND SEND TAX STATEMENTS TO:

Garden Grove Agency for
Community Development
11222 Acacia Parkway
Garden Grove, California 92840
Attention: Agency Director

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

MEMORANDUM OF AGREEMENT

This **MEMORANDUM OF AGREEMENT** (the "Agreement") is entered into as of _____, 2011 by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), and **LAND & DESIGN, INC.**, a California corporation (hereinafter referred to as "Developer").

RECITALS

1. Recordation of Memorandum of Agreement. This Memorandum of Agreement evidences that certain Disposition and Development Agreement between the Agency and the Developer dated _____ ("DDA"). Capitalized terms not defined herein shall have the meaning set forth in the DDA. When recorded at the Closing the DDA is a burden against Developer's fee simple interest in the Site which Site is more particularly described in Attachment No. 1 attached hereto and incorporated herein by reference. The DDA provides, among other things, and subject to the fulfillment of certain Condition Precedent, for a conveyance of the Site to the Developer and for the development and operation by Developer thereon of a Hotel and Retail/Restaurant/Entertainment Component. The Covenants shall run with the land and be binding upon the heirs, successors and assigns of Developer.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Agreement as of the ____ day of _____, 2011.

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

Dated: _____, 2011

By: _____
Agency Director

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:

_____
Stradling Yocca Carlson & Rauth
Agency General Counsel

DEVELOPER

LAND & DESIGN, INC., a California corporation

Dated: _____, 2011

By: _____
Its: _____

STATE OF CALIFORNIA)
) ss.
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 names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal

_____
SIGNATURE OF NOTARY PUBLIC

STATE OF CALIFORNIA)
) ss.
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 names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal

_____
SIGNATURE OF NOTARY PUBLIC

STATE OF CALIFORNIA)
) ss.
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 names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal

_____
SIGNATURE OF NOTARY PUBLIC

ATTACHMENT NO. 1 TO EXHIBIT K

LEGAL DESCRIPTION

EXHIBIT L

PRE-APPROVED HOTEL FRANCHISES AND RESTAURANT TENANT(S)/OPERATOR(S)

Pre-Approved Limited Service Hotels

Aloft (Starwood)
Cambria Suites (Choice Hotels)
Country Inn and Suites (Carlson)
Courtyard (Marriott)
Element (Starwood)
Fairfield Inn and Suites (Marriott)
Four Points by Sheraton (Starwood)
Hotel Indigo (IHG)
Hyatt Place (Hyatt)
Nickelodeon Hotel
Springhill Suites (Marriott)
Summerfield Suites (Hyatt)
Towne Place Suites (Marriott)
Wingate (Wyndham)

Pre Approved Upper Upscale Hotels

Autograph Collection (Marriott)
Destination Hotels and Resorts
Fairmont
Four Seasons
Inter-Continental Hotel
Joie de Vivre Hotels
Jumeira Hotels
JW Marriott
Kessler Collection
Kimpton Hotel
Le Méridien
Loews
Luxury Collection (Starwood)
Marriott Hotels
MGM Hotel
Nickelodeon Hotel
Omni
Pan Pacific Hotel
Peabody Hotel
Planet Hollywood Hotel
Radisson Blu
Renaissance
Rosen Hotel
Sol Melia Hotels
Sonesta
Taj Hotel(s)
W Hotels

Westin
Wyndham Collection/Resort

Pre-Approved List of Full-Service Restaurants:

Applebees
Bahama Breeze
Bahama Breeze
BJ's Restaurant and Brewery
Black Angus
Bonefish Grill
Buffalo Wild Wings Grill and Bar
Burgerville USA
California Pizza Kitchen
Capital Grill
Carrabba's Italian Grill
Cheeseburger in Paradise
Chevy's
Chili's Grill and Bar
Chuy's Mesquite Broiler
Claim Jumper
Daily Grill
Daily Grill/The Grill
Elephant Bar
Emerill's
Famous Dave's
Farrell's
Fleming's Steakhouse
Gladstones
Golden Corral
Grand Luxe Cafe
Granite City Food and Brewery
Hard Rock Café
Houston's
Il Fornaio Cucina Italiano
Islands
Johnny Carino's
Johnny Rockets
King's Fish House
Landry's Seafood
Laundry's Aquarium Restaurant
Logan's Roadhouse
Lone Star Steakhouse
LongHorn Steakhouse
Lucilles BBQ
Maggiano's/Corner Bakery Café
Maloney's
Margaritaville
Marie Callendar's/Babe's BBQ
Moe's Southwest Grill
Nascar Café

