AGENDA ITEM NO. 5.b.

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To:	Matthew J. Fertal	From:	Kingsley Okereke
Dept:	City Manager	Dept:	Finance
Subject:	APPROVAL OF GROVE DISTRICT RESORT HOTEL DEVELOPMENT AGREEMENT WITH LAND & DESIGN, INC. (HARBOR BOULEVARD & TWINTREE LANE)	Date:	April 9, 2013

OBJECTIVE

The purpose of this report is to provide information in connection with a Public Hearing for the City Council to consider the Grove District Resort Hotel Development Agreement ("Agreement") by and between the City of Garden Grove and Land & Design, Inc. (the "Developer").

BACKGROUND

The Developer has proposed a development project consisting of a combination of hotels, retail, restaurant, and entertainment venues, and related parking facilities (the "Project"), for an approximately five (5) acre site located at the northeast corner of Harbor Boulevard and Twintree Lane (the "Site"). A small portion of the Site is owned by the City, and the remainder of the Site is owned by the former Garden Grove Agency for Community Development (the "Agency").

On June 14, 2011, the former Agency and the Developer entered into a Disposition and Development Agreement ("DDA") pertaining to the Site and the Project. However, the State Department of Finance subsequently determined that the DDA is not an "Enforceable Obligation" pursuant to the RDA Dissolution Act (Parts 1.8 and 1.85 of Division 24 of the Community Redevelopment Law, California Health and Safety Code Sections 33000, et seq.).

In order to facilitate the development and operation of the Project on the Site, in November 2012, the City Council approved General Plan Amendment No. GPA-2-12(B), Planned Unit Development No. PUD-128-12, and the International West Hotel – Harbor East (Site C) Mitigated Negative Declaration and Mitigation Monitoring Program. Planned Unit Development No. PUD-128-12 authorizes the development of a hotel development project on the Site that consists of an aggregate total of a maximum of 769 rooms within one (1) Upper Upscale Hotel and two (2) Additional Hotels, with up to 39,000 square feet of conference space, a maximum of 20,000 aggregate square feet of interior restaurant space within the

three (3) hotels, up to 45,000 square feet or restaurant/entertainment space constructed on free-standing pads, and structured parking to serve the Project.

DISCUSSION

Pursuant to the proposed Agreement, the Developer would agree to construct a resort hotel project on the Site meeting certain quality thresholds and consisting of up to three hotels, event/meeting space, a retail/restaurant/entertainment component, and adequate structured parking (the "Project") and to operate the separate components of the Project in accordance with specified covenants. To assure financial feasibility necessary to allow the construction and operation of the Project to proceed, the City would agree to convey the Site to the Developer and to make certain annual financial assistance payments to the Developer in an amount measured by the tax revenues to the City generated by the Project over a period of up to twenty (20) years. The proposed Agreement between the City and the Developer is necessary to facilitate development of the proposed Project.

Summary of Deal Points

The proposed Agreement contains the business terms for implementing the Project and establishes the obligations and responsibilities of both the City and the Developer. Following is a summary of pertinent deal points contained within the proposed Agreement:

1. Conveyance of Site to Developer

The City's and the Developer's obligations under the Agreement are expressly contingent upon the approval by the Successor Agency, the Oversight Board, and the Department of Finance of a Long Range Property Management Plan providing for transfer of the portion of the Site owned by the Agency to the City at no cost for development purposes. Provided such approval is obtained, and subject to satisfaction of other specified conditions precedent, the City will then convey the entire Site to the Developer, cleared of all structures, in consideration of the Developer's construction and operation of the Project in accordance with the Agreement.

2. Site remediation.

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

3. Escrow.

Escrow is scheduled to close on or before September 1, 2015. The Schedule of Performance provides for up to two six (6) month extensions of this outside closing

date, provided the Franchise Agreement for the Upper Upscale Hotel remains in effect and neither the Developer nor Franchisor is in breach or default of the Agreement.

4. Third Party Property

Planned Unit Development No. PUD-128-12 encompasses property adjacent to the Site that is currently privately owned by a third party, Sunbelt Investments. Under the proposed Agreement, the Developer has the option of acquiring this Third Party Property, at its own cost, and adding it to the Site for purposes of developing a portion of the Project on it. The City would not be obligated under the Agreement to acquire this Third Party Property for the Developer, however, and the Developer is not required to incorporate it into the Project. If the Developer chooses to do so, however, the Third Party Property would be subject to all of the same covenants and obligations of the Developer under the Agreement that apply to the rest of the Site.

5. Scope of Project

The proposed Agreement permits the Developer to construct the project contemplated in Planned Unit Development No. PUD-128-12. Pursuant to the Schedule of Performance, construction of the Project is to be completed within twenty-six (26) months of Close of Escrow.

Hotel Component

Pursuant to the Agreement, the Developer will construct a combination of hotels consisting of at least one (1) full-service hotel of "upper upscale" quality (the "Upper Upscale Hotel(s)") and up to two (2) additional limited and/or full service hotels of at least "midscale" quality (the Additional Hotel(s)"), and which contain, in the aggregate, a maximum of seven hundred sixty nine (769) rooms, a maximum of thirty-nine thousand (39,000) square feet of event/meeting space, and a maximum of twenty thousand (20,000) aggregate square feet of interior restaurant/bar space.

The Upper Upscale Hotel must contain no less than three hundred (300) rooms and not less than ten thousand (10,000) square feet of event/meeting space, and the finishes, standards and quality of the Upper Upscale Hotel(s) must equal or exceed those of the Westin Pasadena. The Additional Hotels must contain no less than one hundred twenty-five (125) rooms each and no less than two hundred fifty (250) rooms combined, and the finishes, standards and quality of the Additional Hotel(s) must equal or exceed those of the Homewood Suites Garden Grove.

Retail/Restaurant/Entertainment Component

The Project must include a minimum of five thousand (5,000) and a maximum of sixty-five thousand (65,000) square feet of retail/restaurant/entertainment establishments, including one (1) or more restaurants (the "Retail/Restaurant/Entertainment Component").

Parking Structures

The Developer will be required to construct adequate structured parking to serve the Project.

6. City Approval of Financing, Franchisors, and Operators

Developer's construction financing, the Hotel flags/operators and related franchise agreements, and the tenants/operators of the retail/restaurant/entertainment venues are all subject to City approval. Certain Hotel brands/operators and restaurant and entertainment venues are deemed pre-approved (Exhibit L to Agreement).

7. Land Use Approvals

If the Project is consistent with the provisions of Planned Unit Development No. PUD-128-12 and the conceptual site plan included therein, no further discretionary site plan approvals for the Hotels or parking structures will be necessary. In order to fully implement the Project, however, the Developer will be required to obtain certain additional land use entitlements from the City, including, without limitation, a subdivision map to consolidate the properties within the Site and/or to permit development of the parking Structures across legal lot lines (the "Subdivision Map"), a statutory development agreement between the City and the Developer, conditional use permits to allow for the sale of alcoholic beverages, conditional use permit(s) to allow for the operation of a health club(s), spa(s), and/or gym(s) on the Site, and approvals of site plans for each freestanding pad to be constructed as part of the Retail/Restaurant/Entertainment Component. In addition, if the ultimate building configuration, building height, or other characteristics of the Project significantly differ from those expressly contemplated in Planned Unit Development No. PUD-128-12, then the Developer will be required to obtain the additional necessary discretionary land use approvals and pay for any associated additional environmental review.

The Developer's securing of all necessary land use approvals for the Project is a condition precedent to the Close of Escrow and City's conveyance of the Site to the Developer.

Provided the Project is substantially consistent with the Conceptual Site Plan, the City will pay all costs associated with preparation of the Subdivision Map. The Developer will be responsible for all other costs, charges, and fees associated securing the necessary land use approvals, including, without limitation, the City's customary development fees.

8. Right of Re-Entry

If the Developer abandons the Project prior to completion of construction, the City has the right to re-enter and re-take possession of the Site and re-vest title in the City.

9. Off-Site Infrastructure

The City will be responsible for the cost of installation of a traffic signal at the entrance to the Project and related raised median improvements within Harbor Boulevard, as well as necessary public improvements required to be installed in the public right-of-way in conjunction with the Project; however, the Developer will be responsible for all sidewalks, driveways, street lights, pedestrian light standards, signs, parkway landscaping, and/or other improvements constructed behind the back of the curb face.

10. Developer's Operating Covenants

In addition to requiring City approval of the Hotel brands/operators, the Agreement requires the Hotels to meet specified quality thresholds and contain specific amenities. Further, once developed, the Developer and any successor owners will be required to continue to use, operate and maintain the Site and separate Project components in accordance with the covenants set forth in the Agreement.

11. City Financial Assistance

To assist in creating future financial feasibility necessary to allow the construction and operation of the Project to proceed, the Agreement provides for the City to make certain annual financial assistance payments to the Developer over a period of twenty (20) years in an amount measured by the tax revenues to the City generated by the Project. Based on the assumptions utilized by the City's economic consultant in calculating the Project's residual land value, the Net Present Value ("NPV") of these financial assistance payments over 20 years is estimated to be approximately $17.6 million. The amount and length of the assistance payments are summarized as follows:

- Each Upper Upscale Hotel
  - 60% of amount of TOT revenues received by City with respect to Hotel
  - 50% of amount of Sales Tax revenues attributable to operation of Hotel received by City
  - Length of assistance payments: 20 years

- Each Additional Hotel
  - 50% of amount of TOT revenues received by City with respect to Hotel
  - 50% of amount of Sales Tax revenues attributable to operation of Hotel received by City
  - Length of assistance payments: 10 years

- Retail/Restaurant/Entertainment Component
  - 50% of amount of Sales Tax revenues attributable to each separate retail/restaurant/entertainment venue
  - Length of assistance payments: 20 years

Updated Residual Land Value Evaluation

At the City's request, Horwath HTL, LLC ("Horwath"), the City's economic consultant prepared an updated economic evaluation of the proposed Project on the Site. Horwath's analysis assumes a 360 room Upper Upscale Hotel, a 150 room suites oriented hotel, and a 150 room select service hotel. Based on the cost and revenue numbers provided by the Developer, Horwath concluded that the Project's development costs compared to the estimated income and development values reasonably expected from the Project generates a negative residual land value of approximately $31.5 million, inclusive of City assistance in the form of conveyance of the Site at no cost to Developer. This financial feasibility gap is consistent with industry standards for a project of this type. Horwath also evaluated other potential hotel and room number combinations permitted under the Agreement and concluded that all combinations resulted in a similar negative residual land value. Accordingly, development of the Project would not be feasible without the economic assistance provided for in the Agreement.

City Benefits

Development and operation of the Project will result in substantial benefits to the City. These benefits include:

- It is estimated that the Project will generate approximately between $3.8 and $4.9 million per year (in today's dollars) in additional tax revenue to the City over the life of the Project.

Type	Estimated Range (Annually)
TOT	$3.5 Million - $4.3 Million
Sales Tax	$160,000- $360,000
Property Tax	$192,000 - $268,000

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

- 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.

- Additional high-quality entertainment, restaurant and retail opportunities for the residents of Garden Grove and the surrounding areas.

- Benefits from additional "Grove District" branding.

Environmental Review

The Project contemplated by this Agreement was analyzed in the International West Hotel – Harbor East (Site C) Mitigated Negative Declaration and Mitigation Monitoring Program, adopted by the City Council on November 13, 2012. Accordingly, no additional environmental review is required at this time.

FINANCIAL IMPACT

There will be no immediate financial impact to the City as a result of this Agreement. The City and/or former Garden Grove Agency for Community Development already own the entire Site. The Party's obligations under the Agreement are contingent upon future approval of a Long Range Property Management Plan providing for transfer of the Agency-owned portion of the Site to the City at no cost. If such a transfer occurs, the City will incur certain expenses related to clearance of the Site, environmental remediation (if necessary) the preparation of a subdivision map, and the construction of certain off-site public improvements. The cost of these items is not expected to exceed $1,000,000.

Once the Project is constructed and begins operating, it will generate an estimated $3.8 and $4.9 million additional annual tax revenue to the City. The tax revenue generated by the Project will exceed the required City financial assistance payments to the Developer by more than 40% in the first 10 years of the Project's operation and by more than 50% in the next 10 years of the Project's operation.

RECOMMENDATION

Staff recommends the City Council take the following actions:

- Conduct a Public Hearing;
- Adopt the attached Resolution approving the attached Grove District Resort Hotel Development Agreement with Land & Design, Inc.; and
- Authorize the City Manager to execute the Agreement, including any minor modifications as appropriate, and any other pertinent documents necessary to effectuate and/or implement the Agreement.

KINGSLEY OKEREKE
Finance Director

By: Greg Blodgett
Senior Project Manager

Attachment 1 Resolution
Attachment 2: Proposed Agreement
Attachment 3: Horwath HTL Report

Recommended for Approval

Matthew Fertal
City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE, CALIFORNIA, APPROVING GROVE DISTRICT RESORT HOTEL DEVELOPMENT AGREEMENT BETWEEN THE CITY OF GARDEN GROVE AND LAND & DESIGN, INC.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE, CALIFORNIA, DOES HEREBY FIND AS FOLLOWS:

A. Land & Design, Inc. ("Developer") has proposed a development project consisting of a combination of hotels, retail, restaurant, and entertainment venues, and related parking facilities (the "Project"), for an approximately five (5) acre site located at the northeast corner of Harbor Boulevard and Twintree Lane (the "Site").

B. A small portion of the Site is owned by the City of Garden Grove, and the remainder of the Site is owned by the former Garden Grove Agency for Community Development (the "Agency").

C. On June 14, 2011, the Agency and the Developer entered into a Disposition and Development Agreement ("DDA") pertaining to the Site and the Project. In conjunction with the Agency's consideration and approval of the DDA, the City Council conducted a joint Public Hearing with the Agency, considered the evidence and testimony presented at the Public Hearing, and adopted Resolution No. 9045-11 making certain findings and consenting to the Agency's approval of the DDA. The findings contained in Resolution No. 9045-11 and the evidence and testimony presented at the June 14, 2011, joint Public Hearing are hereby incorporated by reference into this Resolution.

D. On or about December 12, 2012, the State Department of Finance determined that the DDA is not an "Enforceable Obligation" pursuant to the RDA Dissolution Act (Parts 1.8 and 1.85 of Division 24 of the Community Redevelopment Law, California Health and Safety Code Sections 33000, et seq.).

E. On November 13, 2012, the City Council adopted Resolution No. 9153-12 approving the International West Hotel – Harbor East (Site C) Mitigated Negative Declaration and Mitigation Monitoring Program, which analyzes the anticipated environmental impacts of the Project and provides for specified mitigation measures.

F. The City and Developer propose to enter into that certain Grove District Resort Hotel Development Agreement attached hereto as Exhibit "A" (the "Agreement"). Pursuant to the proposed Agreement, the Developer would agree to construct a resort hotel project on the Site meeting certain quality thresholds and consisting of up to three hotels, event/meeting space, a retail/restaurant/ entertainment component, and adequate structured parking (the "Project") and to operate the separate components of the Project in accordance with specified covenants. To assure the financial feasibility necessary to allow the construction

and operation of the Project to proceed, the City would agree to convey the Site to the Developer, to make certain annual financial assistance payments to the Developer in an amount measured by the tax revenues to the City generated by the Project over a period of up to twenty (20) years, and to provide certain other economic assistance (collectively, the "Covenants Consideration"). Pursuant to the terms of the proposed Agreement, the City's obligation to convey the Site to the Developer is expressly contingent upon the approval by the City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency"), the Oversight Board to the Successor Agency, and the Department of Finance of a Long Range Property Management Plan providing for transfer of the portion of the Site owned by the Agency to the City at no cost for development purposes.

G. The City Council has been presented a report prepared by Horwath HTL, LLC ("Horwath"), dated March 20, 2013, containing an updated economic evaluation of the proposed Project on the Site, which report is hereby incorporated by reference into this Resolution. Based on the cost and revenue numbers for the Project, Horwath's report concludes that the Project's development costs compared to the estimated income and development values reasonably expected from the Project generates a negative residual land value, or financial feasibility gap, of approximately $31.5 million, inclusive of City assistance in the form of conveyance of the Site at no cost to Developer. In addition, Horwath also evaluated other potential hotel and room number combinations permitted under the Agreement and concluded that all combinations resulted in a similar negative residual land value/ feasibility gap.

H. On April 9, 2013, the City Council conducted a duly noticed Public Hearing, at which it considered the terms of the proposed Agreement, the March 20, 2013 Horwath report, the value of the assistance to provided by the City pursuant to the Agreement, the benefits the City will derive from the Agreement, the report of City Staff, and other evidence and testimony provided at the Public Hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Based on the evidence and testimony provided at the April 9, 2013 Public Hearing, the City Council hereby makes the following findings:

A. The development and operation of the Project on the Site, as provided in the 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, which include (i) additional "Grove District" branding, (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).

B. The benefits provided by the Project will result in substantially more benefits to the City than the costs to the City of providing the Covenants Consideration provided for in the Agreement.

C. The Project would not be able to be developed and operated without the assistance to be provided pursuant to the Agreement.

D. The Agreement will result in only that assistance to the Developer which is necessary to fund the economic feasibility gap created by the quality of the Project required by this Agreement, and the total value of the assistance to be provided by the City pursuant to the Agreement will not exceed the feasibility gap for the Project.

E. The amount of each payment required to be made by the City under the Agreement is a fair exchange for the consideration actually furnished pursuant to the Agreement by Developer during each fiscal year of the City in which payment is made; each payment to be made by the City under the Agreement has been calculated so that it will not exceed the resources available to make such payment; and in no event shall the City be immediately indebted to Developer for the aggregate payments provided for pursuant to the Agreement.

SECTION 2. The Grove District Resort Hotel Development Agreement between the City of Garden Grove and Land & Design, Inc., attached hereto as Exhibit "A", is hereby approved.

SECTION 3. The City Manager is hereby authorized to execute the Agreement and any related attachments, including any minor modifications as appropriate, and any other pertinent documents necessary to effectuate and/or implement the Agreement.

SECTION 4. The City Manager or his duly authorized representative is further authorized to implement the Agreement and take all further actions and execute all documents referenced therein and/or necessary and appropriate to carry out the Agreement. The City Manager or his duly authorized representative is hereby authorized to the extent necessary during the implementation of the Agreement to make technical or minor changes thereto after execution, as necessary to properly implement and carry out the Agreement, provided the

changes shall not in any manner materially affect the rights and obligations of the City.

SECTION 5. The City Clerk shall certify to the adoption of this Resolution.

GROVE DISTRICT RESORT HOTEL DEVELOPMENT AGREEMENT

By and Between

CITY OF GARDEN GROVE

and

LAND & DESIGN, INC.

TABLE OF CONTENTS

TABLE OF CONTENTS
(Continued)

TABLE OF CONTENTS
(Continued)

Page

LIST OF EXHIBITS

GROVE DISTRICT RESORT HOTEL DEVELOPMENT AGREEMENT

This **GROVE DISTRICT RESORT HOTEL DEVELOPMENT AGREEMENT** (this "Agreement") dated for purposes of identification only as of April 9, 2013 (the "Date of this Agreement"), is entered into by and between the **CITY OF GARDEN GROVE**, a municipal corporation (the "City"), and **LAND & DESIGN, INC.**, a California corporation, or any approved affiliate, assignee or successor thereto permitted pursuant to the terms of this Agreement (the "Developer").

RECITALS

A. The property which is the subject of this Agreement is approximately five acres (5) acres located at the northeast corner of Harbor Boulevard and Twintree Lane in the City of Garden Grove and is comprised of certain property owned by the City ("City Property"), certain property currently owned by the City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development ("Agency Property"), and certain property currently privately owned by third parties, but which the Developer may purchase or lease in the future ("Third Party Property"). The City Property and the Agency Property are collectively referred to herein as the "Site." The Third Party Property is adjacent to the Site and, if purchased or leased by the Developer, may be added to the Site for purposes of construction and operation of the Project contemplated by this Agreement. The City Property, the Agency Property, and the Third Party Property are shown on the Site Map (Exhibit A) and legally described in the Legal Description (Exhibit B).

B. The Developer has proposed a development project for the Site generally consisting of a combination of hotels, retail, restaurant, and entertainment venues, and related parking facilities, and specifically including the following components:

1. A combination of hotels consisting of at least one (1) full-service hotel of "upper upscale" quality (the "Upper Upscale Hotel(s)") and up to two (2) additional limited and/or full service hotels of at least "midscale" quality (the Additional Hotel(s)"), and which contain, in the aggregate, a maximum of seven hundred sixty nine (769) rooms, a maximum of thirty-nine thousand (39,000) square feet of event/meeting space, and a maximum of twenty thousand (20,000) aggregate square feet of interior restaurant/bar space;

2. A minimum of five thousand (5,000) and a maximum of sixty-five thousand (65,000) square feet of retail/restaurant/entertainment establishments, including one (1) or more restaurants (the "Retail/Restaurant/Entertainment Component"); and

3. Adequate structured parking, as required ("Parking Structures").

The Upper Upscale Hotel(s), the Additional Hotel(s), the Retail/Restaurant/Entertainment Component, the Parking Structures, and the other improvements required and/or contemplated 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 as the "Separate Component(s)." The Project, including the permissible combination of Hotels, is more specifically described in the Scope of Development (Exhibit C).