Nobu
Old Chicago
Olive Garden
On the Border
Panda Inn
Papa Bello
Pat and Oscars
Pizzeria Uno
Prego
Qdoba Mexican Grill
RA Sushi Bar
Roadhouse Grill
RockSugar
Romano's Macaroni Grill
Ruby Tuesday's
Ruby's Diner
Season's 52
Sevilla
Smith & Wollensky
Smokey Bones BBQ
Spaghetti Factory
Texas Roadhouse
TGI Fridays
T-Rex
Uno Chicago
Wolfgang Pucks
Yard House
Z Tejas Grill

Pre-Approved List of Quick-Service Restaurants/Retail:

Crepe Café
Earl of Sandwich
Five Guys Hamburgers
Jerry Woodfired Hot Dogs
Panda Express
Panera Bread
Pink's Famous Hot Dogs
Portillos
Quiznos
Subway
The Hat
Togo's
Tommy's World Famous Hamburgers

Pre-Approved List of Specialty Restaurants:

California Welcome Center (official State of California Retail Storefront)
Coffee Bean
Coffee Bean and Tea Leaf
Dunkin Donuts
Ghirardelli Soda Fountain & Chocolate Shop
Haagen Dazs
Jamba Juice
Lego Store
Peet's Coffee
Pink Berry
Sea World Store
Southern Maid Donut Shops
Starbucks
Universal Studios Store
Wetzels Pretzels
Yogurt Land

Pre-Approved List of Entertainment Uses

B.B. King's Blues Cafe
Fox Sports Grill
House of Blues
Howl at the Moon
Improv
Jillians
Landry's Aquarium
Laugh Out Loud Comedy
Madame Tussauds
NBA Café/City
Ripley's Aquarium
Ripley's Believe It or Not (or similar Ripley's Entertainment Venue)
Sea Life Centre
Warren and Annabelle's Magic Show or affiliate
Wonderworks

EXHIBIT M

COVENANT CONSIDERATION COMPUTATION EXAMPLE

ANNUAL UPPER UPSCALE HOTEL COVENANT CONSIDERATION =
58% TOT + 50% (REMAINING REVENUES - 14.29% OF AGENCY IMPROVEMENT COST BUT NOT LESS THAN ZERO (0)).

TOTAL COVENANT CONSIDERATION COMPUTATION EXAMPLE
ASSUME THE FOLLOWING HYPOTHETICAL ASSUMPTION WITH REGARD TO THE UPPER UPSCALE HOTEL:

ADR	$180
Number of Rooms	370
Occupancy Rate	70%
Total Agency Improvement Costs	$15,800,000
Total Development Value	$81,000,000
Total Annual Sales Tax Revenues	$7,530,000
14.29% of Agency Improvement Costs	$2,257,143