C. The City previously approved General Plan Amendment No. GPA-2-12(B) (the "General Plan Amendment") and Planned Unit Development No. PUD-128-12 (the "PUD") to facilitate the development and operation of the Project on the Site and the Third Party Property. The City also previously adopted a Mitigated Negative Declaration and Mitigation Monitoring Program for the GPA, the PUD, and the additional future entitlements necessary to implement the Project (the "MND"). The General Plan Amendment, the PUD, and the MND are collectively referred to herein as the "Existing Land Use Approvals." The provisions and development standards of the PUD authorize the development of a hotel development that consists of an aggregate total of a maximum of 769 rooms within one (1) Upper Upscale Hotel and two (2) Additional Hotels, with up to 39,000 square feet of conference/meeting/banquet space, a maximum of 20,000 aggregate square feet of interior restaurant/bar space within the three (3) hotels, up to 45,000 square feet or restaurant/entertainment space constructed on free-standing pads, and structured parking to serve the Project. Pursuant to the provisions of the PUD, if the City determines that the Developer's submittal of development plans are in substantial compliance with the provisions of the PUD and in similar shape, form and configuration with the conceptual site plans included with the City's approval of the PUD, the Developer may proceed to securing the appropriate building permits for constructing the Project (other than the restaurants and/or entertainment venues on freestanding pads) without further discretionary site plan approvals. In order to fully implement the Project, however, certain additional discretionary land use entitlements will be necessary, including, without limitation, a subdivision map to consolidate the properties within the Site and/or to permit development of the Parking Structure(s) across legal lot lines (the "Subdivision Map"), a statutory development agreement between the City and the Developer (the "Development Agreement"), conditional use permits to allow for the sale of alcoholic beverages in the Separate Components, conditional use permit(s) to allow for the operation of a health club(s), spa(s), and/or gym(s) on the Site, and approvals of site plans for each freestanding pad to be constructed as part of the Retail/Restaurant/Entertainment Component.

D. In connection with the development and initial operation of the Project, to assist in creating future financial feasibility necessary to allow the construction and operation of the Project to proceed, the Developer has requested certain financial assistance from the City in the form of the conveyance of the City Property and Agency Property to the Developer, the construction of certain Offsite Infrastructure, payment of the costs associated with preparation of the Subdivision Map, and financial assistance consisting of rebates of a portion of the Transient Occupancy Tax Revenues and Sales Tax Revenues generated by the Project over a period of twenty (20) years (the "Tax Rebate Payments"). Conveyance of the Site, the construction of certain Offsite Infrastructure, the payment of the costs associated with preparation of the Subdivision Map, and the payment of the Tax Rebate Payments is collectively referred to herein as the "Covenants Consideration." In return for the Covenants Consideration, the Developer agrees to construct the Project as provided herein and, for so long as the City is providing any Covenants Consideration, to operate the Separate Components of the Project in accordance with the Covenants established by this Agreement. The City has determined that the Project would not be able to be developed and operated without the assistance provided by this Agreement and that this Agreement will result in only that assistance to the Developer which is necessary to fund the economic feasibility gap created by the quality of the Project required by this Agreement.

E. On June 28, 2011, Parts 1.8 and 1.85 of Division 24 of the Community Redevelopment Law ("CRL"), California Health and Safety Code Sections 33000, *et seq.*, were added by Assembly Bill X1 26 ("RDA Dissolution Act"). The RDA Dissolution Act provides for the statewide dissolution of all redevelopment agencies as of October 1, 2011, and provides that, thereafter, a successor agency will administer the enforceable obligations of redevelopment agencies and otherwise wind up their affairs. The City became the Successor Agency to the former Garden Grove Agency for Community Development pursuant to Part 1.85 of the CRL. On December 29, 2011, in *California Redevelopment Association v. Matosantos*, Case No. S194861, the California Supreme Court upheld the RDA Dissolution Act and extended the deadlines in the RDA Dissolution Act by four months.

F. On June 27, 2012, the State Legislature passed AB 1484 as part of the budget trailer bill for the 2011-2012 Legislative Session, amending the RDA Dissolution Act to clarify certain provisions of the RDA Dissolution Act and to provide for new regulations pertaining to the disposition of real estate held by successor agencies. AB 1484 added sections 34179.5 through 34179.7 to the California Health & Safety Code to require due diligence reviews or audits of successor agency assets to determine amounts in cash available for distribution to taxing agencies. If a successor agency remits available cash assets to County auditor-controllers for distribution to taxing agencies pursuant to the new requirements, such successor agency is to be issued a "finding of completion" certifying that such agency has complied with the due diligence requirements. As of the date of this Agreement, the Agency has not yet been issued a "finding of completion."

G. AB 1484 further added a new Chapter 9 to Part 1.85 of the Health & Safety Code, commencing with Section 34191.1, applicable to successor agencies that receive a "finding of completion." Chapter 9 authorizes a successor agency that receives a "finding of completion" to prepare a long-range property management plan to address the use and disposition of the real property of the former redevelopment agency. If approved by the oversight board of the successor agency and the Department of Finance, the plan may provide for, among other things, the retention of such property for future development and/or transfer of such property to the city for such purposes. As of the date of this Agreement, a long-range property management plan has not yet been approved by the Agency, the Oversight Board, or the Department of Finance.

H. Provided a long-range property management plan providing for transfer of the Agency Property to the City at no cost for development purposes is approved by the Agency, the Oversight Board, and the Department of Finance, which approval the City intends to use best efforts to facilitate, the City and the Developer desire by this Agreement, and subject to its terms and provisions, (1) for the City to provide the Covenants Consideration to Developer, and (2) for the Developer (a) to acquire the Site, (b) to process the Additional Land Use Approvals, and (c) to construct and operate the Developer Improvements in accordance with the Covenants.

I. The City has established a special zone along Harbor Boulevard south of the City of Anaheim border marketed as the "Grove District." The City markets the Grove District as Southern California's premier resort destination, within the heart of Orange County's largest tourist center, with easy access to the most popular Southern California attractions like Disneyland, Disney's California Adventure, Knott's Berry Farm, Universal Studios, Sea World, and miles of Orange County beaches. The Grove District includes modern hotels that offer a

variety of room sizes and rates, plus entertainment and dining to meet every tourist and business traveler's needs. The Project will add additional hotel, meeting space, restaurant, and entertainment amenities to the Grove District brand.

J. 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, which include (i) additional Grove District branding, (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). The City further finds that the benefits provided by the Project will result in substantially more benefits to the City than the costs to the City of providing the Covenants Consideration.

NOW, THEREFORE, the City 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:

"Additional Hotel(s)" means a limited and/or full-service Hotel or Hotels of "midscale" or "upscale" quality, the characteristics and the minimum standards for which are described in Recital B, in Section 301.1, and in the Scope of Development.

"Additional Land Use Approvals" means all Land Use Approvals other than Existing Land Use Approvals.

"Agency" means the City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development, a public body formed pursuant to pursuant to Part 1.85 of the CRL and the RDA Dissolution Act.

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

"Agreement" means this Grove District Resort Hotel Development Agreement by and between the City and Developer, including all exhibits, and all amendments and modifications hereto.

"***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 Tax Rebate Payments with respect to the applicable portion of the Site and/or Developer Improvements is required to be paid pursuant to Section 408.

"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, and any assignee of or successor to its rights, powers and responsibilities.

"City Improvements" is defined in Section 301.2.

"City Improvement Costs" is defined in Section 301.2.

"City Manager" means the City Manager of the City, or his or her designee.

"City Property" means that certain property identified as City Property on the Site Map and described in the Legal Description

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

"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 201.3 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" or ***"CRL"*** 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 of the Separate Components thereof, as evidenced by a final Certificate of Occupancy issued by the City, certification by the Project Architect and the City Manager that such Developer Improvements are complete in accordance with the Land Use Approvals and, in the case of a Hotel, the Hotel and all its rooms are open and available to the public.

"Conceptual Site Plan" means that certain conceptual site plan approved by the City in conjunction with Planned Unit Development No. PUD-128-12 generally depicting the proposed development and use of the Site, which is attached hereto as Exhibit J and incorporated herein by reference.

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

"Construction Commencement Date" means the date that is set forth in the Schedule of Performance as the date upon which the Commencement of Construction 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 City Property and the Agency Property to the Developer by Grant Deed.

"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, 301, 303 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 economic assistance to be provided by the City to the Developer as provided in Section 407 hereof.

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

"Declaration" means a Declaration of Covenants, Conditions and Restrictions to be recorded against the Site which will be mutually agreed to by the City and the Developer 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.

"Department of Finance" or ***"DOF"*** means the California Department of Finance.

"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, in the aggregate, have (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 Hotels, the Retail/Restaurant Entertainment Component, the Parking Structures, each as generally described in Recital B above and/or more particularly described herein and in the Scope of Development, and such other related improvements required and/or contemplated to be constructed on the Site pursuant to this Agreement and the Land Use Approvals.

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

"Developer/City 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 City 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 environmental protection, occupational health or industrial hygiene.

"Escrow" is defined in Section 201.3.

"Escrow Agent" is defined in Section 201.3.

"Existing Land Use Approvals" means (i) General Plan Amendment No. GPA-2-12(B), approved by the Garden Grove City Council on November 13, 2012; (ii) Planned Unit Development No. PUD-128-12, adopted by the Garden Grove City Council on November 27, 2012; and (iii) the International West Hotel – Harbor East (Site C) Mitigated Negative Declaration and Mitigation Monitoring Program adopted by the Garden Grove City Council on November 13, 2012.

"Finding of Completion" means a certification issued to the Agency by the Department of Finance pursuant to California Health & Safety Code Section 34179.7.

"Franchisor" *or* ***"Franchisors"*** is defined in Section 103.6.

"Franchise Agreement" or ***"Franchise Agreements"*** 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 of Orange, 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 City, 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" or ***"Grant Deeds"*** means one or more grant deeds in the form of Exhibit F attached hereto and incorporated herein by reference, by which the City shall convey fee title to the City Property and the Agency Property to the 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.

"Hotels" means the Upper Upscale Hotel(s) and the Additional Hotels, and ***"Hotel"*** means any one (1) of the Upper Upscale Hotel(s) and the Additional Hotels.

"Hotel Operator" or ***"Hotel Operators"*** is defined in Section 103.6.

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

"Indemnitees" means the City and the Agency, and their respective s, officers, officials, agents, employees, representatives, and volunteers.

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

"Land Use Approvals" means the Existing Land Use Approvals, the Subdivision Map, the Development Agreement, conditional use permits to allow for the sale of alcoholic beverages in the Separate Components, conditional use permit(s) to allow for the operation of a health club(s), spa(s), and/or gym(s) on the Site, site plan approvals for each freestanding pad to be constructed as part of the Retail/Restaurant/Entertainment Component, grading permits, building permits, plumbing permits, electrical permits, and any and all land use and/or other entitlements, permits, or approvals required by the Governmental Requirements in connection with construction and operation of the Developer Improvements.

"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).

"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 City (referred to

herein as "Revesting") in accordance with this Agreement, whether City 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 City 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 City 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 City reenters in accordance with this Agreement. (For purposes of this definition, the City'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 City with its calculations of the Loan Balance and documents in support thereof within ten (10) days after written demand therefore by the City.

"Long Range Property Management Plan" means the long-range property management plan authorized by California Health and Safety Code Section 34191.5.

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

"MND" means the International West Hotel – Harbor East (Site C) Mitigated Negative Declaration and Mitigation Monitoring Program adopted by the Garden Grove City Council on November 13, 2012 pursuant to Resolution No. 9153-12.

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

"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.

"Offsite Infrastructure" means the traffic signal and raised median improvements described in Performance Standards Nos. 8 and 9, respectively, of the PUD, and such other public improvements required to be constructed and/or installed in the public right-of-way pursuant to the Land Use Approvals (excluding any sidewalks, driveways, street lights, pedestrian light standards, signs, parkway landscaping, and/or other improvements to be constructed from the back of the curb face by Developer pursuant to the Scope of Development), including any required environmental mitigation measures directly related to the construction and/or installation of such public improvements.

"Oversight Board" means the oversight board to the Agency created and existing pursuant to the CRL and the RDA Dissolution Act (as amended by AB 1484).

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

"Parking Structures" are the multi-level parking structures described in the Scope of Development.

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

"Person" means an individual, corporation, limited liability company, partnership, joint venture, association, firm, joint stock company, trust, unincorporated association or other entity.

"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 Additional 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.

"PUD" means Planned Unit Development No. PUD-128-12, approved by the Garden Grove City Council on November 27, 2012 pursuant to Ordinance No. 2824.

"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.

"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.

"Retail/Restaurant/Entertainment Component" is defined in Recital B and, as provided therein, means the retail/restaurant/entertainment portion of the Project, consisting of a minimum of five thousand (5,000) square feet and a maximum of sixty-five thousand (65,000) square feet, including at least one (1) restaurant.

"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 Revenues" means those sales tax revenues received by the City pursuant to the Bradley Burns Uniform Sales and Use Tax Law (California Revenue and Taxation Code Section 7200 *et. seq.*) due to operation of the Separate Components of the Developer Improvements.

"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 City Manager, and the City Manager 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 City Improvements to be completed by City pursuant to the terms and conditions of this Agreement.

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

"Site" means, collectively, the City Property and the Agency Property, and, if the Developer elects to so add it to the Site pursuant to Section 301.4 hereof, the Third Party Property.

"Site Condition" is defined in Section 204.2.

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

"State" means the State of California.

"Subdivision Map" means a tract map, parcel map, condominium map, lot line adjustment and/or other subdivision in compliance with all applicable laws, consolidating the Site and creating separate legal parcels for some or all of the Separate Components to the extent and in size and location required by Developer and approved by the City.

"Tax Rebate Payments" means, collectively, the aggregate amounts to be paid to Developer pursuant to Section 408 hereof. As used in this Agreement, the term "Tax Rebate Payments" shall be deemed to mean payment to the Developer of an amount of money as measured by City revenue from a category of taxes (i.e., Transient Occupancy Tax Revenues and/or Sales Tax Revenues). Under no circumstances shall the term "Tax Rebate Payments" be construed to mean payment to the Developer of an amount of money from a specific source or fund.

"Tenant(s)" mean the business(es) occupying the Retail/Restaurant/Entertainment Component, regardless of whether the interest of the owner(s) of such business(es) in the applicable portion(s) of the Site is that of an owner(s), tenant(s), or licensee(s).

"Third Party Property" means that certain property owned by third parties and identified on the Site Map as the Third Party Property and described in the Legal Description, which Developer may, at Developer's sole cost and expense, elect to purchase, lease or otherwise acquire and to add to the Site for purposes of development and operation of a portion of the Project.

"Title Company" is defined in Section 202 hereof.

"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, sublease, or license 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 Hotels pursuant to Chapter 3.12 of Title 3 of the Garden Grove Municipal Code.

"Upper Upscale Hotel(s)" means a full-service Hotel or Hotels of "upper upscale" or greater quality, the characteristics and minimum standards for which are described in Recital B, in Section 301.1, and in the Scope of Development.

"Vacation Ownership Resort (Timeshare)" means a timeshare facility in which a person or entity receives the right in perpetuity, for life or for a specific period of time, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, space, or portion of real property for a period of time which has been or will be allocated from the use or occupancy periods into which the facility has been divided. A vacation ownership resort interest may be coupled with an estate in real property, or it may entail a license, contract, membership, or other right of occupancy not coupled with an estate in the real property.

102. Representations, Warranties and Covenants.

102.1 City Representations Warranties and Covenants. The City 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 City is a municipal corporation of the State of California, existing pursuant to the general laws and Constitution of the State of California. The execution and delivery of this Agreement by the City has been fully authorized by all requisite actions.

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

(c) The City 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 City 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 City 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 City under the Federal Bankruptcy Code.

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

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

(f) The City 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 City has complied and will comply with all the requirements under FIRPTA.

(g) Until the Closing Date and thereafter, the City 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 (g), 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 City with true and correct copies of documentation reasonably acceptable to the City Manager, 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 City 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 City.

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

103. Transfers of Interest in Site or Agreement and/or Change in Ownership and/or Control of Developer.

103.1 Prohibition Against Transfers and/or Change in Ownership and/or Control of Developer Prior to Release of Construction Covenants.

(a) As of the date of this Agreement, Developer represents and warrants that Matthew Reid and David Rose have, in the aggregate, (i) at least a fifty-one percent (51%) ownership interest in Developer 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 this Section 103, shall retain same until the issuance of Release of Construction Covenants. Notwithstanding the foregoing, a Transfer to an entity in which Matthew Reid and David Rose have not less than ten percent (10%) ownership interest, or the subsequent reduction of the ownership interest held by Matthew Reid and David Rose in any entity, shall be permitted with City's approval, which approval may be granted or withheld in the sole and absolute discretion of the City, 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.

(b) In addition to the foregoing, 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, of the Developer Improvements without the prior written approval of the City, which approval may be granted or withheld in the sole and absolute discretion of the City.

(c) Following the issuance of the Release of Construction Covenants, any Transfer shall be governed by Section 103.3. City 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 City 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, City 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 Tax Rebate Payments for purposes of borrowing money to be used on the Project.

(d) Any Transfer or assignment of this Agreement to an entity in which (i) Developer and/or Matthew Reid and David Rose 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 David Rose in the aggregate have not less than fifty-one percent (51%) ownership interest.

(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, this Agreement, and the Covenants.

(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 City Consideration of Requested Transfer After Release of Construction Covenants. Subject to City's rights pursuant to Section 103.6, below, and without limiting Developer's rights under Section 103.2 above, all Transfers following issuance of a Release of Construction Covenants (and prior to expiration of the Applicable Covenants Consideration Period) shall be in accordance with the provisions of this Section 103.3. In the event of any proposed Transfer following the issuance of a Release of Construction Covenants (and prior to expiration of the Applicable Covenants Consideration Period) with respect to any or all of the Developer Improvements, Developer shall deliver written Notice to City 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 City to evaluate the proposed Transferee pursuant to the criteria set forth hereinbelow and as reasonably determined by the City. In this regard, the City 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 City shall evaluate each proposed Transferee over which City has approval rights on the basis of its qualifications and experience, and its financial commitments and resources. City may not disapprove any such proposed Transferee that demonstrates to the reasonable satisfaction of the City that the transferee/assignee or its guarantor has a net worth sufficient to provide the requisite 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). Nothing in this Section 103.3 shall limit City's rights to approve the selection and/or change of all Hotel Operators, Franchisors, and Tenants pursuant to Section 103.6, below.

103.4 Assignment and Assumption Agreement. For so long as City is required to provide any Covenants Consideration, an executed Assignment and Assumption Agreement (or a document effecting a Transfer that includes the substantive provisions of the Assignment and Assumption Agreement) shall be required for all proposed Transfers with respect to the portion of the Site so transferred and/or assignments of this Agreement, whether or not City's consent is required with respect to such Transfer or assignment. If the Transfer or assignment involves the obligation of the Transferee or assignee to construct specific Developer Improvements, City 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 City Action Regarding Requested Transfer. Within thirty (30) days after the receipt of a written Notice requesting City approval of a Transfer pursuant to Sections 103.3 and 103.7, the City shall either approve or disapprove such proposed assignment or shall respond in writing by stating what further information, if any, the City 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 City such further information as may be reasonably requested.

103.6 Initial Selection and/or Subsequent Changes or Transfers with Respect to the Hotel Operator, Franchisor, and Tenants; Approval of the Franchise Agreement. The selection of the operator for each Hotel (separately, the "Hotel Operator" and, collectively, the "Hotel

Operators") and brand or franchisor for each Hotel (separately, the "Franchisor" and, collectively, the "Franchisors"), as well as the franchise agreement or management agreement between the Franchisor and Developer for each Hotel (separately, the "Franchise Agreement" and, collectively, the "Franchise Agreements"), shall be subject to approval by the City, acting in its reasonable discretion and based on consistency with the quality of the Hotels as described in Section 301.1 and the Scope of Development both initially and until expiration of the Applicable Covenants Consideration Period for each Hotel. Both initially and during the Applicable Covenants Consideration Period, City shall also have the right to approve, acting in its reasonable discretion, all Tenants based on consistency with the quality of the Upper-Upscale Hotel as required herein. Notwithstanding anything to the contrary contained herein, the Pre-Approved Upper-Upscale Flag(s)/Operator(s), Pre-Approved Additional Flag(s)/Operator(s) and Pre-approved Retail/Restaurant/Entertainment Tenant(s)/Operator(s) are each hereby approved by the City for all purposes of this Agreement. Prior to or concurrently with City's approval the initial Hotel Operators and/or Franchise Agreements, the City and the Developer shall agree in writing which Hotel(s) constitute Upper Upscale Hotel(s) and which Hotel(s) constitute Additional Hotel(s) for the 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 Tax Rebate Payments, or any portion thereof, separate and apart from a Transfer of the Site or the corresponding part thereof (i.e., an assignment of the Tax Rebate Payments not in conjunction with the Transfer of the applicable portion of the Site and Hotel(s)), shall require the consent of the City which consent shall be granted or withheld in the absolute discretion of the City; and (ii) no separate or additional approval of an assignment of the applicable Tax Rebate Payments, or a portion thereof, that is made in conjunction with a Transfer of the Site or the corresponding part thereof shall be required from the City.