	Total Transient Occupancy Tax Revenues	58% Transient Occupancy Tax Revenues Per Section 409 (a)	Net Tax Increment Revenues (70%)	Total Sales Tax Revenues	Total (42% of Transient Occupancy Tax Revenues + Net Tax Increment Revenues + Sales Tax Revenues)	Amount Applied to Agency Improvement Costs	Remainder of Total Revenues	50% of Remaining Revenues
Year								
1	$2,212,119	$1,283,029	$567,000	$75,300	$1,571,390	$1,571,390	($685,753)	$0
2	$2,278,483	$1,321,520	$578,340	$76,806	$1,612,109	$1,612,109	($645,034)	$0
3	$2,346,837	$1,361,165	$589,907	$78,342	$1,653,920	$1,653,920	($603,223)	$0
4	$2,417,242	$1,402,000	$601,705	$79,909	$1,696,856	$1,696,856	($560,287)	$0
5	$2,489,759	$1,444,060	$613,739	$81,507	$1,740,945	$1,740,945	($516,198)	$0
6	$2,564,452	$1,487,382	$626,014	$83,137	$1,786,221	$1,786,221	($470,922)	$0
7	$2,641,386	$1,532,004	$638,534	$84,800	$1,832,716	$1,832,716	($424,427)	$0
8	$2,720,627	$1,577,964	$651,305	$86,496	$1,880,464	$1,880,464	$0	$0
9	$2,802,246	$1,625,303	$664,331	$88,226	$1,929,500	$1,929,500	$0	$0
10	$2,886,314	$1,674,062	$677,617	$89,990	$1,979,860	$95,880	$1,883,980	$941,990
11	$2,972,903	$1,724,284	$691,170	$91,790	$2,031,579	$0	$2,031,579	$1,015,790
12	$3,062,090	$1,776,012	$704,993	$93,626	$2,084,697	$0	$2,084,697	$1,042,349
13	$3,153,953	$1,829,293	$719,093	$95,499	$2,139,252	$0	$2,139,252	$0
14	$3,248,571	$1,884,171	$733,475	$97,409	$2,195,283	$0	$2,195,283	$0
15	$3,346,028	$1,940,697	$748,144	$99,357	$2,252,833	$0	$2,252,833	$0
16	$3,446,409	$1,998,917	$763,107	$101,344	$2,311,943	$0	$2,311,943	$0
17	$3,549,802	$2,058,885	$778,369	$103,371	$2,372,657	$0	$2,372,657	$0
18	$3,656,296	$2,120,651	$793,937	$105,438	$2,435,019	$0	$2,435,019	$0
19	$3,765,985	$2,184,271	$809,816	$107,547	$2,499,076	$0	$2,499,076	$0
-	$3,878,964	$2,249,799	$826,012	$109,698	$2,564,875	$0	$1,629,165	$0

ANNUAL LIMITED SERVICE HOTEL(S) COVENANT CONSIDERATION =
50% (NET TAX INCREMENT REVENUES + SALES TAX REVENUES +
TRANSIENT OCCUPANCY TAX REVENUES).

TOTAL COVENANT CONSIDERATION COMPUTATION EXAMPLE
ASSUME THE FOLLOWING HYPOTHETICAL ASSUMPTION WITH REGARD TO THE LIMITED SERVICE HOTEL(S):

ADR	$120
Number of Rooms	300
Occupancy Rate	70%
Total Development Value	$50,000,000
Total Annual Sales Tax Revenues	$0

Year	Total Transient Occupancy Tax Revenues	Net Tax Increment Revenues	Total (Transient Occpancy Tax Revenues + Net Tax Increment Revenues + Sales Tax Revenues)	50% of Total Revenues Per Section 410
1	$1,195,740	$350,000	$1,545,740	$772,870
2	$1,231,612	$357,000	$1,588,612	$794,306
3	$1,268,561	$364,140	$1,632,701	$816,350
4	$1,306,617	$371,423	$1,678,040	$839,020
5	$1,345,816	$378,851	$1,724,667	$862,334
6	$1,386,190	$386,428	$1,772,619	$886,309
7	$1,427,776	$394,157	$1,821,933	$910,966
8	$1,470,609	$402,040	$1,872,649	$936,325
9	$1,514,728	$410,081	$1,924,808	$962,404
10	$1,560,169	$418,282	$1,978,452	$989,226
11	$1,606,975	$426,648	$2,033,623	$0
12	$1,655,184	$435,181	$2,090,365	$0
13	$1,704,839	$443,885	$2,148,724	$0
14	$1,755,985	$452,762	$2,208,747	$0
15	$1,808,664	$461,818	$2,270,482	$0
16	$1,862,924	$471,054	$2,333,978	$0
17	$1,918,812	$480,475	$2,399,287	$0
18	$1,976,376	$490,084	$2,466,461	$0
19	$2,035,667	$499,886	$2,535,553	$0
-	$2,096,737	$509,884	$2,606,621	$0

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE CONSENTING TO THE APPROVAL BY THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT OF A DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE AGENCY AND LAND & DESIGN INC.

WHEREAS, the Garden Grove Agency for Community Development ("Agency") entered into that certain Disposition and Development Agreement with Land & Design Inc. ("Developer"), a corporation duly organized under the laws of the State of California, dated as of June 14, 2011, ("DDA"), a copy of which is on file with the Agency, pursuant to which the Developer is to acquire and develop certain property identified therein as the "Site"; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed DDA and believes that the DDA is in the best interest of the Agency and the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable State and local laws requirements; and

WHEREAS, the Developer has submitted to the Agency and the City Council of the City of Garden Grove ("City Council") copies of the DDA substantially in the form submitted herewith; and

WHEREAS, all actions required by all applicable law with respect to the proposed DDA have been taken in an appropriate and timely manner; and

WHEREAS, the Agency and the City Council have duly considered all the terms and conditions of the proposed DDA and believes that the redevelopment of the Site pursuant thereto is in the best interests of the City of Garden Grove and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements; and

WHEREAS, pursuant to the California Environmental Quality Act, California Public Resources Code Section 21100 *et seq.* ("CEQA") and CEQA's Implementing Guidelines, California Code of Regulations, Title 14, Section 15000 et seq., the Agency prepared an Initial Study and determined that the project qualifies for a Negative Declaration because the project will not have a significant effect on the environment; and

WHEREAS, the Initial Study and Negative Declaration were prepared and circulated in accordance with CEQA and CEQA's implementing guidelines and the Negative Declaration was adopted by the Agency in accordance therewith.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES RESOLVE AS FOLLOWS:

Section 1. The City Council finds and determines that, based upon substantial evidence provided in the record before it, the consideration for the Agency's disposition of the Site, together with the Covenant Consideration and other items set forth in the Agreement, present not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the Agreement.

Section 2. The City Council hereby finds and determines that the disposition of the Site by the Agency pursuant to the Agreement will eliminate blight within the Project Area by contributing to consolidation of parcels, promoting improvements, and expanding the tourist opportunities available within the community, as well as providing for the proper reuse and redevelopment of a portion of the Project Area which was declared blighted.

Section 3. The City Council hereby finds and determines that the Agreement is consistent with the provisions and goals of the Implementation Plan.

Section 4. The City Council has independently reviewed and considered the information in the Agency's Initial Study and Negative Declaration pursuant to California Code of Regulations, Title 14, Sections 15050(b) and 15096, and finds that no further environmental review is required at this time.

Section 5. The City Council hereby consents to and approves the DDA and further authorizes the Agency Director (or his designee) is hereby authorized, on behalf of the Agency, to make revisions to the Agreement which do not materially or substantially increase the Agency's obligations thereunder or materially or substantially change the uses or development permitted on the Site, to sign all documents, to make all approvals and take all actions necessary or appropriate to carry out and implement the Agreement and to administer the Agency's obligations, responsibilities and duties to be performed under the Agreement and related documents.

Section 6. The City Council acknowledges that the governing board of the Agency may authorize the Agency Director of the Agency (or his/her duly authorized representative) on behalf of the Agency, to implement the DDA and make revisions to the DDA which do not materially or substantially increase the Agency's obligations thereunder or materially or substantially change the uses or development permitted on the Site, to sign all documents, to make all approvals and take all actions necessary or appropriate to carry out and implement the DDA and the administer the Agency's obligations, responsibilities and duties to be performed under the DDA and related documents.

RESOLUTION NO. _____

A RESOLUTION OF THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE AGENCY AND LAND & DESIGN INC. AND THE AGENCY AND MAKING CERTAIN OTHER FINDINGS IN CONNECTION THEREWITH

WHEREAS, the Garden Grove Agency for Community Development ("Agency") entered into that certain Disposition and Development Agreement with Land & Design Inc. ("Developer"), a corporation duly organized under the laws of the State of California, dated as of _____, 2011 ("DDA"), a copy of which is on file with the Agency, pursuant to which the Developer is to develop certain property identified therein as the "Site";

WHEREAS, the Agency has duly considered all terms and conditions of the proposed DDA and believes that the DDA is in the best interest of the Agency and the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable State and local laws requirements;

WHEREAS, the Developer has submitted to the Agency and the City Council of the City of Garden Grove ("City Council") copies of the DDA substantially in the form submitted herewith; and

WHEREAS, all actions required by all applicable law with respect to the proposed DDA have been taken in an appropriate and timely manner; and

WHEREAS, the Agency and the City Council have duly considered all the terms and conditions of the proposed DDA and believes that the redevelopment of the Site pursuant to the DDA in the best interests of the City of Garden Grove and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

WHEREAS, the Agency is a community redevelopment agency duly organized and existing under the California Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.* ("CRL"), and has been authorized to transact business and exercise the power of a redevelopment agency pursuant to action of the City Council ("City Council") of the City of Garden Grove ("City"); and