103.8 Purpose and Effect of Restrictions on Transfers and/or Change in Ownership and/or Control of Developer.

(a) The restrictions contained in this Section 103 are imposed because qualifications and identity of Developer are of particular concern to the City, and it is because of those qualifications and identity that the City has entered into this Agreement with Developer. The Parties specifically affirm City's reliance upon the qualifications and identity of Developer to undertake and perform the items set forth in the Agreement in exchange for City's economic assistance, which assistance Developer intends to employ to generate additional income from the Hotel(s), and that Developer's qualifications and performance under this Agreement were specifically bargained for by the City in exchange for City's assistance. Developer hereby agrees that no voluntary or involuntary successor to any interest of Developer under a Transfer or a change in ownership and/or control of Developer not permitted by this Agreement shall acquire any rights pursuant to this Agreement, and any purported Transfer or change of ownership and/or control of Developer in violation of the provisions set forth herein shall be of no legal force and effect.

(b) Notwithstanding anything in this Agreement which is or appears to be to the contrary, Developer agrees that, in addition to all other City rights with respect to Transfers subject to City approval under this Agreement, the City shall have the right to refuse to consent to any Transfer if Developer is then in Breach or Default of any of its obligations under this Agreement; provided, that if such Breach or Default is a non-monetary Breach or Default for which the cure has commenced and which will be cured on or prior to the effectiveness of such proposed Transfer, City

may, rather than withholding consent to the proposed Transfer solely because of such Breach or Default, condition such consent upon the complete cure of such Breach or Default on or prior to the effectiveness of the Transfer; and, provided further, that City's waiver of this restriction on Transfer shall not be construed as a waiver of any Breach or Default or of City's remedies arising therefrom, nor shall any Transfer in any way restrict or limit City's rights and remedies arising from any Breach or Default hereunder, whether such Breach or Default occurred prior to or after such Transfer.

(c) The provisions of this Section 103 shall apply to each successive Transfer and Transferee in the same manner as initially applicable to Developer under the terms set forth herein.

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, the City shall cause the Conveyance of the Site to Developer in the condition described in Sections 201.2, 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 hereof. Developer expressly acknowledges and agrees that City has no duty or obligation to acquire and/or convey the Third Party Property to Developer, and that, if Developer desires to add the Third Party Property to the Site for purposes of constructing a portion of the Project thereon, then Developer, and not City, shall be responsible for any and all costs of acquiring the necessary rights and interests in the Third Party Property.

201.1 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.

201.2 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. CITY 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.

201.3 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 September 1, 2015 ("Closing" or "Close of Escrow"), through an escrow (the "Escrow") established at First American Title (Jim Sardo) 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. The scheduled Closing of September 1, 2015, is an outside date, Section 602 notwithstanding, but is subject to extension as provided in the Schedule of Performance. 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 Deeds 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) City for the following: (ff) City's share of prorations and (gg) any transfer taxes or fees.

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

(i) The Declaration;

(ii) The Grant Deeds; and

(iii) The Memorandum of Agreement.

all duly executed and acknowledged by the appropriate party.

201.4 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, duly executed by Developer and acknowledged, of the Grant Deeds accepting title subject to the covenants set forth therein.

(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 City has approved in writing pursuant to Section 311, along with a request for notice of default executed by the City.

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

(i) Two (2) originals of the Grant Deeds duly executed by City and acknowledged; and

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

201.5 Post-Closing Deliveries by Escrow.

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

(i) The Grant Deeds 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, City shall be delivered the following documents:

(i) A conformed copy of the recorded Grant Deeds 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 City and Developer shall each execute counterpart closing statements in customary form together with such other documents as are reasonably necessary to consummate the Closing.

201.6 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 opening of Escrow, City 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 City 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 City prior to Closing), except for the lien of property taxes and assessments not yet due, shall be approved Exceptions. If Developer notifies City of its disapproval of any Exceptions in the Title Report or

ALTA Survey, City shall have thirty (30) days from City'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 City 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 City 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 City written notice that the Developer elects to terminate this Agreement in which event, the City and Developer shall each be responsible for one-half of any Escrow cancellation charges and neither Developer nor City 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. City 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 provisions of this Agreement, the Grant Deeds and the Declaration.

(d) 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 City Property, and to the Agency Property at such time, if ever, as City has the right of access to the

Agency 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 City and Escrow Holder prior to the Due Diligence Date. City and Developer shall thereafter have thirty (30) days to negotiate an agreement with respect to remediation of the Site, pursuant to which City 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 City have not come to an agreement with respect to remediation of the Site, Developer shall, within three (3) days thereafter, notify City 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 City shall each be responsible for one-half of any Escrow cancellation charges and neither Developer nor City 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 City, 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, on behalf of itself and its successors in interest, 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 City or any of its agents, employees or contractors. City shall cooperate with Developer to ensure that City has assigned to Developer any and all rights that City 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, on behalf of itself and its successors in interest, 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 City's Conditions Precedent. City's obligation to proceed with the Closing is subject to the fulfillment or waiver in writing by City of each and all of the conditions precedent described below ("City's Conditions Precedent"), which are solely for the benefit of City, 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 201.3 hereof.

(d) Land Use Approvals. The Developer shall have received approval for all Additional Land Use Approvals.

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

(f) Financing. The City shall have approved the Construction Financing as defined in Section 311.1 hereof, for construction of the 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 Conveyance of the Agency Property to City. Agency shall have transferred and conveyed fee simple interest in all of the Agency Property to City at no cost and/or upon terms acceptable to City, in its sole and absolute discretion. In this regard, Developer acknowledges that Agency's ability to transfer the Agency Property to City is subject to, and contingent upon, (i) Agency's receipt of a Finding of Completion; (ii) Approval by the Agency, Oversight Board, and Department of Finance of a Long-Range Property Management Plan providing for disposition of the Agency Property to the City for the Project; and (iii) approval of such disposition by the Agency, the Oversight Board, and/or the Department of Finance.

(i) Approval of Hotel Operators, Franchisors and Franchise Agreements. To the extent required by this Agreement, including, but not limited to, Section 103.6 hereof, the City shall have approved the initial Hotel Operators, Franchisors, and Franchise Agreements.

(j) Pre-leasing and Approval of Tenant. The City shall have approved the initial Tenant(s), unless included in the list of Pre-approved Retail/Restaurant/Entertainment Tenant(s)/Operator(s).

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 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, City shall not be in default in any of its obligations under the terms of this Agreement.

(b) Execution of Documents. The City shall have executed the Grant Deeds 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 City in writing that, to Developer's knowledge, the Site Condition is satisfactory in accordance with Sections 201.2, 204 and 301.2 hereof.

(e) Relocation, Demolition and Clearance of the Site. The City 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 City.

(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 approval for all Additional Land Use Approvals.

(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 be ready to close and fund upon the Closing in substantial accordance with the commitment for Construction Financing.

(i) 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 City Improvements.

(j) Approval of Hotel Operators, Franchisors, and Franchise Agreements. To the extent required by this Agreement, including, but not limited to, Section 103.6 hereof, the City shall have approved the initial Hotel Operators, Franchisors, and Franchise Agreements.

(k) Pre-leasing and Approval of Tenant(s). The City shall have approved the initial Tenant(s), unless included in the list of Pre-approved Retail/Restaurant/Entertainment Tenant(s)/Operator(s).

(l) 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.

(m) Development Agreement. Developer and City have executed a Development Agreement. Developer acknowledges that this Agreement does not obligate City to approve or enter into a Development Agreement.

205.3 Termination of Agreement Due to Failure of Conditions Precedent. In the event Escrow does not Close due to a failure of any of the conditions precedent set forth in this Section 205, either party may terminate this Agreement by written notice to the other party, and, upon such termination, except with respect to the payment of Escrow cancellation costs pursuant to Section 201.6 hereof, the parties' respective indemnity obligations hereunder, and/or any other provisions of this Agreement that expressly survive termination, neither party shall have any further rights or obligations under this Agreement.

300. DEVELOPMENT OF THE SITE

301. Scope of Development.

301.1 Improvements. Developer shall develop the Site in conformance with the Land Use Approvals, the Scope of Development, the Governmental Requirements, and the terms and provisions of this Agreement within the time periods set forth in the Schedule of Performance. Developer shall improve the Site with the Developer Improvements. The physical quality of the Developer Improvements, including, without limitation, construction quality, finish material, lighting, landscaping and site amenities shall be (a) comparable, at a minimum, to each of the chosen Hotels and/or retail/restaurant/entertainment establishment's respective brand standards; (b) as set forth in the Scope of Development; and (c) consistent with the Land Use Approvals and the Governmental Requirements. 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, each Separate Component of the Developer Improvements and repair and maintenance thereof shall remain comparable in terms of quality and level of amenities to such Separate Component 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.

Notwithstanding anything to the contrary contained herein, in lieu of a combination of one Upper Upscale Hotel and up to two Additional Hotels, Developer may, in the alternative, elect to develop, in a manner consistent with the Land Use Approvals, (a) either, a single, larger, Upper Upscale Hotel, or a combination of multiple Upper Upscale Hotels, which, in the aggregate, contain no less than four hundred fifty (450) rooms, not less than fifteen thousand (15,000) square feet of meeting space, and at least two full-service restaurants, and which otherwise satisfy 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 408.1 hereof shall apply to each such Upper Upscale Hotel; and (b) at the Developer's option, one (1) or more Additional Hotels, which otherwise satisfy the hotel furniture, fixture and equipment and amenity standards for an Additional Hotel set forth in Section I(B) of Exhibit C, attached hereto, in which event the provisions of Section 408.2 hereof shall apply to each such Additional Hotel. The Developer expressly acknowledges and agrees that any and all Additional Land Use Approvals necessary for the development of the Hotels described in the foregoing alternative, including, without limitation, all additional environmental review, if any, determined by City to be required pursuant to the California Environmental Quality Act ("CEQA"), shall be secured at the Developer's sole cost and expense within the time periods set forth in the Schedule of Performance, and shall be subject to the discretionary approval of the City, acting in its municipal capacity and exercising its police powers.

301.2 City Improvements. City shall cause, at its cost and expense, the following within the time set forth in the Schedule of Performance:

(a) Relocation of all occupants of the City Property and/or Agency Property in compliance with all applicable federal, state and local laws and regulations concerning displacement and relocation, 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 City Property and/or Agency Property, 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; provided, however, that the City, acting in its sole and absolute discretion, has approved the expenditure of funds for the infrastructure required by this subsection (c) of Section 301.2.

301.3 Parking Structures. The Developer Improvements will include one or more Parking Structures, as described more fully in the Scope of Development and generally shown on the Conceptual Site Plan ("Parking Structures"), which will serve the Project.

The financing for the Parking Structures 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 City will undertake the requisite actions to cause CFD Bonds to be issued with respect to the financing of the Parking Structures, provided that (i) the City's City Council, acting in its sole discretion in accordance with its legislative authority, has approved the formation of a CFD and the issuance of the CFD Bonds; (ii) the Developer (or an agent engaged by Developer and reasonably approved by the City) provides completion guarantees and/or credit enhancements (conditioned upon receipt of the CFD Financing funds) in a form, amount, and quality reasonably acceptable to City; (iii) the CFD Bonds will be rated not less than BBB or its equivalent; and (iv) issuance of the CFD Bonds will be at no cost to the City. In the event of CFD Financing, the parties will mutually determine the manner in which the Parking Structures will be constructed, operated and maintained as public parking structures.

301.4 Third Party Property. Developer may, at Developer's sole cost and expense, elect to purchase, lease, or otherwise acquire sufficient right and interest in the Third Party Property and add the Third Party Property to the Site for purposes of development and operation of a portion of the Project until expiration of the Applicable Covenant Consideration Period. Within the time periods set forth in the Schedule of Performance, Developer shall notify City of its election of whether to add the Third Party Property to the Site and, if applicable, provide City with all documentation and/or information reasonably requested by City to verify Developer's rights and interests in the Third Party Property. If Developer acquires sufficient rights and interests in the Third Party Property and elects to add the Third Party Property to the Site for purposes of development and operation of a portion of the Project, then the Third Party Property shall thereafter be deemed to be a portion of the "Site" for purposes of Developer's obligations under this Agreement and shall be subject to the Covenants, and Section 408 shall apply to those Separate Components constructed and operated on the Third Party Property.

302. Construction Drawings and Related Documents. The Developer shall submit, within the time frames set forth in the Schedule of Performance, and the City Manager 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 as to their compliance with the description of the applicable Developer Improvements as set forth herein, and their consistency with the Governmental Requirements and the Land Use Approvals.

303. Land Use Approvals. Except as otherwise expressly set forth herein, prior to Commencement of Construction and/or operation of the Separate Components, as applicable, Developer shall, at its sole cost and expense, separately apply for and obtain any and all Additional Land Use Approvals required in connection with the construction and operation of the Developer Improvements. The Developer specifically acknowledges that, notwithstanding anything in this Agreement which is or appears to be to the contrary, any City approval under this Agreement shall not waive or eliminate the requirement for review and approval of such Additional Land Use Approvals by the City in accordance with those Governmental Requirements, acting in City's municipal capacity and exercising its police powers. City agrees to cooperate with Developer to coordinate the Additional Land Use Approvals; provided that the City shall not incur any expenses or costs in connection therewith. The Developer shall, without limitation, pay all costs, charges and fees associated therewith, including, without limitation, City's customary development fees. Notwithstanding the foregoing, provided the final proposed Project is substantially consistent with the Conceptual Site Plan, City shall pay for all costs associated with preparation of the Subdivision Map. Except as to the City Improvements, costs of any Project related on-site (as described in Paragraph I.E. of the Scope of Development) California Environmental Quality Act ("CEQA") mitigation required by the Land Use Approvals shall be borne by Developer. Developer acknowledges that compliance with any such CEQA mitigation shall be a condition under applicable law for proceeding with the Project. Notwithstanding anything to the contrary contained herein, the Additional Land Use Approvals shall not be deemed obtained or secured until such time as (i) Developer has agreed to comply with all conditions, exactions and impositions related thereto, in Developer's sole discretion, and (ii) the Additional 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 City 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 City Manager.

305. Cost of Construction. Except as otherwise expressly set forth herein, including Sections 201, 204, 301 and 303 and costs relating to City 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 and processing fees payable in connection with the Developer Improvements, shall be borne solely by Developer. Notwithstanding the foregoing, to the extent the City designs and/or constructs any site improvements defined herein as Developer Improvements, for which City receives partial reimbursement from local, state, and/or federal grant funds, the Developer shall be responsible only for that unreimbursed portion of the costs incurred by the City in the design and/or construction of such improvements.

306. Insurance Requirements. Developer shall obtain and maintain at its sole cost and expense, or shall cause its contractor or contractors to obtain and maintain at their sole cost and expense, until City's issuance of the final 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, in a form reasonably acceptable to the City, shall be obtained and maintained by Developer and/or its contractor or contractors, as applicable, covering all activities relating to construction of Developer Improvements at the Site:

(a) Comprehensive general liability insurance, not excluding XCU, in the amount no less than Five Million Dollars ($5,000,000) per occurrence 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. (Claims made and modified occurrence policies are not acceptable.)

(b) Comprehensive automobile liability insurance, including mobile equipment, in the amount of no less than One Million Dollars ($1,000,000), combined single limit (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. (Claims made and modified occurrence polices are not acceptable.)

(c) Workers' compensation insurance in the amount and type required by California law, if applicable. The insurer(s) shall waive its rights of subrogation against the Indemnitees.

(d) Builder's All-Risk property insurance in an amount of not less than one hundred percent (100%) of the full replacement value of the Developer Improvements. (Claims made and modified occurrence policies are not acceptable.)

(e) Follows Form Excess liability coverage shall be provided for any underlying policy that does not meet the insurance requirements set forth herein. (Claims made and modified occurrence policies are not acceptable.)

All insurance coverage shall be placed with carriers admitted to write insurance in California, and with an A.M. Best's Guide Rating of A- class VII or better. Any deviation from this rule shall require specific approval in writing from the City's Finance Director. Any deductibles or self-insured retentions in excess of $250,000 must be declared to and approved the City.

306.2 Policy Provisions. A certificate or certificates evidencing coverage described in subsections (a) through (e) above (the "Insurance") shall be submitted to the City prior to execution of a Right of Entry Agreement or issuance of building permits for and Commencement of Construction of the Developer Improvements, which certificates shall be accompanied by appropriate policy endorsements satisfying the following requirements:

(a) The Insurance shall be primary insurance for claims arising from or related to the Project, and will be noncontributing with respect to any other insurance maintained 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 or self-insurance maintained by the Indemnitees which may be applicable shall be deemed to be excess insurance and shall not contribute, and the Insurance shall be primary for all purposes as respects the Indemnitees despite any conflicting provision in the Insurance to the contrary;

(b) Not less than thirty (30) days advance notice shall be given in writing to the City and the Agency prior to any cancellation or termination of the Insurance;

(c) With the exception of the Worker's Compensation policy(ies), the Indemnitees shall be named as additional insureds on all policies, including the excess liability policy(ies), in accordance with the following requirements:

(i) An Additional Insured Endorsement, ongoing and completed operations, for the policy(ies) required pursuant to Section 306.1(a), Comprehensive General Liability, shall designate the Indemnitees as additional insureds for liability arising out of work or operations performed by or on behalf of the Developer

(ii) An Additional Insured Endorsement for the policy(ies) required pursuant to Section 306.1(b), Automobile Liability, including mobile equipment, if applicable, shall designate the Indemnitees as additional insureds for automobiles owned, leased, hired, or borrowed by the Developer and/or its contractor(s).

(iii) An Additional Insured Endorsement for the policy(ies) required pursuant to Section 306.1(d), Builder's All Risk, shall designate the Indemnitees as additional insureds.

(iv) If any of the underlying policies do not meet policy limits required, and Additional Insured Endorsement for the policy(ies) required pursuant to Section 306.1(e), Excess Liability, shall designate the Indemnitees as additional insureds, and the Developer and/or its contractor(s) shall provide to the City a certificate of insurance stating the excess liability policy follows form and the schedule of the underlying polices for the excess liability policy, with policy numbers.

(d) All certificates and endorsement forms provided shall conform to the City's requirements and are subject to approval by the City.

(e) Coverage provided hereunder by Developer and/or its contractors shall be primary insurance and not be contributing with any insurance maintained by the City or the Agency.

(f) The polices shall include a waiver of subrogation against the Indemnitees.

Upon request by City, Developer shall provide City with copies of complete insurance policies and endorsements 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 City, Developer and/or its contractor(s) 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 maintain 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 Indemnitees shall be named as additional insureds as their interests may appear and (ii) that the coverage afforded City, Agency, and Indemnitees, 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.

307. Developer's Indemnity; City Indemnity. Except as set forth in Section 204 and except to the extent caused by a failure of City's warranties or representations herein or Default by City hereunder, Developer shall Indemnify (with one (1) counsel reasonably acceptable to the City, 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 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. City

shall Indemnify (with one (1) counsel reasonably acceptable to Developer) the Developer Parties from and against any and all Liabilities which result from the City's relocation of the occupants as required by this Agreement. The parties' respective indemnity obligations hereunder shall survive termination of this Agreement.

308. Rights of Access. Representatives of the City 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 City representatives comply with all safety rules and do not unreasonably interfere with the work of Developer. City 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 City 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 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 City 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 City.

310. Release of Construction Covenants. Following Completion of Construction of the Developer Improvements in conformity with this Agreement and within thirty (30) calendar days following receipt of a written request from Developer, the City shall furnish Developer with a Release of Construction Covenants for the completed Developer Improvements or portion thereof. The City 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. If the City

refuses or fails to furnish the Release of Construction Covenants for the Site (or part thereof) after written request from Developer, the City shall, within thirty (30) working days of receiving such written request, provide Developer with a written statement setting forth the reasons the City 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 applicable requirements set forth in this Agreement and the Construction Drawings, and/or of the Land Use Approvals and Governmental Requirements. If the reason for the City'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 City, 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 City that Developer has equity capital and/or a written lender commitment(s) from one (1) or more institutional lender(s) (individually and collectively, the "Construction Lender") for the construction of the Developer Improvements 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. City shall have the right to review and approve any such Construction Lender and the Construction Financing in its reasonable discretion, which approval shall not be unreasonably withheld. The City 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 Improvements), 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 City agree that Developer shall be solely responsible for all financial obligations under such financing. Except with respect to Permitted Transfer pursuant to Section 103.2, prior to issuance of the final Release of Construction Covenants with respect to the Site, or applicable portion thereof, the Developer shall not place or suffer to be placed any lien or encumbrance on the Site, or any portion thereof, unless approved in writing by the City, in its sole and absolute discretion.