WHEREAS, the existing Garden Grove Community Project and the boundaries of the Community Project Area ("Project Area") were duly established by various ordinances of the City Council, which ordinances approved a redevelopment plan for the Garden Grove Community Project, as amended ("Redevelopment Plan"); and

WHEREAS, Agency is vested with the power to implement the Redevelopment Plan and to carry out the goals and objectives of the Garden Grove

Community Project, including without limitation the goals and objectives adopted by the Agency's implementation plan ("Implementation Plan") pursuant to the CRL; and

WHEREAS, the Agency is authorized and empowered by the CRL to enter into agreements for the acquisition, disposition and development of real property and otherwise to assist in the redevelopment of real property within a redevelopment project area in conformity with a redevelopment plan adopted for such area, to acquire real and personal property in redevelopment project areas, to receive consideration for the provision by the Agency of redevelopment assistance, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and to incur indebtedness to finance or refinance redevelopment projects; and

WHEREAS, Land & Design Inc. ("Developer") is a corporation duly organized, in good standing and qualified to do business under the laws of the State of California and experienced in the acquisition, construction and development of hotel and retail, restaurant and entertainment facilities; and

WHEREAS, Agency wishes to assist the Developer in the construction of the Project (as hereinafter defined) by conveying to the Developer certain real property ("Site") which is comprised of certain property owned by the Agency ("Agency Property") and certain other property owned by third parties ("Third Party Property"), as shown on the Site Map attached hereto as Exhibit A and incorporated herein by reference which the Agency is currently seeking to acquire for the development of the Project and providing additional financial assistance; and

WHEREAS, Agency desires to enter into that certain DDA with Developer relating to the disposition of the Site and development and operation of the Developer Improvement, as more fully described in the DDA ("Project"); and

WHEREAS, the Agency is authorized to convey an interest in its real property to the Developer pursuant to the CRL; and

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000, *et seq.*) ("CEQA") and its implementing guidelines (14 California Code of Regulations Section 15000, *et seq.*) ("CEQA Guidelines"), an Initial Study was prepared for the project which is based in part on the Environmental Impact Report which was certified in August 2008 as part of the General Plan Update (State Clearinghouse No. 2008041079) as well as the Final Environmental Impact Report for the Redevelopment Project Plan certified by the Agency by Resolution No. 629 on July 2, 2002 (collectively, "Environmental Impact Reports") in connection with an amendment of the Redevelopment Plan; and

WHEREAS, the Environmental Impact Reports were designated as a program environmental impact report pursuant to Section 15180(b) of the CEQA Guidelines, and no subsequent environmental impact report is required for implementation of individual components of the General Plan and/or Redevelopment Plan because

neither a subsequent nor supplemental environmental impact report is required by Section 15162 or 15163 of the CEQA Guidelines; and

WHEREAS, the Environmental Impact Reports incorporate into the Redevelopment Plan a number of mitigation measures ("Mitigation Measures") including a mitigation monitoring program ("Mitigation Monitoring Program"); and

WHEREAS, the project will comply with the Mitigation Monitoring Program set forth in the Environmental Impact Reports; and

WHEREAS, the Agency has determined on the basis of the whole record before it, including the Environmental Impact Reports, the Initial Study and comments received, that there is no substantial evidence that the project will have a significant effect on the environment, that no further environmental review is required pursuant to CEQA Guidelines Sections 15162 and 15163, and the project qualifies for a Negative Declaration; and

WHEREAS, the Initial Study and Negative Declaration were prepared and circulated for public comment in accordance with CEQA and CEQA's implementing guidelines; and

WHEREAS, there is no evidence before the Agency that the proposed project would have any potential adverse affect on wildlife, and, as a result, the proposed project qualifies for the De Minimis impact exemption from the Department of Fish and Game environmental review fee; and

WHEREAS, the Agency has adopted an Implementation Plan pursuant to CRL Section 33490, which sets forth the objective of increasing the community's economic base by encouraging new investment in the community, insuring the optimum generation of local revenues by facilitating the redevelopment and reuse of land, maximizing the use of property to achieve the highest and best use and a feasible economic return, and promoting new investment; and

WHEREAS, by providing for the development and operation of the Project on the Site, the DDA will assist the Agency in meeting the development policies and objectives set forth in the Implementation Plan, specifically the goal of reducing blighting economic conditions and increasing employment opportunities by encouraging new investment in the community through facilitating the development of commercial properties and through the implementation of economic development programs; and