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 construed or deemed to 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 City 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 City 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 City 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 City by written agreement reasonably satisfactory to the City, 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 City. The Holder, in that event, must agree to Complete Construction, in the manner provided in this Agreement, of 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 City 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 City, if it so desires, shall be entitled to a conveyance of title to the Site or such portion thereof from the Holder to the City 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 City.

311.5 Right of the City 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 City 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 City shall have the right but not the obligation to cure the default. The City shall be entitled to reimbursement from Developer of all proper costs and expenses incurred by the City in curing such default. The City 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 Land Use Approvals and this Agreement. For so long as City is required to provide any Covenants Consideration, Developer covenants and agrees for itself and its successors, assigns, and every successor in interest to the Site, or any part thereof, that Developer and such successors and assignees shall use and operate the Site in accordance with 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, all applicable Governmental Requirements, Section 301.1 hereof, and the 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 Land Use Approvals 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 Developer 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. Prevailing Wages. With respect to the construction of the Developer Improvements on the Site as set forth herein and in the Scope of Development, 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 City, the Developer shall certify to the City 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 City and its officers, employees, contractors and agents, with counsel reasonably acceptable to City, 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.

405. 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 and provide the City 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 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).

406. Effect of Violation of the Terms and Provisions of this Agreement. The City 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 City has been, remains or is an owner of any land or interest therein in the Site. The City 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, and 405, and the Declaration shall survive Closing and remain in effect for so long as City is required to provide any Covenants Consideration pursuant to this Agreement. 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 303, 304, 305, 306, 308, 404 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 Sections 407, 408, and 409 shall survive Closing and remain in effect in accordance with the terms set forth therein.

407. Covenants Consideration (City Assistance). In consideration for the granting of the Covenants by the Developer to the City, City agrees to provide the following economic assistance towards defraying the cost of the Project's development and operation ("Covenants Consideration"):

(a) Conveyance of the Site to Developer pursuant to Section 200; and

(b) Payment of the costs of the City Improvements pursuant to Section 301.2; and

(c) Payment of the costs associated with preparation of the Subdivision Map pursuant to Section 303; and

(d) Payment to Developer of the Tax Rebate Payments described in Section 408.

408. Tax Rebate Payments. The Covenants Consideration shall include the annual payments described in this Section 408.

408.1 Upper Upscale Hotel Tax Rebate Payments. With respect to each Upper Upscale Hotel, City shall pay to Developer annually, from the date on which Completion of Construction of each Upper Upscale Hotel occurs, and for a period of twenty (20) years thereafter, an amount equal to: (i) sixty percent (60%) 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 each Upper Upscale Hotel(s); and (ii) fifty percent (50%) of the Sales Tax Revenues attributable to the operation of each Upper Upscale Hotel.

408.2 Additional Hotel Tax Rebate Payments. With respect to each Additional Hotel, City shall pay to the Developer annually, for the period commencing on the date on which Completion of Construction of the Additional Hotel has occurred and for a period of ten (10) years thereafter, an amount equal to (i) fifty percent (50%) 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 each Additional Hotel; and (ii) fifty percent (50%) of the Sales Tax Revenues attributable to the operation of each Additional Hotel.

408.3 Retail/Restaurant/Entertainment Component Tax Rebate Payments. With respect to each separate portion of the Retail/Restaurant/Entertainment Component, City shall pay to the Developer annually, for the period commencing on the date on which Completion of Construction of each such portion of the Retail/Restaurant/Entertainment Component has occurred and for a period of twenty (20) years thereafter, an amount equal to fifty percent (50%) of the Sales Tax Revenues attributable to each such portion of the Retail/Restaurant/Entertainment Component (i.e., there shall be separate 20-year payment periods for each such portion of the Retail/Restaurant/Entertainment Component).

408.4 Timing of Tax Rebate Payments. City shall remit the Tax Rebate Payments to Developer annually, no later than ninety (90) days after the end of the City's Fiscal Year (July 1-June 30).

408.5 Conditions Precedent to Remittance of Tax Rebate Payments. The City's obligation to pay the Tax Rebate Payments pursuant to this Section 408 is conditioned upon all of the following conditions precedent, which shall be satisfied on the date of the applicable disbursement: (i) this Agreement shall remain in full force and effect and not have been terminated, and (ii) there shall be no Default by the Developer under the Agreement which remains uncured on the date such Tax Rebate Payments, or applicable portion thereof, would otherwise be made to the Developer, including, without limitation, Completion of Construction prior to the time set forth in the Schedule of Performance and operation of the Project consistent with the Covenants and Scope of Development.

408.6 Tax Revenues Not Security for Tax Rebate Payments. Developer acknowledges and agrees that neither the Transient Occupancy Tax Revenues, the Sales Tax Revenues, nor any other general or special funds of the City, are pledged or otherwise encumbered, hypothecated to or given as security for the Tax Rebate Payments.

409. Allocation of Tax Rebate Payments. Notwithstanding the allocations of Tax Rebate Payments described in Section 408, above, the Developer may, without the approval of the City, reallocate the Tax Rebate Payments 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.

CITY SHALL ALSO BE REQUIRED TO SEND NOTICES OF DEFAULT TO EACH MORTGAGEE FOR WHICH CITY 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, 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. Notwithstanding the foregoing or any other provision of this Agreement, in any such legal action, the remedies available to either party for breach of this Agreement or any provision hereof by the other party shall be solely limited to rescission, injunction, specific performance, and/or the payment of monies expressly required by this Agreement, and in no event shall either party be entitled to any other direct or indirect monetary damages of any kind, including, without limitation, loss of opportunity, loss of business, loss of profits, or consequential, incidental, or special damages. The foregoing limitation shall not be interpreted to limit the parties' respective rights and obligations pursuant to Sections 306, 307, 311 and/or 503 of this Agreement.

503. Re-entry and Revesting of Title in the City 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 City has the right, at its election, to reenter and take possession of any portion of the Site with all Developer Improvements thereon, and terminate and Revest in the City the estate conveyed to the Developer with respect to such 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 City 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 City subject to extension pursuant to Section 602; or

(c) contrary to the provisions of Sections 101 or 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 City, is not rescinded within thirty (30) days of Notice thereof from City 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) a Holder, in the case where the Developer is in Default and, *vis à vis* a Holder, 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 City 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. City, 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, City's sole remedy *vis a vis* Holder shall be the exercise of the re-entry right and Revesting in accordance herewith.

The conditions to the commencement of the exercise of the City'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 Deeds shall contain appropriate reference and provision to give effect to the City's right as set forth in this Section 503, under specified circumstances prior to recordation of the Release of Construction Covenants, to reenter and take possession of the Site, with all improvements thereon, and to terminate and Revest in the City the estate conveyed to the Developer. Upon the Revesting in the City of title to the Site, as provided in this Section 503, the City shall use its reasonable efforts to resell the Site, or portion thereof, as soon and in such manner

as the City shall find feasible and consistent with this Agreement and the Scope of Development to a qualified and responsible party or parties (as determined by the City) who will assume the obligation of constructing or completing the Developer Improvements, or such improvements in their stead as shall be satisfactory to the City and in accordance with Scope of Development. Upon such resale of the Site, the net proceeds thereof, shall be applied:

(i) First, to reimburse the City all costs and expenses incurred by the City, excluding in-house City staff costs, but specifically, including, but not limited to, any expenditures by the City in connection with the recapture, management and resale of the Site, or part thereof (but less any income derived by the City 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 City, 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 City, 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 City, 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.

(iii) Any balance remaining after such reimbursements shall be retained by the City 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 City will have conveyed the City Property and the Agency Property and provided other financial assistance to the Developer for development of a high quality hotel project, particularly for development and operation of the Project, 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 City:	City of Garden Grove 11222 Acacia Parkway Garden Grove, California 92840 Attention: City Manager
with a copy to:	Garden Grove City Attorney 11222 Acacia Parkway Garden Grove, California 92840
To Developer:	Land & Design, Inc. 3775 Avocado Boulevard, #516 La Mesa, California 91941 Attention: Matthew Reid
with a copy to:	David Rose 420 McKinley Street, Suite 111 Corona, California 92879
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; 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 any other public or governmental agency or entity (other than the acts or failures to act of the City which shall

not excuse performance by the City); or during the pendency of any dispute between City 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 City and Developer. Notwithstanding any provision of this Agreement to the contrary, the lack of funding to Complete Construction of the Developer Improvements shall not constitute grounds of enforced delay pursuant to this Section 602.

603. Non Liability of Officials and Employees of City and Developer. No member, official, shareholder or employee of either party shall be personally liable to the other party, 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 City and Developer. It is hereby acknowledged that the relationship between the City and Developer is not that of a partnership or joint venture and that the City 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 City shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Site.

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

606. Commencement of City Review Period. The time periods set forth herein and in the Schedule of Performance for the City's approval of agreements, plans, drawings, or other information submitted to the City by Developer and for any other City 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 City's obligations of review and/or approval hereunder; provided, however, that the City 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 City and Developer and their respective permitted successors and assigns. Whenever the term "Developer" or "City," 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 City. The City 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.

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 48 (includes signature page) and Exhibits A through L, (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 City Manager, or his/her designated representative, following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City Manager (or his/her authorized representative). The City Manager shall have the authority but not the obligation to issue interpretations, waive provisions, approve the Declaration, extend time limits, make minor modifications to prior City design approvals, and/or enter into amendments of this Agreement on behalf of the City so long as such actions do not substantially change the uses or development permitted on the Site, or add to the costs to the City as specified herein as agreed to by the City Council, 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 City Council.

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 City 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 City 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/City Request") regardless of the outcome of the Developer/City Request.

622. Conflicts of Interest. No member, official or employee of the City 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 City. This Agreement, when executed by Developer and delivered to the City, must be authorized, executed and delivered by the City 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(s), Hotel Operator(s) 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, or at such other time as mutually agreed in writing by City and Developer, and the terms hereof shall survive Closing and run with the land for the period of time set forth herein.

626. Repudiation of DDA Between Developer and Agency. Developer hereby acknowledges and agrees that, upon the Conveyance of the City Property and the Agency Property to Developer pursuant to this Agreement, that certain Disposition and Development Agreement pertaining to the Site ("DDA") entered into on or about June 14, 2011, by and between Developer and the former Garden Grove Agency for Community Development shall be deemed terminated, void and of no further force and effect as to Agency or City. Developer also agrees that, for so long as this Agreement remains in effect, it will not attempt to enforce the DDA against the Agency.

[SIGNATURES ON NEXT PAGE]

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

CITY:

CITY OF GARDEN GROVE , a municipal corporation

Dated: _____, 2013

By: _____
Matthew J. Fertal, City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
Thomas F. Nixon
City Attorney

DEVELOPER

LAND & DESIGN, INC, a California corporation

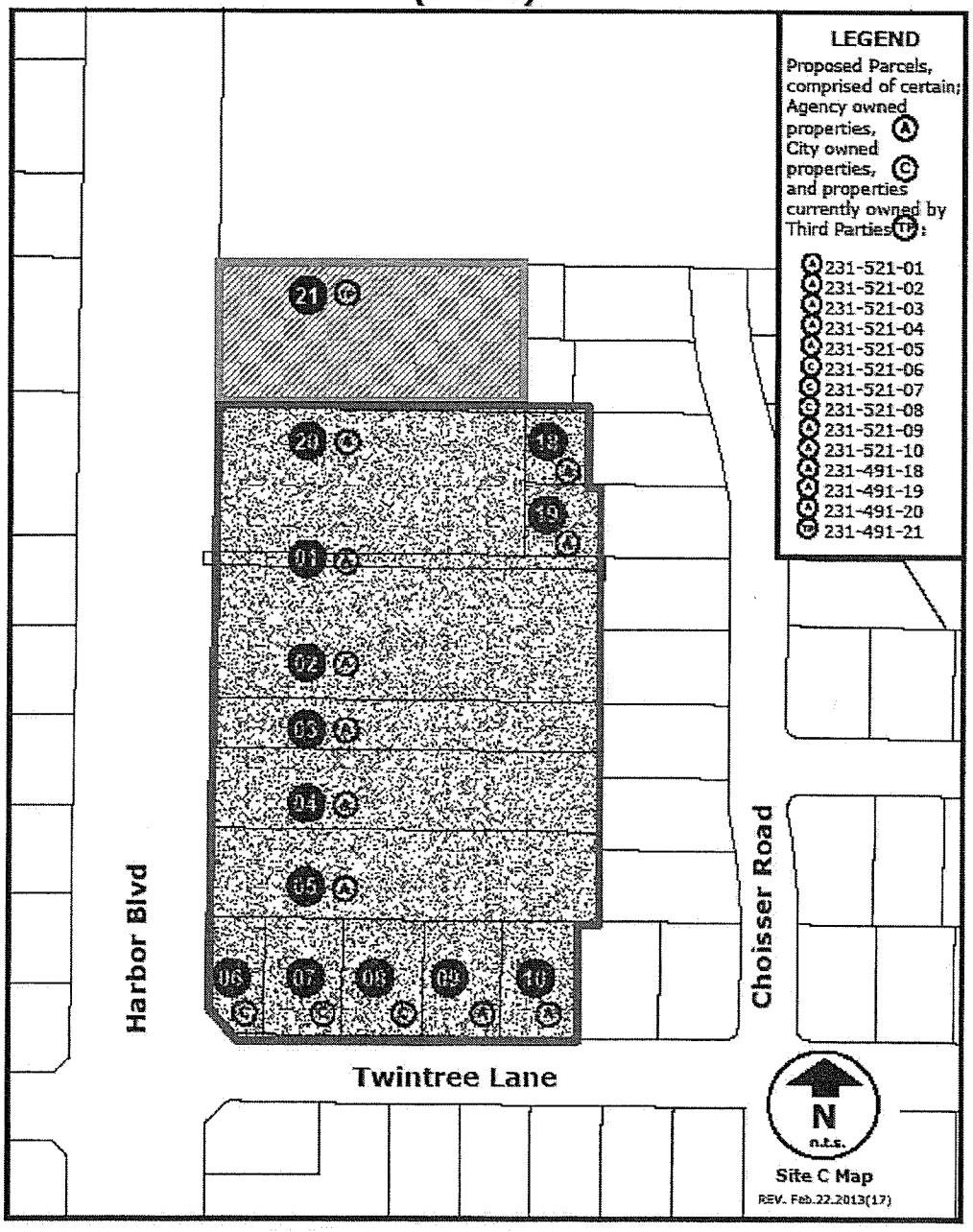
Dated: April 4, 2013, 2013

By: _____
Matthew Reid, President

EXHIBIT A

SITE MAP

SITE MAP
(Site C)



919298.1

EXHIBIT B

LEGAL DESCRIPTION

CITY PROPERTY

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

LOTS 215, 216, AND 217 OF TRACT NO. 2012, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 55, PAGES 47, 48, AND 49 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBONS, BELOW A DEPTH OF 500 FEET, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN INSTRUMENTS OF RECORD.

ALSO EXCEPT THEREFROM ALL WATER AND SUBSURFACE WATER RIGHTS, WITHOUT THE RIGHT OF SURFACE ENTRY, BELOW A DEPTH OF 500 FEET, AS DEDICATED OR RESERVED IN INSTRUMENTS OF RECORD.

END OF LEGAL DESCRIPTION

APNs: 231-521-06, 231-521-07, and 231-521-08

AGENCY PROPERTY

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1:

THE SOUTH 129.44 FEET OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34, IN TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 51, PAGE 10 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 231-491-20

PARCEL 2:

PARCEL 2A:

THE WEST 400 FEET OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION THIRTY-FOUR, TOWNSHIP FOUR SOUTH, RANGE TEN WEST, IN THE RANCHO LAS BOLSAS,

CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 10 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

EXCEPT THEREFROM THE NORTH 12 FEET.

ALSO EXCEPT THEREFROM THE SOUTH 200 FEET.

ALSO EXCEPT THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN AND TO ALL OIL, GAS, MINERAL OR HYDROCARBON SUBSTANCES LYING IN, UNDER OR ON THE ABOVE DESCRIBED LAND UNTIL FEBRUARY 2, 1974, AS RESERVED IN THE DEED FROM WALTER R. GISLER, TOM P. GISLER, HAROLD GISLER, EMMA G. STOFFEL, DELLA G. HARPSTER, AGNES G. MARSHALL AND LUCILLE G. ALLAIRE, ALSO KNOWN AS LUCILLE G. ALLARE, RECORDED MARCH 31, 1949 IN BOOK 1823, PAGE 196 OF OFFICIAL RECORDS WHICH DEED PROVIDES, THAT SHOULD OIL, GAS, MINERAL OR HYDROCARBON SUBSTANCES BE DISCOVERED PRIOR TO SAID FEBRUARY 2, 1974, OR BE DISCOVERED IN ANY WELL BEING DRILLED ON SAID PREMISES ON SAID DATE, OR BE DISCOVERED SUBSEQUENTLY TO SAID DATE IN ANY LEASE THAT IS IN EFFECT ON SAID FEBRUARY, 2, 1974, COVERING THE ABOVE DESCRIBED PROPERTY, OR ANY PART THEREOF, THEN AND IN THAT EVENT THE GRANTORS EXCEPT FROM THIS GRANT AND RESERVE TO THEMSELVES, THEIR SUCCESSORS AND ASSIGNS, ONE-HALF OF ALL OIL, GAS, MINERALS OR HYDROCARBON SUBSTANCES PRODUCED FROM SAID PROPERTY DURING THE TERMS OF SAID LEASE, AND SO LONG AS OIL, GAS, MINERAL OR HYDROCARBON SUBSTANCES ARE PRODUCED FROM SAID PROPERTY, ALSO RESERVING THE RIGHT OF ENTRY UPON THE SURFACE AND INTO THE SUBSURFACE OF SAID LAND FOR THE PURPOSE OF PROSPECTING FOR, DEVELOPING AND PRODUCING SAID SUBSTANCES, OR ANY OF THEM; AND FURTHER RESERVING ONE-HALF OF ANY BONUS OR RENTAL PAID BY ANY LESSEE ON ACCOUNT OF ANY SUCH OIL, GAS, MINERAL OR OTHER HYDROCARBON LEASE COVERING SAID PROPERTY.

PARCEL 2B:

THE NORTH 12 FEET OF THE WEST 400 FEET OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION THIRTY-FOUR, TOWNSHIP FOUR SOUTH, RANGE TEN WEST, IN THE RANCHO LAS BOLSAS AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 10 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 231-521-01; 231-521-02

PARCEL 3

PARCEL 3A:

HAS BEEN INTENTIONALLY OMITTED.

PARCEL 3B:

AN EASEMENT FOR INGRESS AND EGRESS AND FOR PUBLIC UTILITIES OVER THE

NORTH 12 FEET OF THE WEST 400 FEET OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION THIRTY-FOUR, TOWNSHIP FOUR SOUTH, RANGE TEN WEST, IN THE RANCHO LAS BOLSAS AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 10 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL 3C:

THE NORTH 45 FEET OF THE SOUTH 200 FEET OF THE WEST 400 FEET OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34, IN TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 51, PAGE 7, ET SEQ., MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY;

EXCEPT THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN AND TO ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING IN, UNDER OR ON THE ABOVE DESCRIBED PROPERTY, UNTIL FEBRUARY 2, 1974; PROVIDED, HOWEVER, THAT SHOULD OIL, GAS, MINERAL OR HYDROCARBON SUBSTANCES BE DISCOVERED PRIOR TO SAID FEBRUARY 2, 1974, OR BE DISCOVERED IN ANY WELL BEING DRILLED ON SAID PREMISES ON SAID DATE, OR BE DISCOVERED SUBSEQUENTLY TO SAID DATE IN ANY LEASE THAT IS IN EFFECT ON SAID FEBRUARY 2, 1974, COVERING THE ABOVE DESCRIBED PROPERTY, OR ANY PART THEREOF, THEN AND IN THAT EVENT THE GRANTORS EXCEPT FROM THIS GRANT AND RESERVED TO THEMSELVES, THEIR SUCCESSORS AND ASSIGNS, ONE-HALF OF ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES PRODUCED FROM SAID PROPERTY DURING THE TERM OF SAID LEASE, AND SO LONG AS OIL, GAS MINERAL OR HYDROCARBON SUBSTANCES ARE PRODUCED FROM SAID PROPERTY; ALSO RESERVING THE RIGHT OF ENTRY UPON THE SURFACE AND INTO THE SUBSURFACE OF SAID LAND FOR THE PURPOSE OF PROSPECTING FOR, DEVELOPING AND PRODUCING SAID SUBSTANCES, OR ANY OF THEM; AND FURTHER RESERVING ONE-HALF OF ANY BONUS OR RENTAL PAID BY ANY LESSEE ON ACCOUNT OF ANY SUCH OIL, GAS, MINERAL OR OTHER HYDROCARBON LEAS COVERING SAID PROPERTY, AS RESERVED BY WALTER R. GISLER, ET AL., IN DEED RECORDED MARCH 31, 1949 IN BOOK 1823, PAGE 196, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

PARCEL 3D:

A NON-EXCLUSIVE EASEMENT FOR THE OPERATION AND MAINTENANCE OF WATER PIPE LINES OVER THE EAST 6 FEET OF SAID WEST 400 FEET OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE

NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SOWN ON A MAP RECORDED IN BOOK 51, PAGE 10 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

EXCEPT THEREFROM THE NORTH 12 FEET.

ALSO EXCEPTING THE SOUTH 200 FEET THEREOF.

PARCEL 3E:

THE SOUTH 200 FEET OF THE WEST 400 FEET OF THE NORTH HALF OF THE NORTH

HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34 IN TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 51, PAGE 7, ET SEQ., MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY.

EXCEPT THE NORTH 45 FEET THEREOF;

ALSO EXCEPT THEREFROM THE SOUTH 84 FEET THEREOF;

ALSO EXCEPT THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN AND TO ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING IN, UNDER OR ON THE ABOVE DESCRIBED PROPERTY, AS RESERVED BY WALTER R. GISLER, ET AL., IN DEED RECORDED IN BOOK 1823, PAGE 196, OFFICIAL RECORDS.

PARCEL 3F:

THE SOUTH 84 FEET OF THE WEST 400 FEET OF THE NORTH ONE-HALF OF THE NORTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 51, PAGE 10 ET SEQ., OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY.

EXCEPT ALL RIGHT, TITLE AND INTEREST IN ALL OIL, GAS, MINERALS AND OTHER HYDROCARBONS LYING IN AND UNDER THE SURFACE OF THE FOLLOWING DESCRIBED PROPERTY, BELOW THE DEPTH OF FIVE HUNDRED FEET, UNTIL FEBRUARY 2, 1974. PROVIDED, HOWEVER THAT SHOULD OIL, GAS, MINERAL OR HYDROCARBON SUBSTANCES BE DISCOVERED BELOW THE DEPTH OF FIVE HUNDRED FEET PRIOR TO FEBRUARY 2, 1974, OR BE DISCOVERED IN ANY WELL BEING DRILLED ON SAID DATE OR BE DISCOVERED SUBSEQUENTLY TO SAID DATE IN ANY LEASE THAT IS IN EFFECT ON FEBRUARY 2, 1974, COVERING SAID PROPERTY, OR ANY PART THEREOF, THEN AND IN THAT EVENT, THE ABOVE NAMED GRANTEE HEREIN, OR THEIR SUCCESSORS AND ASSIGNS, SHALL BE ENTITLED TO ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON

SUBSTANCES PRODUCED FROM SAID PROPERTY BELOW SAID FIVE HUNDRED FOOT DEPTH DURING THE TERM OF SAID LEASE AND SO LONG AS OIL, GAS, MINERAL OR HYDROCARBON SUBSTANCES ARE SO PRODUCED, THEY HAVING THE RIGHT OF ENTRY INTO THE SUBSURFACE OF SAID LAND BELOW THE DEPTH OF FIVE HUNDRED FEET BY THE METHOD COMMONLY KNOWN AS WHIPSTOCKING OR SLANT DRILLING FOR THE PURPOSE OF PROSPECTING FOR, DEVELOPING AND PRODUCING SAID SUBSTANCES OR ANY OF THEM.

APN: 231-521-03, 231-521-04 & 05

PARCEL 4:

LOTS 215, 216 AND 217 OF TRACT NO. 2012, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 55, PAGES 47, 48 AND 49 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBONS, BELOW A DEPTH OF 500 FEET, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN INSTRUMENTS OF RECORD.

ALSO EXCEPT THEREFROM ALL WATER AND SUBSURFACE WATER RIGHTS, WITHOUT THE RIGHT OF SURFACE ENTRY, BELOW A DEPTH OF 500 FEET, AS DEDICATED OR RESERVED IN INSTRUMENTS OF RECORD.

APN: 231-521-06; 231-521-07 and 231-521-08

PARCEL 5:

LOT 214 OF TRACT NO. 2012, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OFCALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 55, PAGES 47, 48, AND 49 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY.

EXCEPTING ONE HALF OF ALL OIL, GAS, MINERALS, AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY UPON ANY PORTION OF THE SURFACE OF SAID LAND FOR THE PURPOSE OF EXPLORING FOR, BORING, EXTRACTING, DRILLING, MINING, PROSPECTING FOR, REMOVING OR MARKETING SAID SUBSTANCES, AS RESERVED IN THE DEED FROM ENEST JAMES SMALL, RECORDED IN JANUARY 14, 1954, IN BOOK 2649, PAGE 103 OF OFFICIAL RECORDS.

ALSO EXCEPTING AN UNDIVIDED ONE-QUARTER OF SAID OIL, GAS, MINERALS, AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID LAND BUT WITHOUT THE RIGHT OF ENTRY UPON ANY PORTION OF THE SURFACE OF SAID LAND FOR THE PURPOSE OF EXPLORING FOR, BORING, EXCAVATION, DRILLING, MINING, PROSPECTING FOR, REMOVING OR

MARKETING SAID SUBSTANCES, AS RESERVED IN THE DEED FROM LAMPSON HOMES, INC., RECORDED JUNE 21, 1955 IN BOOK 3110, PAGE 148 OF OFFICIAL RECORDS.

APN: 231-521-09

PARCEL 6:

LOT 213 OF TRACT NO. 2012, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 55, PAGE(S) 47, 48 AND 49 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY.

EXCEPTING ONE HALF OF ALL OIL, GAS, MINERALS AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY UPON ANY PORTION OF THE SURFACE OF SAID LAND FOR THE PURPOSE OF EXPLORING FOR, BORING, EXTRACTING, DRILLING, MNING, PROSPECTING FOR, REMOVING OR MARKETING SAID SUBSTANCES, AS RESERVED IN THE DEED FROM ERNEST JAMES SMALL, RECORDED JANUARY 14, 1954 IN BOOK 2649, PAGE 103 OF OFFICIAL RECORDS.

ALSO EXCEPTING AN UNDIVIDED ONE-QUARTER OF SAID OIL, GAS, MINERALS AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID LAND BUT WITHOUT THE RIGHT OF ENTRY UPON ANY PORTION OF THE SURFACE OF SAID LAND FOR THE PURPOSE OF EXPLORING FOR, BORING, EXCAVATION, DRILLING, MINING, PROSPECTING FOR, REMOVING OR MARKETING SAID SUBSTANCES, AS RESERVED IN THE DEED FROM LAMPSON HOMES, INC., RECORDED AUGUST 5, 1954 IN BOOK 2785, PAGE 534 OF OFFICIAL RECORDS.

APN: 231-521-10

PARCEL 7:

THAT PARCEL IDENTIFIED AS ASSESSOR'S PARCEL NUMBER 231-491-18 ON THE SITE PLAN, BEING A PORTION OF LOT 7 IN TRACT NO. 2782, AS PER MAP RECORDED IN BOOK 89, PAGES 24 AND 25 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. AS OF THE DATE OF THIS AGREEMENT, THE PRECISE LEGAL DESCRIPTION FOR THIS PARCEL WAS NOT AVAILABLE. UPON WRITTEN APPROVAL OF BOTH CITY AND DEVELOPER, THE PRECISE LEGAL DESCRIPTION SHALL BE AUTOMATICALLY SUBSTITUTED FOR THIS DESCRIPTION.

APN: 231-491-18

PARCEL 8:

REAL PROPERTY IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 8A:

LOT 8 OF TRACT NO. 2782, AS PER MAP RECORDED IN BOOK 89, PAGES 24 AND 25 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM THE WESTERLY 65.75 FEET THEREOF.

PARCEL 8B:

THE WESTERLY 65.75 FEET OF LOT 8 OF TRACT NO. 2782, AS PER MAP RECORDED IN BOOK 89, PAGES 24 AND 25 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 231-491-12 and 231-491-19

THIRD PARTY PROPERTY

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

THE NORTH 129.44 FEET OF THE SOUTH 258.88 FEET OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, SAN BERNARDINO BASE AND MERIDIAN, COUNTY OF ORANGE, STATE OF CALIFORNIA.

APN 231-491-21

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 in the Grove District Resort Hotel Development Agreement (RHDA) to which this Scope of Development is attached.

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 five thousand (5,000) and a maximum of sixty-five thousand (65,000) square feet of gross leaseable area and required parking (subject to Parking Structures). Those retail, restaurant and entertainment uses listed on Exhibit L to the RHDA shall be considered the City pre-approved list of Retail/Restaurant/Entertainment uses. The Developer, from time to time, may submit additional lists of possible retail, restaurant and entertainment uses for City review and approval, which shall not be unreasonably withheld.

   The design and architecture of the improvements for the retail, restaurant, and entertainment uses shall follow the City's General Plan, the Land Use Approvals, the Governmental Requirements, and all other requirements and provisions of the RHDA, as applicable.

B. Hotels

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

1. The Developer shall construct an Upper Upscale Hotel of at least "upper upscale" quality, which contains no less than three hundred (300) rooms and not less than ten thousand (10,000) square feet of event/meeting space. Each Upper Upscale Hotel 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, and concierge service consistent in quality with those hotels included on the list of Pre-Approved Upper-Upscale Flag(s)/Operator(s) (Exhibit L). Those Upper-Upscale Hotels listed on Exhibit L to the RHDA shall be considered the pre-approved list of Upper Upscale Flag(s)/Operator(s). The Developer, from time to time, may submit additional lists of possible Upper Upscale Flags/Operators for City review and approval, which shall not be unreasonably withheld.

All Upper Upscale Hotel 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 dryers, irons and ironing boards. A limited number of larger suites will provide separate bedrooms, private bathrooms, and separate seating/living areas. There will also be suites with king beds, flat screen televisions and wireless internet access.

The Developer shall construct up to two (2) Additional Hotels of at least "midscale" quality, which, in the aggregate, contain no less than two hundred fifty (250) rooms and which, separately, contain no less than one hundred twenty-five (125) rooms each. Each Additional Hotel shall also include required parking, as well as a central lobby, business center, and fitness center consistent in quality with those hotels include on the list of Pre-Approved Additional Flag(s)/Operator(s) (Exhibit L). Those Additional Hotels listed on Exhibit L to the RHDA shall be considered the pre-approved list of Additional Hotel Flag(s)/Operator(s). The Developer, from time to time, may submit additional lists of possible Additional Hotel Flag(s)/Operator(s) for City review and approval, which shall not be unreasonably withheld.

All Additional Hotel 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 dryers, irons and ironing boards.

The design and architecture of the Hotels shall comply with the City's General Plan, the Land Use Approvals, the Governmental Requirements, and the all other requirements and provisions of the RHDA, as applicable, and 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 Additional 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 Upper Upscale Hotel(s), and (ii) notwithstanding anything to the contrary contained in the RHDA or this Exhibit C, (a) the finishes, standards and quality of the Upper Upscale Hotel(s) shall equal or exceed those of the Westin Pasadena as of the date of the RHDA, and (b) the finishes, standards and quality of the Additional Hotel(s) shall equal or exceed those of the Homewood Suites Garden Grove as of the date of the RHDA.

The RHDA and this Scope of Development shall not be interpreted to prohibit the Developer from developing and/or designating all or a portion

of the Upper Upscale Hotel(s) and/or Additional Hotel(s) as a Vacation Ownership Resort (Timeshare) project, *provided that* (i) any such development and/or designation of all or a portion of the Hotel(s) as a Vacation Ownership Resort (Timeshare) project is consistent with the Land Use Approvals and applicable Governmental Requirements, *and* (ii) the City and the Developer reach an agreement acceptable to the City, in its sole and absolute discretion, providing for payment by Developer to City of an amount approximately equivalent to the amount of Transient Occupancy Tax Revenues, if any, that would be collected by City if such portion of the Hotel(s) was not developed and/or designated as a Vacation Ownership Resort (Timeshare) project.

2. In lieu of the combination of one Upper Upscale Hotel and up to two Additional Hotels described in Section I(B)(1) above, Developer may, in the alternative, elect to develop, in a manner consistent with the Land Use Approvals, (a) either, a single, larger, Upper Upscale Hotel, or a combination of multiple Upper Upscale Hotels, which, in the aggregate, contain no less than four hundred fifty (450) rooms, not less than fifteen thousand (15,000) square feet of meeting space, and at least two full-service restaurants, and which otherwise satisfy the hotel furniture, fixture and equipment and amenity standards for an Upper Upscale Hotel set forth in Section I(B)(1); and (b) at the Developer's option, one (1) or more Additional Hotels, which otherwise satisfy the hotel furniture, fixture and equipment and amenity standards for an Additional Hotel set forth in Section I(B)(1). The Developer expressly acknowledges and agrees that any and all Additional Land Use Approvals necessary for the development of the Hotels described in the foregoing alternative, including, without limitation, all additional environmental review, if any, determined by City to be required pursuant to the California Environmental Quality Act ("CEQA"), shall be secured at the Developer's sole cost and expense within the time periods set forth in the Schedule of Performance, and shall be subject to the discretionary approval of the City, acting in its municipal capacity and exercising its police powers.

C. Parking Structures

The following shall be the sole cost and expense of the Developer, except to the extent otherwise funded through CFD Financing pursuant to Section 301.3 of the RHDA:

1. The Developer shall construct, maintain and operate the Parking Structures as shown on the Conceptual Site Plan and/or any subsequent Additional Land Use Approvals approved by the City.

   The vehicular entry points to the Parking Structures shall be located as shown on the Conceptual Site Plan and/or any subsequent Additional Land Use Approvals approved by the City.

The Parking Structures 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.

D. Site 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 City). All such improvements shall be constructed in accordance with the Harbor Boulevard Streetscape Improvement Plan, the Land Use Approvals, and the Governmental Requirements. 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

Except as otherwise expressly provided below and in the RHDA, the Developer shall, at the sole cost and expense of the Developer, apply for and obtain any and all Additional Land Use approvals required in connection with the construction and operation of the Project, including, without limitation, a tentative and final Subdivision Map for the Site. Notwithstanding the foregoing sentence, provided the final proposed Project is substantially consistent with the Conceptual Site Plan, City shall pay for the costs associated with preparation of the tentative and final Subdivision Map. In the event the final proposed Project is not substantially consistent with the Conceptual Site Plan, the Developer shall be responsible for all costs and expenses associated with preparation of the tentative and final Subdivision Map.

II. CITY IMPROVEMENTS

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

1. Relocation of all occupants of the Site in compliance with all applicable federal, state and local laws and regulations concerning displacement and relocation, 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 City Property and the Agency Property, 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 (i.e., the traffic signal and raised median improvements described in Performance Standards Nos. 8 and 9, respectively, of the PUD, and such other public improvements required to be constructed and/or installed in the public right-of-way pursuant to the Land Use Approvals, but excluding any sidewalks, driveways, street lights, pedestrian light standards, signs, parkway landscaping, and/or other improvements to be constructed from the back of the curb face by Developer, including any required environmental mitigation measures directly related to the construction and/or installation of such public improvements).

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, which shall be developed in compliance with the Land Use Approvals. The architecture is expected to create a 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 Hotel(s), 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 plan shall be included within the Declaration and shall, at a minimum, 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(s)

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.

(d) Repair and maintenance of the Project in accordance with Section 301.1 of the RHDA.

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 the Land Use Approvals and a landscaping plan to be approved by the City. The Developer, at its sole cost and expense, shall be responsible for all these areas. 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 must be approved by the City.

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

UPPER UPSCALE HOTEL STANDARDS

Upper Upscale Hotel Prototype Summary

Cast in place concrete or steel 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

Hotel Workout area

Porte-cochere sized to accommodate multiple vehicles

Efficient layout with a cost effective FTE requirement

Linen chute

In house food and beverage operations

In and/or Out of House Laundry operations

Upper-Upscale Hotel Executive Club Lounge, if applicable

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 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.	City and Developer execute RHDA.	On or before April 15, 2013.
2.	City and Developer open Escrow.	Within thirty (30) days after Date of Agreement.
3.	City accepts conveyance of fee title to all Agency Property.	On or before September 1, 2013.*
4.	Developer completes its Site Investigation pursuant to Section 204.	On or before the Due Diligence Date.
5.	Developer notifies City of election of whether to include Third Party Property in Project and add to Site and, if applicable, provides City with evidence of acquisition of necessary interest in Third Party Property.	On or before January 1, 2014.
6.	Developer submits completed application for tentative Subdivision Map, Development Agreement, and other necessary or desired Land Use Approvals.	On or before January 1, 2014.
7.	City approves, conditionally approves or rejects tentative Subdivision Map, Development Agreement, and other necessary or desired discretionary Additional Land Use Approvals.	On or before May 1, 2014.
8	City and Developer agree in writing which Hotels constitute Upper Upscale Hotel(s) and Additional Hotel(s), respectively.	On or before October 1, 2014.

* If the City has not acquired fee title to all of the Agency 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 September 1, 2013 through and including the date upon which City acquires fee title to all of the Agency Property.

	PERFORMANCE ITEM	DATE
9.	Developer submits and obtains City approval of the identity of the Hotel Operators, Franchisors, and Franchise Agreements and Developer executes the approved Franchise Agreements.	On or before October 1, 2014.
10.	Developer submits and obtains City approval of Construction Drawings.	On or before February 1, 2015.
11.	Developer obtains necessary commitments for issuance of building permits and other similar required non-discretionary Land Use Approvals.	On or before March 1, 2015.
12.	Developer provides evidence of financing.	On or before May 15, 2015.
13.	City completes demolition, Site clearance and remediation, if applicable, pursuant to Paragraph II.1. of the Scope of Development	On or before August 15, 2015.
14.	Developer and City Close Escrow and Developer commences grading.	On or before September 1, 2015.[1]
15.	Construction Commencement Date.	On or before September 1, 2015.
16.	Offsite Infrastructure Completed by City	Concurrently with completion of the Developer Improvements.
17.	Developer Completes Construction of the Developer Improvements	Within twenty six (26) months after Close of Escrow.

[1] Although the outside date for the Closing of September 1, 2015, may not be extended for the events described in Section 602, the Closing may be extended until March 1, 2016 provided that, as of September 1, 2015, the Franchise Agreement for the Upper Upscale Hotel is still operative and neither the Developer nor the Franchisor is in breach or default thereunder. The Closing may also be extended until September 1, 2016 if on March 1, 2016, the Franchise Agreement for the Upper Upscale Hotel is still operative and neither the Developer nor Franchisor is 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 City of Garden Grove (the "City") have entered a Grove District Resort Hotel Development Agreement dated _____, 2013 (the "RHDA"). Pursuant to the RHDA, the City agreed to convey [or conveyed] to the Assignor a parcel of real property referred to in the RHDA 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 RHDA [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 RHDA, City approval of a Transfer of Assignor's interest in the Agreement is required in connection with the construction of _____.

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

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 RHDA [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 RHDA [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 RHDA [with respect to such portion of the Site], excluding actual claims of Default which City 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 City 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 CITY TO ASSIGNMENT

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

CITY OF GARDEN GROVE,
a municipal corporation

By:_____

ATTEST:

_____
City Clerk

EXHIBIT F

GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO
AND SEND TAX STATEMENTS TO:
City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92840
Attention: City Manager

This document is exempt from the payment of a recording fee pursuant to Government Code Section 6103 and 27383.

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged,

The CITY OF GARDEN GROVE, a municipal corporation (the "Grantor") hereby grants to LAND & DESIGN, INC., a California corporation (the "Grantee"), the real property described in Exhibit A attached hereto and incorporated herein (the "Property"), subject to existing easements, restrictions and covenants of record and further subject to the provisions of this Grant Deed set forth below.

1. Reservation of Mineral Rights. Grantor excepts and reserves from the conveyance herein described all interest of the Grantor in oil, gas, hydrocarbon substances and minerals of every kind and character lying more than five hundred (500) feet below the surface, together with the right to drill into, through, and to use and occupy all parts of the property lying more than five hundred (500) feet below the surface thereof for any and all purposes incidental to the exploration for and production of oil, gas, hydrocarbon substances or minerals from said property or other lands, but without, however, any right to use either the surface of the Property or any portion thereof within five hundred (500) feet of the surface for any purpose or purposes whatsoever, or to use the property in such a manner as to create a disturbance to the use or enjoyment of the Property.