WHEREAS, pursuant to Sections 33430 and 33431 of the CRL, the Agency is authorized, after a duly noticed public hearing, to convey the Site for development pursuant to the Redevelopment Plan; and

WHEREAS, on _____, 2011, the Agency held a duly noticed public hearing on the proposed DDA in accordance with Health and Safety Code Sections 33430 and 33431, at which time the Agency reviewed and evaluated all of the information, testimony, and evidence presented during the public hearing; and

WHEREAS, notice of the public hearing was published in the Orange County News, and the proposed DDA was available for public inspection prior to the public hearing as stated in the published notice of public hearing; and

WHEREAS, all actions required by all applicable law with respect to the proposed DDA have been taken in an appropriate and timely manner; and

WHEREAS, the City Council has previously determined, in its adoption of the ordinance approving the Redevelopment Plan, that the Site were blighted; and

WHEREAS, the DDA will assist in the elimination of blight by providing for the development and operation of the Project on the Site; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed DDA and believes that the Project is in the best interests of the City of Garden Grove and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements;

NOW, THEREFORE, BE IT RESOLVED by the Garden Grove Agency for Community Development as follows:

Section 1. Each of the foregoing recitals is true and correct.

Section 2. The Agency finds and determines that, based upon substantial evidence provided in the record before it, the consideration for the Agency's conveyance of the Site pursuant to the terms and conditions of the DDA is not less than the fair reuse value of the Site.

Section 3. The Agency hereby finds and determines that the conveyance of the Site, construction and operation of the Project, and the payment of the Covenant Consideration pursuant to the DDA will eliminate blight within the Project Area by providing for the proper reuse and redevelopment of a portion of the Project Area, which was previously declared blighted.

Section 4. The Agency hereby finds and determines that the DDA is consistent with the provisions and goals of the Implementation Plan.

Section 5. The Agency hereby finds and determines the following regarding the DDA and the Project:

(a) The project does not involve substantial changes in the Redevelopment Plan which will require major revisions of the Environmental Impact Reports due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(b) No substantial changes have occurred with respect to the circumstances under which the Redevelopment Plan is being implemented which will require major revisions of the Environmental Impact Reports due to the

involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(c) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Environmental Impact Reports were certified as complete, shows any of the following:

(i) The project will have one or more significant effects not discussed in the Environmental Impact Reports;

(ii) Significant effects previously examined will be substantially more severe than shown in the Environmental Impact Reports;

(iii) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Redevelopment Plan; or

(iv) Mitigation measures or alternatives, which are considerably different from those analyzed in the Environmental Impact Reports, would substantially reduce one or more significant effects on the environment.

(d) The Agency has considered the Initial Study and Proposed Negative Declaration together with comments received during the public review process.

(e) The Agency finds on the basis of the whole record before it, including the Initial Study and comments received, that there is no substantial evidence that the project will have a significant effect on the environment.

(f) The Agency further finds that the adoption of the Negative Declaration reflects the Agency's independent judgment and analysis.

(g) There is no evidence before the Agency that the proposed project will have potential for an adverse effect on wildlife resources or the habitat upon which wildlife depends.

(h) Therefore, the Agency, hereby adopts the Negative Declaration.

(i) The record of proceedings on which the Agency's decision is based is located at the City of Garden Grove, 11222 Acacia Parkway, Garden Grove, California. The custodian of the record of proceedings is the City Clerk's Office.

The Agency hereby approves the DDA between the Agency and Developer, in the form of the DDA, which has been submitted herewith.

Section 6. The Agency Director and the Agency Secretary are hereby authorized to execute and attest the DDA, including any related attachments, on behalf of the Agency. Copies of the final form of the DDA, when duly executed and attested, shall be placed on file in the office of the City Clerk.

Section 7. The Agency Director (or his/her duly authorized representative) is further authorized to implement the DDA and take all further actions and execute all documents referenced therein and/or necessary and appropriate to carry out the DDA. The Agency Director (or his/her duly authorized representative) is hereby authorized to the extent necessary during the implementation of the DDA to make technical or minor changes thereto after execution, as necessary to properly implement and carry out the DDA, provided the changes shall not in any manner materially affect the rights and obligations of the Agency.

Section 8. The Agency Secretary shall certify to the adoption of this Resolution.