2. Conveyance in Accordance with Grove District Resort Hotel Development Agreement. The Grantor's grant of the Property to the Grantee is made in accordance with and subject to that certain Grove District Resort Hotel Development Agreement, dated _____, 2013, by and between Grantor and Grantee (the "Resort Hotel Development Agreement"), which is incorporated herein by reference. The Resort Hotel Development Agreement generally requires the Grantee to construct certain Hotels, Parking Structures, and a Retail/Restaurant/Entertainment Component (collectively, the "Developer Improvements") as more particularly described in the Resort Hotel Development Agreement and to operate and maintain such Developer Improvements in accordance with the requirements set forth therein for

the Applicable Covenants Consideration Period. All capitalized terms not herein defined shall have the meanings defined in the Resort Hotel Development Agreement.

3. Permitted Uses. The Grantee covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property or any part thereof, that the Grantee shall develop, use, operate, and maintain the Property and the Development Improvements thereon in accordance with the Resort Hotel Development Agreement for the periods of time specified therein. The foregoing covenants shall run with the land.

4. Restrictions on Transfer. The Grantee further agrees as follows:

(A) For the period commencing upon the date of this Grant Deed and until expiration of the Applicable Covenants Consideration Period, no voluntary or involuntary successor in interest of the Grantee shall acquire any rights or powers under the Resort Hotel Development Agreement or this Grant Deed, nor shall the Grantee make any total or partial sale, transfer, conveyance, assignment, subdivision, financing, refinancing, lease, sublease, or license of the whole or any part of the Property without the prior written approval of the Grantor pursuant to Sections 103.1 and 103.3 of the Resort Hotel Development Agreement, except for a Permitted Transfer pursuant to Section 102 of the Resort Hotel Agreement. The Grantee further agrees that any right to transfer is subject to the provisions of this Grant Deed.

(B) Except with respect to Permitted Transfer pursuant to Section 103.2 of the Resort Hotel Agreement, prior to recordation of the final Release of Construction Covenants with respect to the Property, or applicable portion thereof, the Developer shall not place or suffer to be placed on the Property, or any portion thereof, any lien or encumbrance other than mortgages, deeds of trust, or other forms of conveyance required for the Construction Financing, unless approved in writing by the Grantor, in its sole and absolute discretion.

5. Grantor Right of Reentry.

(A) In accordance with Section 503 of the Resort Hotel Development Agreement, the Grantor has the right, at its election, to reenter and take possession of the Property, with all improvements thereon, and terminate and Revest in the Grantor the estate conveyed to the Grantee if after the Close of Escrow and prior to the issuance of the final Release of Construction Covenants with respect to the Property, or applicable portion thereof, the Grantee (or its successors in interest) shall:

(1) fail to start the construction of the Project as required by the Resort Hotel Development Agreement for a period of ninety (90) days after written notice thereof from the City; or

(2) abandon or substantially suspend construction of the Project required by the Resort Hotel Development Agreement for a period of ninety (90) days after written notice thereof from the Grantor; or

(3) contrary to the provisions of Sections 101 or 103 of the Resort Hotel Development Agreement, Transfer or suffer any involuntary Transfer in violation of the same,

and such Transfer, if it is a Transfer requiring approval by the Grantor, is not rescinded within thirty (30) days of Notice thereof from the Grantor to the Grantee.

(B) 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) a Holder, in the case where the Developer is in Default and, *vis à vis* a Holder, 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 City 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) The Grantor, 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 (b)(1), above, Grantor's sole remedy vis a vis Holder shall be the exercise of the re-entry right and Revesting in accordance herewith.

The conditions to the commencement of the exercise of the Grantor'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 Property by foreclosure (or deed-in-lieu of foreclosure) under its mortgage or deed of trust.

(C) Upon the revesting in the Grantor of title to the Property, as provided in this section, the Grantor shall use its reasonable efforts to resell the Property as soon and in such manner as the Grantor shall find feasible and consistent with the Resort Hotel Development Agreement and the Scope of Development to a qualified and responsible party or parties (as determined by the Grantor) who will assume the obligation of constructing or completing the Developer Improvements, or such improvements in their stead as shall be satisfactory to the Grantor and in accordance with the Scope of Development. The Grantee acknowledges that there may be substantial delays experienced by the Grantor if the Grantor must remarket the same for operation of a conference hotel following the revesting of the same in the Grantor. Upon such resale of the Property, the net proceeds thereof shall be applied:

(i) First, to reimburse the Grantor all costs and expenses incurred by the Grantor, excluding in-house Grantor staff costs, but specifically, including, but not limited to, any expenditures by the Grantor in connection with the recapture, management and resale of the Property or part thereof (but less any income derived by the Grantor from the Property or part thereof in connection with such management); all taxes, assessments and water or sewer charges

with respect to the Property or part thereof which the Grantee has not paid (or, in the event that the Property is exempt from taxation or assessment of such charges during the period of ownership thereof by the Grantor, an amount, if paid, equal to such taxes, assessments, or charges as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property or part thereof at the time or revesting of title thereto in the Grantor, or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Grantee, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Property, or part thereof; and any amounts otherwise owing the Grantor; and, in the event additional proceeds are thereafter available, then

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

(iii) Any balance remaining after such reimbursements shall be retained by the Grantor as its property. The rights established in this section 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 in the Resort Hotel Development Agreement or now or hereafter existing at law or in equity. These rights are to be interpreted in light of the fact that the Grantor will have conveyed the Property and provided other financial assistance to the Grantee for development of a high quality hotel project, particularly for development and operation of the Project, and not for speculation in undeveloped land.

6. Nondiscrimination.

(A) The Grantee 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 Developer Improvements or the Property, nor shall the Grantee 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 Property. The foregoing covenants shall run with the land.

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

(i) 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."

(ii) 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."

(iii) 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 6 shall continue in effect in perpetuity.

7. Violations Do Not Impair Liens. 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 Resort Hotel Development Agreement; provided, however, that any subsequent owner of the Property 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.

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

9. Covenants Run With Land. All covenants contained in this Grant Deed shall be covenants running with the land.

10. Covenants For Benefit of Grantor. All covenants without regard to technical classification or designation shall be binding for the benefit of the Grantor, and such covenants shall run in favor of the Grantor 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.

11. Revisions to Grant Deed. Both Grantor, its successors and assigns, and Grantee and the successors and assigns of Grantee in and to all or any part of the fee title to the Property shall have the right with the mutual consent of the Grantor to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements or restrictions contained in this Grant Deed without the consent of any tenant, lessee, easement holder, licensee, mortgagee,

trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Property. However, Grantee and Grantor are obligated to give written notice to and obtain the consent of any first mortgagee prior to consent or agreement between the parties concerning such changes to this Grant Deed.

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 _____, 201__.

GRANTOR:
CITY OF GARDEN GROVE,
a municipal corporation

Dated: _____, 201__ By: _____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

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

GRANTEE:

LAND & DESIGN, INC., a California corporation

Dated: _____, 201__ By: _____
Its: _____

Dated: _____, 201__ By: _____
Its: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

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 ORANGE)

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 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 CITY OF GARDEN GROVE, a municipal corporation (the "City"), in favor of _____, a _____ (the "Developer"), as of the date set forth below.

RECITALS

A. The City and the Developer have entered into that certain Grove District Resort Hotel Development Agreement dated _____ (the "RHDA") 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 RHDA, the City is required to furnish the Developer or its successors with a Release of Construction Covenants (as defined in Section 100 of the RHDA) upon completion of construction of the Developer Improvements (as defined in Section 100 of the RHDA) 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 RHDA of the Developer Improvements or such portion thereof as described in Exhibit "A" attached hereto and incorporated herein by reference.

C. The City has conclusively determined that such construction and development of that portion of the Developer Improvements described in Exhibit "A" has been satisfactorily completed.

NOW, THEREFORE, the City hereby certifies as follows:

1. Those Developer Improvements described in Exhibit "A" to be constructed by the Developer have been fully and satisfactorily completed in conformance with the RHDA and are free of any claims and/or liens by City. Any operating requirements and all use, maintenance, security or nondiscrimination covenants contained in the RHDA and other documents executed

and recorded pursuant to the RHDA 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 RHDA.

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

CITY:

CITY OF GARDEN GROVE, a municipal corporation

Dated: _____

By: _____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

DEVELOPER

_____
a _____

Dated: _____

By: _____
Its: _____

Dated: _____

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 _____, 20__, by and between LAND & DESIGN, INC., a California corporation ("GRANTEE") and the CITY OF GARDEN GROVE, a municipal corporation ("GRANTOR").

RECITALS

A. GRANTOR, as "City," and GRANTEE, as "Developer," entered into that certain Grove District Resort Hotel Development Agreement dated _____ (the "RHDA"), pursuant to which the GRANTOR agreed, subject to the fulfillment of the City'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 RHDA, unless the context dictates otherwise.

B. GRANTOR currently owns the City Property and is in the process of acquiring the Agency Property. If and to the extent the GRANTOR acquires the Agency Property or is granted the right of entry with respect to the Agency Property such Agency Property shall be deemed to be part of the City Property 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 City Property ("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 RHDA, unless otherwise extended by mutual agreement of the parties.

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

4. Condition of City Property Upon Termination of RHDA Prior to Conveyance. If the RHDA 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 City Property, the GRANTEE shall provide a rough graded level site.

5. Indemnification and hold harmless. GRANTEE shall indemnify, defend and hold harmless the GRANTOR and the City of Garden Grove as Successor Agency to the Garden

Grove Agency for Community Development, 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 Agreement 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 Agreement, 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 RHDA.

7. Recording. Neither GRANTOR nor GRANTEE shall record this Agreement.

8. Attorney's Fees. If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, 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 Agreement shall be in writing and sent to:

To Grantor:	City of Garden Grove 11222 Acacia Parkway Garden Grove, California 92840 Attention: City Manager
with a copy to:	Garden Grove City Attorney 11222 Acacia Parkway Garden Grove, California 92840
To Grantee:	Matthew Reid Land & Design, Inc. 3755 Avocado Boulevard, #516 La Mesa, California 91941

with a copy to: David Rose
420 McKinley Street, Suite 111
Corona, California 92879

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 Agreement. This Agreement 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 effective 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: _____ By: _____

Its: _____

Dated: _____ By: _____

Its: _____

GRANTOR:

CITY OF GARDEN GROVE, a municipal corporation

Dated: _____ 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;

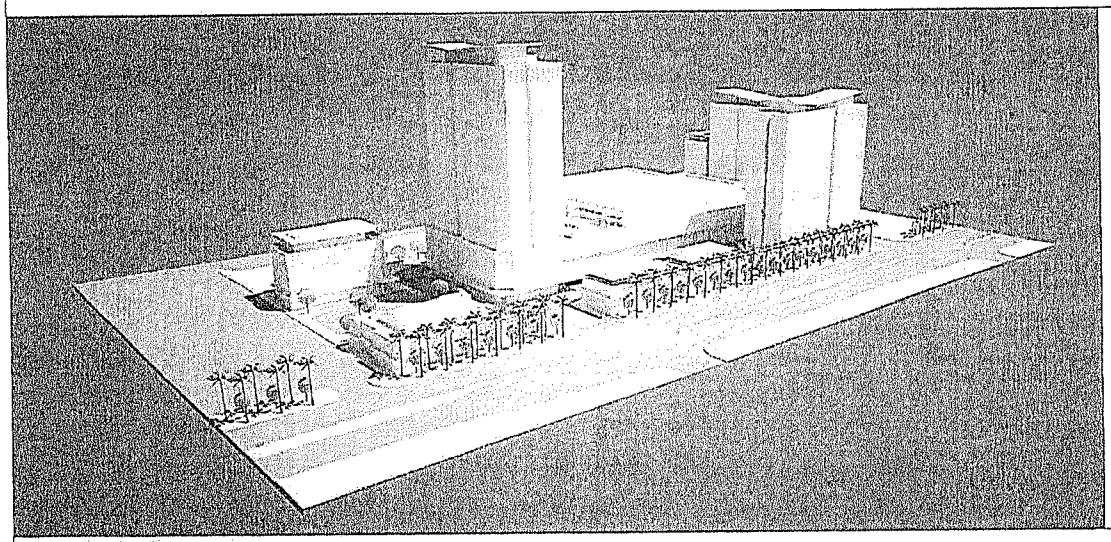
(8) Be subject to provisions of Labor Code Section 1777.7 which specifies the penalties imposed on a contractor who willfully fails to comply with provisions of Section 1777.5;

(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



PROJECT SUMMARY

PROJECT SITE: 5.2 Acres

PROGRAM

TOTAL HOTEL ROOMS: 769 KEYS
- One (1) "Full-Service"
- Two (2) "Limited-Service"

MAXIMUM BUILDING HEIGHTS:
- Full-Service Hotel: 265'-0"
- Harbor Limited-Service Hotel: 200'-0"
- Twintree Limited-Service Hotel: 130'-0" (E. Side) to 100'-0" (W. Side)
- Parking Structure / Ballroom & Pre Function: 85'-0"
- Parking Structure (East Side): 75'-0"
- Restaurant Off Harbor: 45'-0"
- Restaurant / Venue Northeast Corner: 75'-0"

RESTAURANT/ENTERTAINMENT: 45,000 SF
- Four (4) Pads @ 7,500 SF
- One (1) Pad @ 15,000 SF

HOTEL RESTAURANT: 20,000 SF
Additional Hotel Ancillary Uses including Restaurant, Bars, Fitness Room and Spa

CONFERENCE / MEETING BANQUET: 30,000 SF
Including Within the Hotel(s).

PARKING SPACES PROVIDED: 1,237

ACREAGE

TOTAL SITE AREA:
226,510 SF (5.2 Acres)

TOTAL BUILDING COVERAGE:
125,015 SF (2.87 Acres)

TOTAL LANDSCAPE AREA:
49,668 SF (1.14 Acres)

TOTAL CIRCULATION + PARKING AREA:
51,835 SF (1.18 Acres)

OWNER:
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
11222 ACACIA PARKWAY
GARDEN GROVE, CA 92640
TEL: (714) 741-5100
FAX: (714) 741-5138
E-MAIL:

PROJECT PLANNER
AECOM
999 W. TOWN AND COUNTRY ROAD
ORANGE, CA 92868-4713
TEL: (714) 567-2501
FAX: (714) 567-2441
E-MAIL: www.aecom.com

CIVIL ENGINEER:
FOCUS ENGINEERING, INC.
CIVIL ENGINEERS LAND SURVEYORS
81 MAUCHLY, SUITE 317
IRVINE, CA 92618
TEL: (949) 428-8300
FAX: (949) 420-8822
E-MAIL: focusengineering@sbcglobal.net

REVISIONS

NO.	DATE	DESCRIPTION

CITY OF GARDEN GROVE

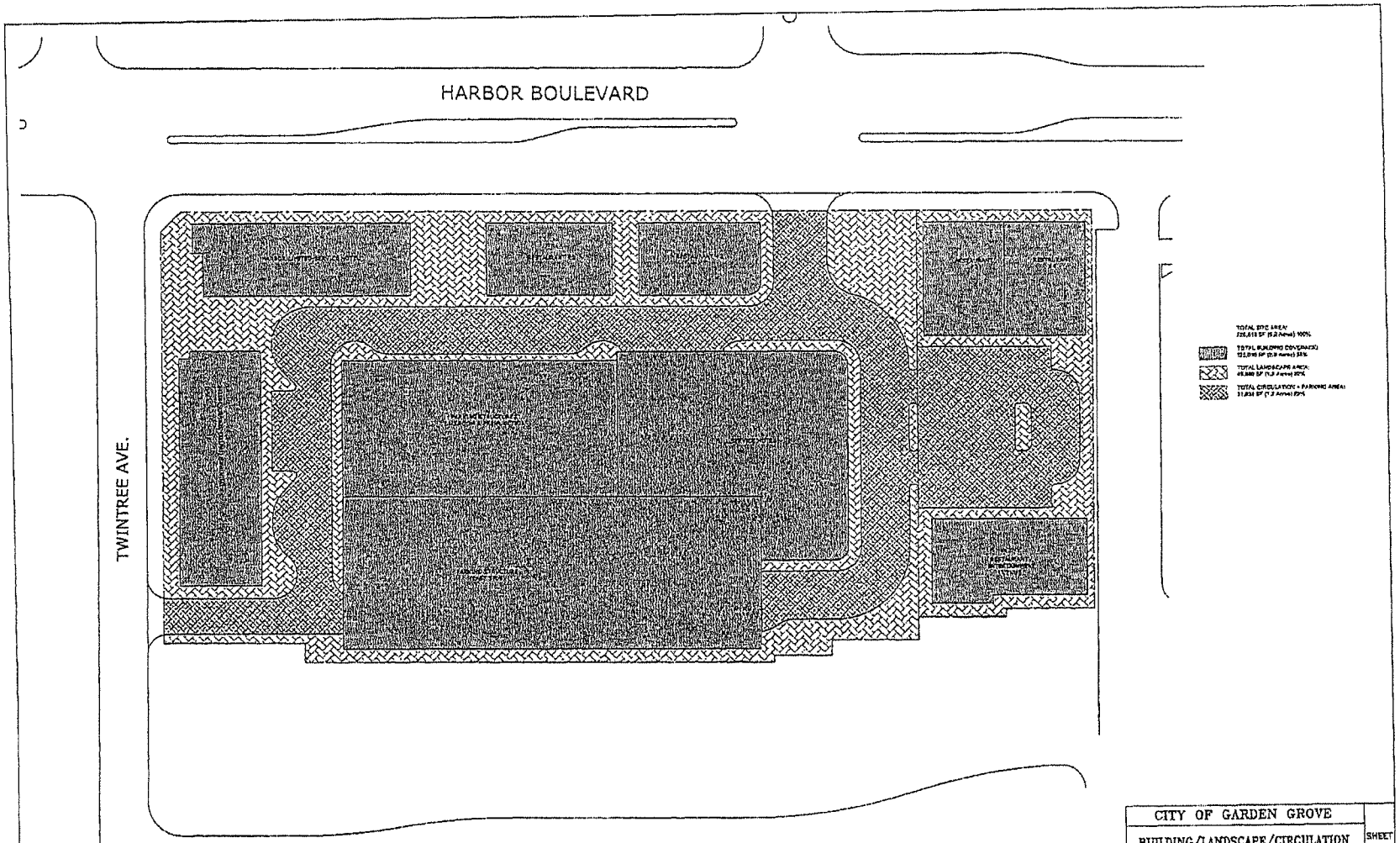
PARCEL C - COVER SHEET

FINAL DRAFT

APPROVED

DRAWING: 2013-07-10
PRINT:

SHEET 1 OF 11



OWNER:	PROJECT PLANNER	CIVIL ENGINEER:	REVISIONS
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT 11222 ACACIA PARKWAY GARDEN GROVE, CA 92840 TEL: (714) 741-5100 FAX: (714) 741-5124 E-MAIL:	AECOM 999 W. TOWN AND COUNTRY ROAD ORANGE, CA 92868-4713 TEL: (714) 567-2501 FAX: (714) 567-2441 E-MAIL: www.aecom.com	FOCUS ENGINEERING, INC. CIVIL ENGINEERS LAND SURVEYORS 23 MUSICK, SUITE 317 IRVINE, CA 92618 TEL: (949) 453-0176 FAX: (949) 453-0252 E-MAIL: focusengineering@sbcglobal.net	NO. DATE DESCRIPTION

SCALE: 1"=35'

CITY OF GARDEN GROVE

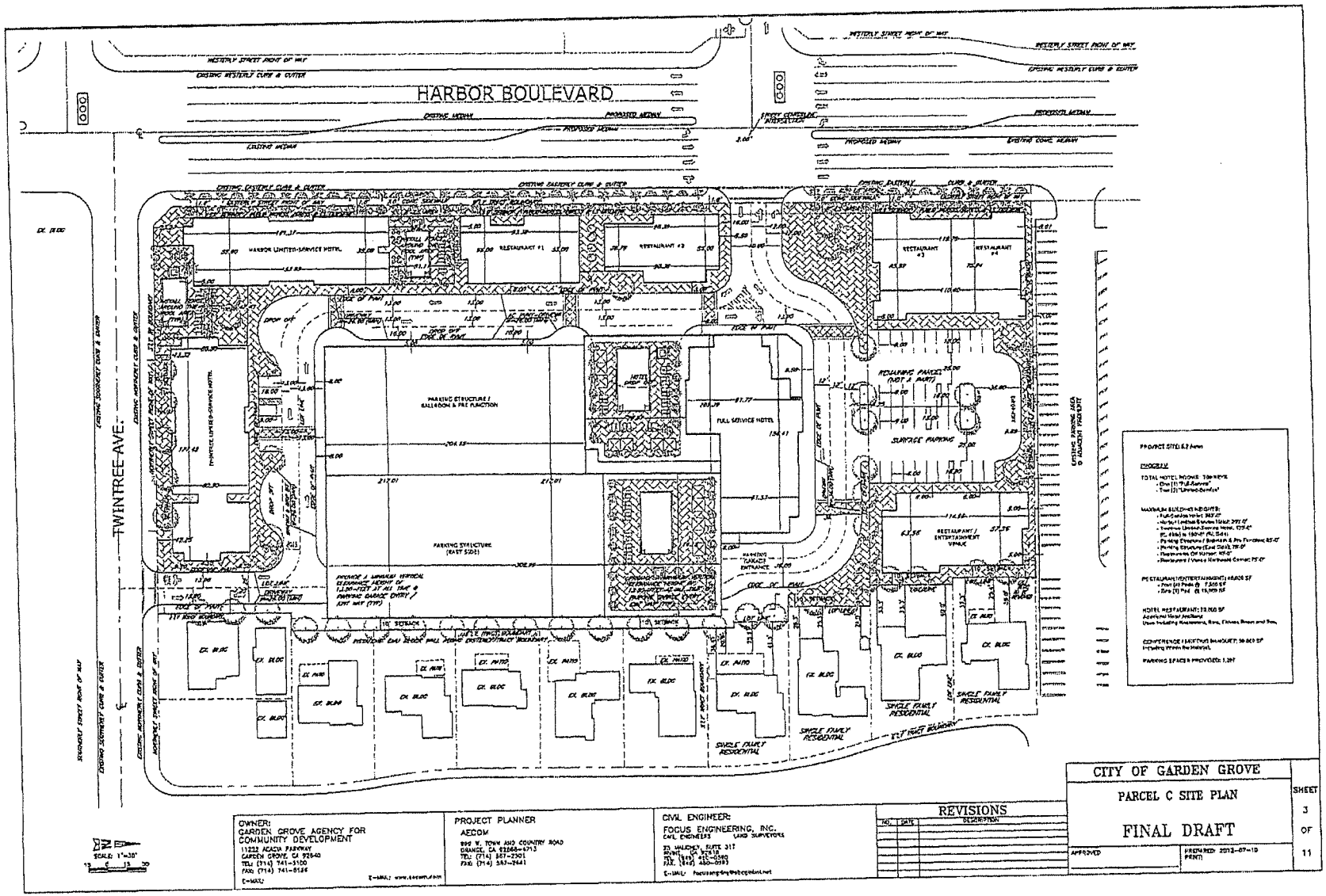
BUILDING/LANDSCAPE/CIRCULATION & PARKING AREAS

FINAL DRAFT

APPROVED

PREPARED: 2012-07-10
PRINT:

SHEET 2 OF 11



OWNER:
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
11222 ACACIA PARKWAY
GARDEN GROVE, CA 92840
TEL: (714) 741-5100
FAX: (714) 741-5184
E-MAIL:

PROJECT PLANNER
AECOM
999 W. TOWN AND COUNTRY ROAD
ORANGE, CA 92868-4713
TEL: (714) 567-2501
FAX: (714) 567-2441
E-MAIL: www.aecom.com

CIVIL ENGINEER:
FOCUS ENGINEERING, INC.
CIVIL ENGINEERS LAND SURVEYORS
23 MACKEY, SUITE 317
IRVINE, CA 92618
TEL: (949) 455-0385
FAX: (949) 455-0593
E-MAIL: focusengineering@sbcglobal.net

REVISIONS

NO.	DATE	DESCRIPTION

SCALE: 1"=30'

CITY OF GARDEN GROVE

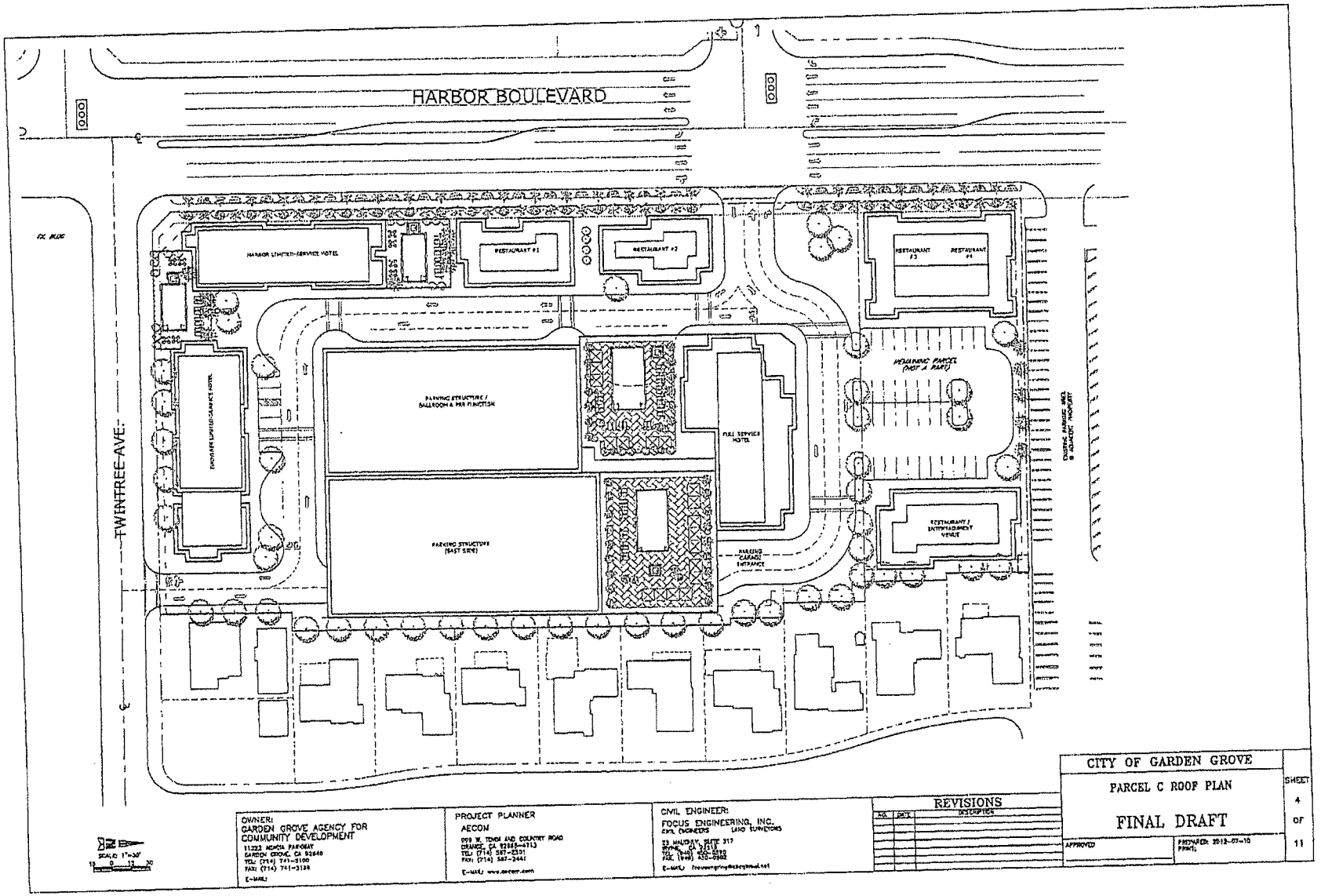
PARCEL C SITE PLAN

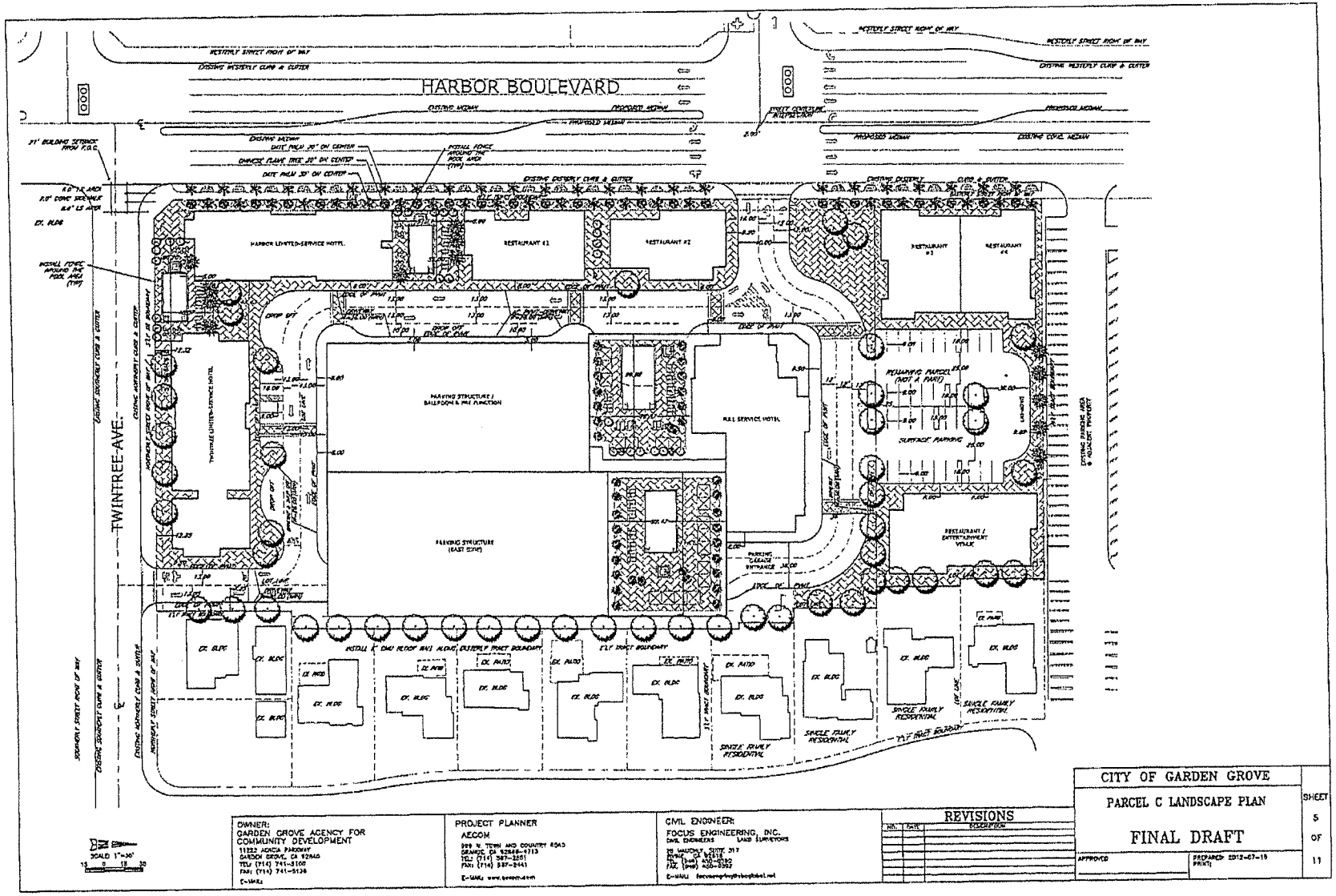
FINAL DRAFT

APPROVED

PREPARED: 2012-07-10
PRINT:

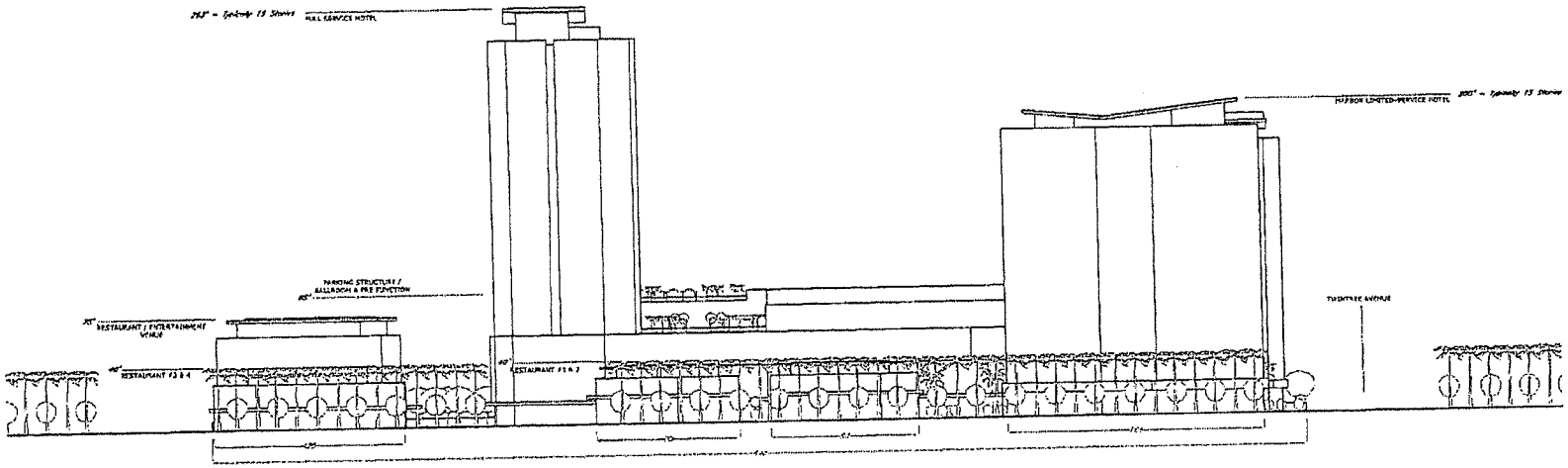
SHEET 3 OF 11


HARBOR BOULEVARD
TWINTREE AVE.
HARBOR LIMITED-SERVICE HOTEL
RESTAURANT #1
RESTAURANT #2
RESTAURANT #3
RESTAURANT #4
PARKING STRUCTURE / BALLROOM & PRE FUNCTION
FULL SERVICE HOTEL
PARKING STRUCTURE (EAST SIDE)
HOUSING PARCEL (NOT A PART)
RESTAURANT / ENTERTAINMENT VENUE
PARKING GARAGE ENTRANCE
EXISTING PARKING AREA & ADJACENT PROPERTY
OWNER:
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
11222 ACACIA PARKWAY
GARDEN GROVE, CA 92840
TEL: (714) 741-5100
FAX: (714) 741-5138
E-MAIL:
PROJECT PLANNER
AECOM
CIVIL ENGINEER:
FOCUS ENGINEERING, INC.
CIVIL ENGINEERS LAND SURVEYORS
REVISIONS
NO. DATE DESCRIPTION
CITY OF GARDEN GROVE
PARCEL C ROOF PLAN
FINAL DRAFT
APPROVED
PREPARED: 2012-07-10
PRINT:
SHEET 4 OF 11

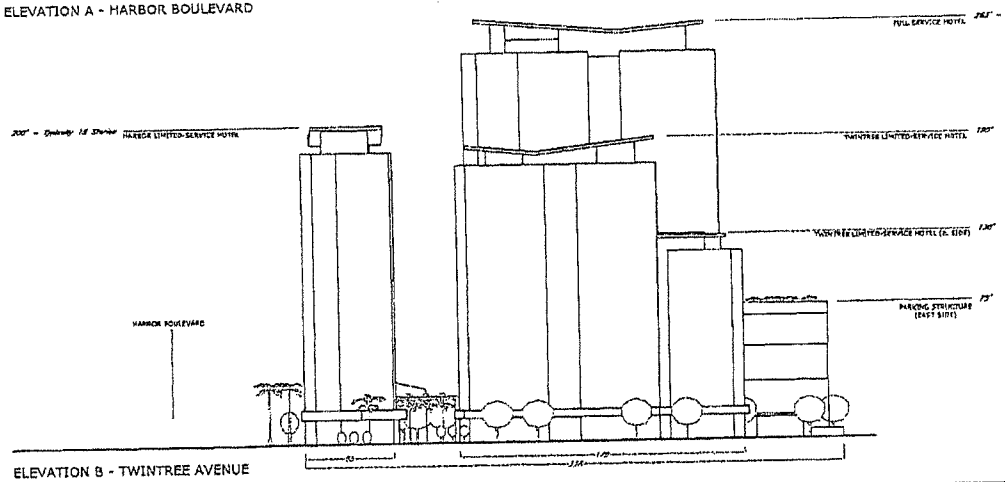


OWNER: GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT 11222 ACACIA PARKWAY GARDEN GROVE, CA 92840 TEL: (714) 741-5100 FAX: (714) 741-5136	PROJECT PLANNER AECOM 999 N. TOWN AND COUNTRY ROAD ORANGE, CA 92868-1713 TEL: (714) 567-2501 FAX: (714) 567-2441 E-MAIL: www.aecom.com	CIVIL ENGINEER: FOCUS ENGINEERING, INC. CIVIL ENGINEERS LAND SURVEYORS [illegible] TEL: (949) 450-0900 FAX: (949) 450-0909 E-MAIL: [illegible]	REVISIONS NO. DATE DESCRIPTION

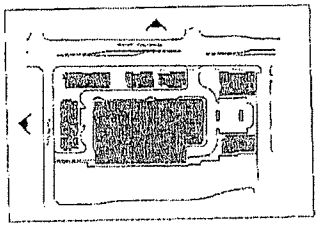
CITY OF GARDEN GROVE	
PARCEL C LANDSCAPE PLAN	SHEET 5 OF 11
FINAL DRAFT	
APPROVED	PREPARED 2012-07-19 PRINT



ELEVATION A - HARBOR BOULEVARD



ELEVATION B - TWINTREE AVENUE



KEY MAP

SCALE: 1"=30'
15 0 15 30

OWNER:
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
11222 ACACIA PARKWAY
GARDEN GROVE, CA 92840
TEL: (714) 741-5100
FAX: (714) 741-5136
E-MAIL:

PROJECT PLANNER
AECOM
800 W. TOWN AND COUNTRY ROAD
ORANGE, CA 92868-4713
TEL: (714) 567-2501
FAX: (714) 567-2461
E-MAIL: www.aecom.com

CIVIL ENGINEER:
FOCUS ENGINEERING, INC.
CIVIL ENGINEERS LAND SURVEYORS
23 MACUBAY, SUITE 317
IRVINE, CA 92618
TEL: (949) 453-0505
FAX: (949) 453-0393
E-MAIL: focusengineering@sbcglobal.net

REVISIONS

NO.	DATE	DESCRIPTION

CITY OF GARDEN GROVE

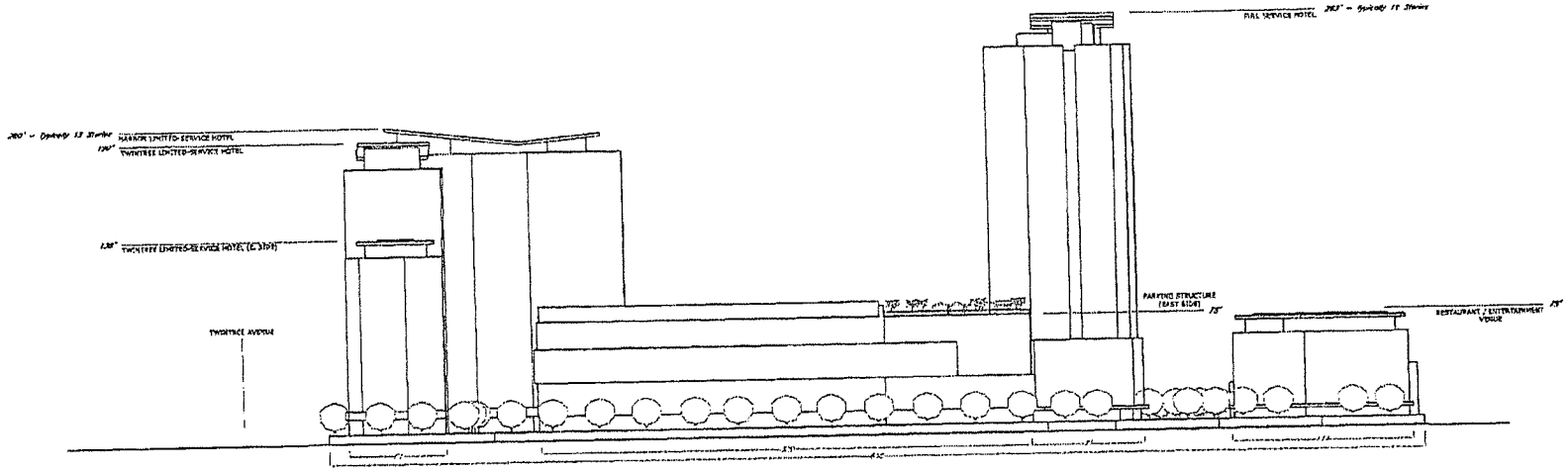
PARCEL C STREET ELEVATIONS

FINAL DRAFT

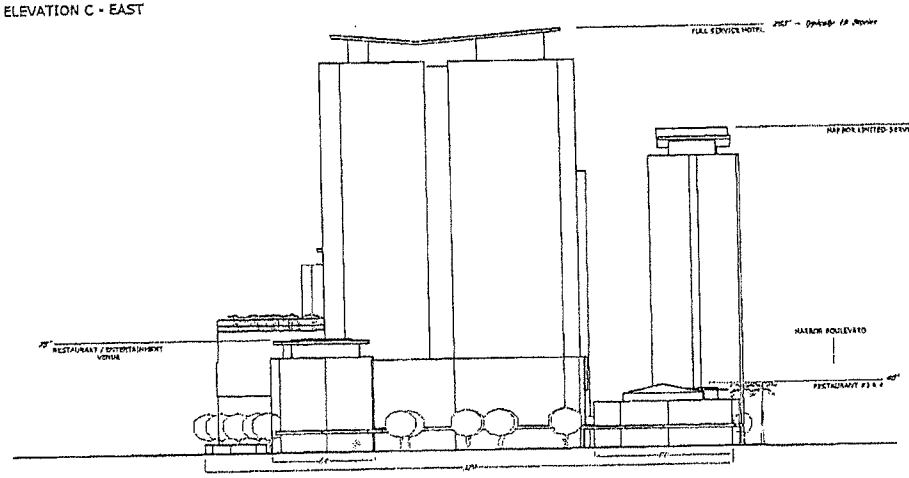
APPROVED:

ENGINEER: 2018-07-10
PRINT:

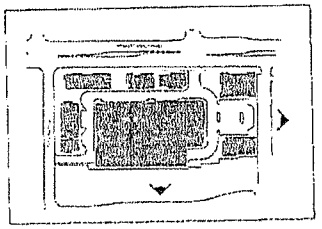
SHEET 8 OF 11



ELEVATION C - EAST



ELEVATION D - NORTH



KEY MAP

SCALE: 1"=20'

OWNER:	PROJECT PLANNER	CIVIL ENGINEER:
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT 11222 ACACIA PARKWAY GARDEN GROVE, CA 92840 TELL (714) 741-5100 FAX: (714) 741-5136 E-MAIL:	AECOM 888 W. TOWN AND COUNTRY ROAD ORANGE, CA 92868-4713 TEL: (714) 567-2501 FAX: (714) 567-2441 E-MAIL: www.aecom.com	FOCUS ENGINEERING, INC. CIVIL ENGINEERS LAND SURVEYORS 26 VALENCIA, SUITE 317 IRVINE, CA 92618 TEL: (949) 450-0569 FAX: (949) 450-0562 E-MAIL:

REVISIONS		
NO.	DATE	DESCRIPTION

CITY OF GARDEN GROVE

PARCEL C STREET ELEVATIONS

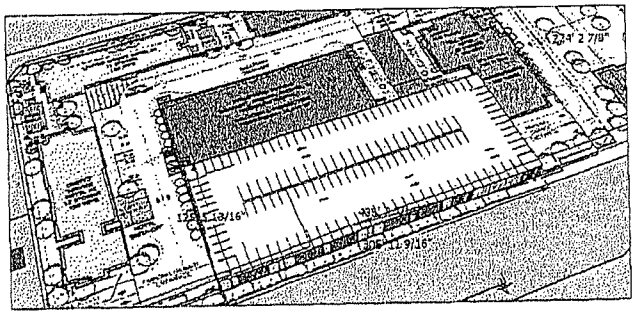
FINAL DRAFT

APPROVED

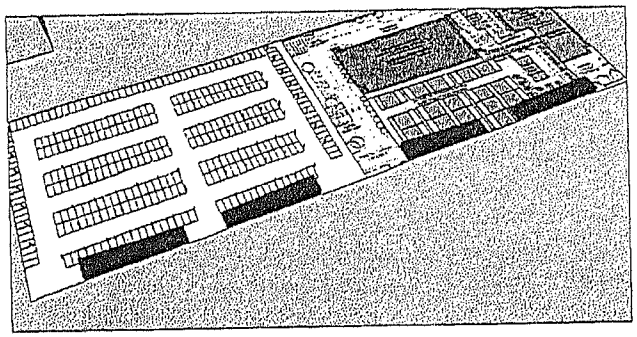
PREPARED: 2012-07-19
PRINT:

SHEET 7 OF 11

PARKING



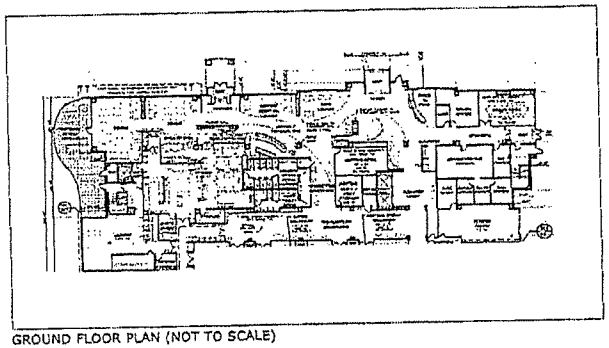
TYPICAL PARKING STRUCTURE (USE 370 SF/STALL)



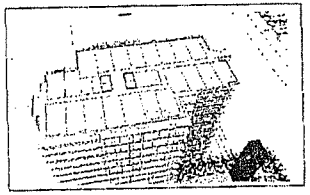
TYPICAL BELOW LEVEL PARKING (USE 400 SF/STALL)

*NOTE: ALL PARKING SPACES SHALL MEET ALL CITY STANDARDS AND DIMENSIONS.
REFER TO "JKJ SHARED PARKING STUDY" PREPARED BY RK ENGINEERING DATED 05/02/12 FOR PARKING SPACES REQUIREMENTS.

FULL SERVICE HOTEL

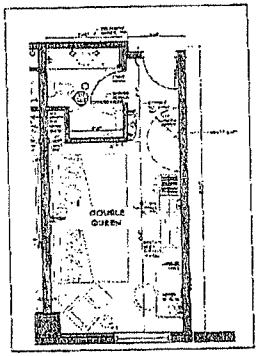


GROUND FLOOR PLAN (NOT TO SCALE)



TYPICAL FLOOR PLAN

*NOTE: TYPICAL FLOOR PLANS ARE FOR REFERENCE ONLY.
SOURCE: GAL ARCHITECTS

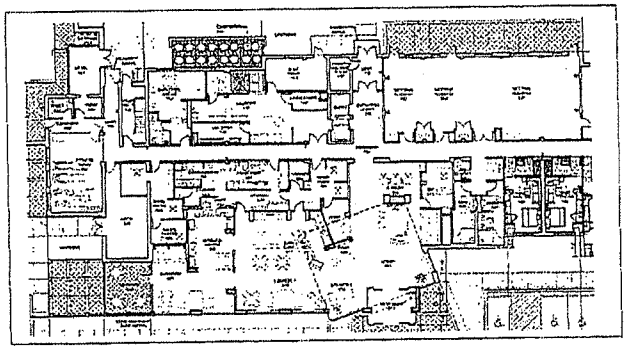


TYPICAL DOUBLE QUEEN
GUEST ROOM
SCALE: 1"=4'

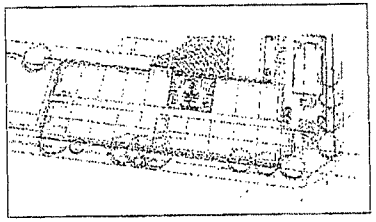
OWNER: GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT 11222 ACACIA PARKWAY GARDEN GROVE, CA 92840 TEL: (714) 741-5105 FAX: (714) 741-5136 E-MAIL:	PROJECT PLANNER AECOM 888 W. TOWN AND COUNTRY ROAD ORANGE, CA 92868-4713 TEL: (714) 567-2501 FAX: (714) 567-2441 E-MAIL: www.aecom.com	CIVIL ENGINEER: FOCUS ENGINEERING, INC. CIVIL ENGINEERS LAND SURVEYORS 23 MUSEUM, SUITE 317 IRVINE, CA 92618 TEL: (949) 450-1818 FAX: (949) 450-2898 E-MAIL: focusengineering@sbcglobal.net	REVISIONS NO. DATE DESCRIPTION	CITY OF GARDEN GROVE TYPICAL FLOOR PLANS FINAL DRAFT APPROVED / PREPARED: 2012-07-10 PPWD

SHEET 8 OF 11

LIMITED SERVICE HOTEL (HARBOR)

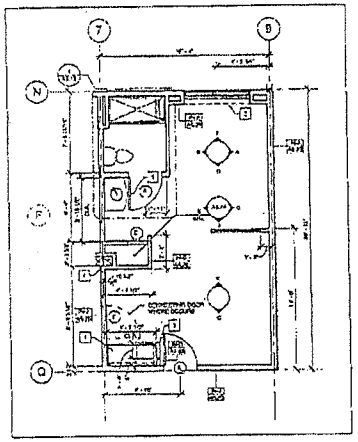


GROUND FLOOR PLAN (NOT TO SCALE)



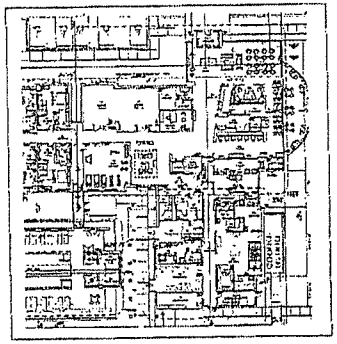
TYPICAL FLOOR PLAN

*NOTE: TYPICAL FLOOR PLANS ARE FOR REFERENCE ONLY.
SOURCE: O+L ARCHITECTS

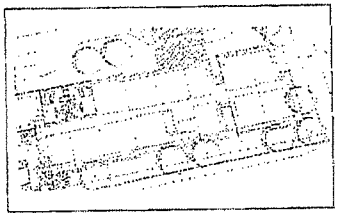


TYPICAL KING SIZE
GUEST ROOM
SCALE: 1"=1'

LIMITED SERVICE HOTEL (TWINTREE)

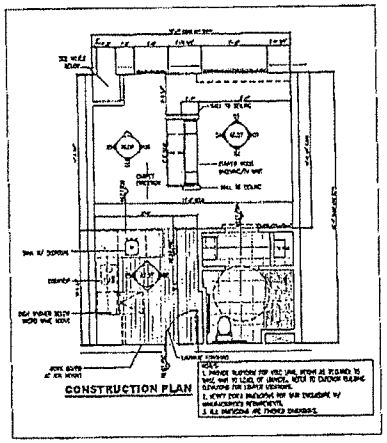


GROUND FLOOR PLAN (NOT TO SCALE)



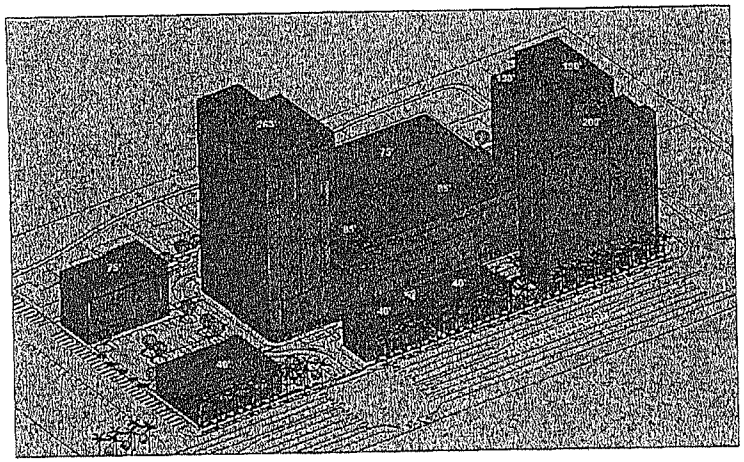
TYPICAL FLOOR PLAN

*NOTE: TYPICAL FLOOR PLANS ARE FOR REFERENCE ONLY.
SOURCE: O+L ARCHITECTS

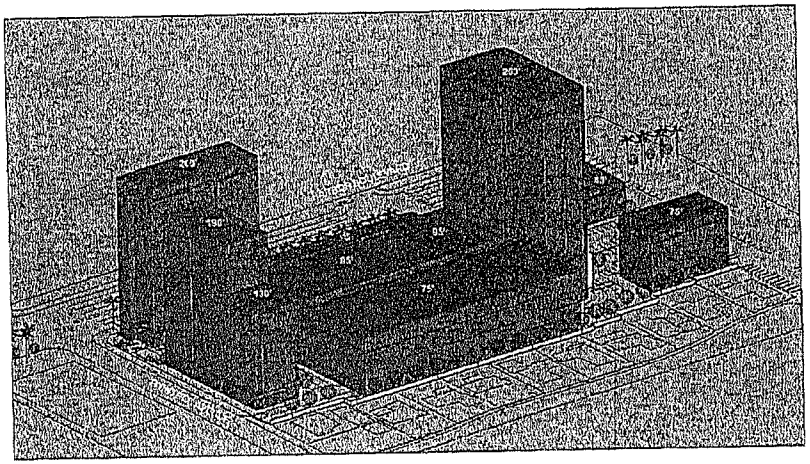


TYPICAL ROOM
SCALE: 1"=1'

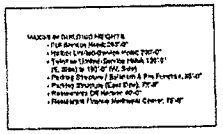
OWNER: GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT 11222 ACACIA PARKWAY GARDEN GROVE, CA 92840 TEL: (714) 741-5100 FAX: (714) 741-5136 E-MAIL:	PROJECT PLANNER AECOM 595 W. TOWN AND COUNTRY ROAD ORANGE, CA 92868-4713 TEL: (714) 567-2601 FAX: (714) 567-2441 E-MAIL: www.aecom.com	CIVIL ENGINEER: FOCUS ENGINEERING, INC. CIVIL ENGINEERS LAND SURVEYORS 32 MAUCHLY, SUITE 317 IRVINE, CA 92618 TEL: (949) 450-0289 FAX: (949) 450-0292 E-MAIL: focusengineering@sbcglobal.net	REVISIONS NO. DATE DESCRIPTION	CITY OF GARDEN GROVE TYPICAL FLOOR PLANS FINAL DRAFT APPROVED PREPARED: 2012-07-10 PRINT:	SHEET 9 OF 11



VIEW FROM HARBOR BOULEVARD



VIEW FROM TWINTREE AVENUE



OWNER:
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
11222 ACACIA PARKWAY
GARDEN GROVE, CA 92840
TEL: (714) 741-5100
FAX: (714) 741-5138
E-MAIL:

PROJECT PLANNER
AECOM
888 W. TOWN AND COUNTRY ROAD
ORANGE, CA 92868-4713
TEL: (714) 567-2501
FAX: (714) 567-2441
E-MAIL: www.aecom.com

CIVIL ENGINEER:
FOCUS ENGINEERING, INC.
CIVIL ENGINEERS LAND SURVEYORS
25 MAUCHLY, SUITE 317
IRVINE, CA 92618
TEL: (949) 450-0700
FAX: (949) 450-0592
E-MAIL: focusengineering@sbcglobal.net

REVISIONS

NO	DATE	DESCRIPTION

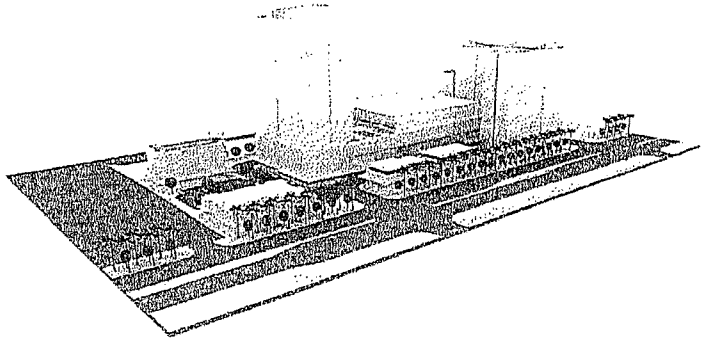
CITY OF GARDEN GROVE

3D MASSING WITH MAXIMUM BUILDING ENVELOP
FINAL DRAFT

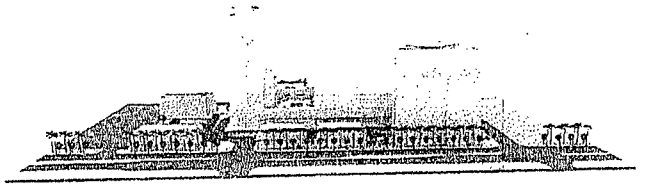
APPROVED

PREPARED: 2013-07-10
DRAFT:

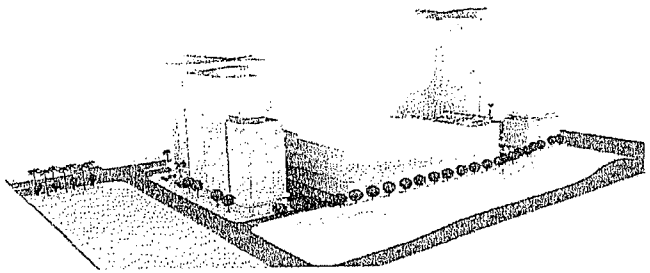
SHEET 10 OF 11



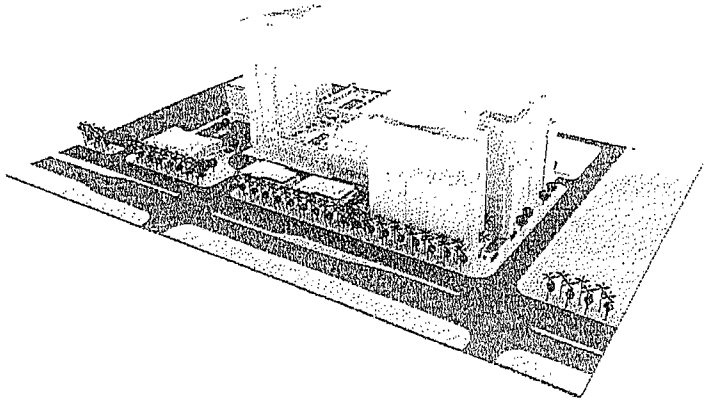
1) VIEW FROM HARBOR BOULEVARD - NORTH



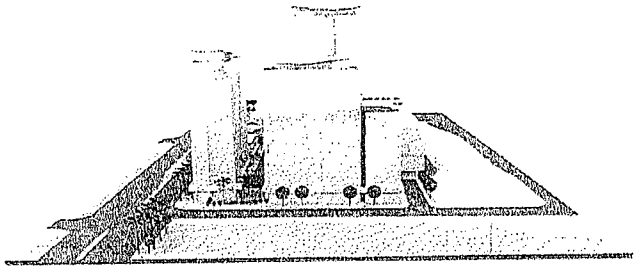
3) VIEW FROM HARBOR BOULEVARD - CENTER



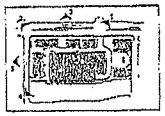
4) VIEW FROM TWINTREE AVENUE - BACK



2) VIEW FROM HARBOR BOULEVARD - SOUTH



5) VIEW FROM TWINTREE AVENUE



KEY MAP

OWNER:
GARDEN GROVE AGENCY FOR
COMMUNITY DEVELOPMENT
11222 ACACIA PARKWAY
GARDEN GROVE, CA 92840
TEL: (714) 741-5100
FAX: (714) 741-5138
E-MAIL:

PROJECT PLANNER
AECOM
500 W. TOWN AND COUNTRY ROAD
ORANGE, CA 92868-4713
TEL: (714) 567-2501
FAX: (714) 567-2441
E-MAIL: www.aecom.com

CIVIL ENGINEER:
FOCUS ENGINEERING, INC.
CIVIL ENGINEERS LAND SURVEYORS
25 MAUCHLY, SUITE 317
IRVINE, CA 92618
TEL: (949) 450-0510
FAX: (949) 450-0592
E-MAIL: focusengineering@sbcglobal.net

REVISIONS

NO.	DATE	DESCRIPTION

CITY OF GARDEN GROVE

3D MASSING MODEL

FINAL DRAFT

APPROVED

PREPARED: 2013-07-10
PRINT:

SHEET 11 OF 11

EXHIBIT K

MEMORANDUM OF AGREEMENT

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

City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92840
Attention: City Manager

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 _____, 201__ by and between the **CITY OF GARDEN GROVE**, a municipal corporation (the "City"), 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 Grove District Resort Hotel Development Agreement between the City and the Developer dated _____ ("RHDA"). Capitalized terms not defined herein shall have the meaning set forth in the RHDA. When recorded at the Closing the RHDA 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 RHDA provides, among other things, and subject to the fulfillment of certain Conditions Precedent, for a conveyance of the Site to the Developer and for the development and operation by Developer thereon of Hotels, a Retail/Restaurant/Entertainment Component, and Parking Structures. 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 _____, 201__.

CITY:

CITY OF GARDEN GROVE, a municipal corporation

Dated: _____, 201__

By: _____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

DEVELOPER

LAND & DESIGN, INC., a California corporation

Dated: _____, 201__

By: _____
Its: _____

Dated: _____, 201__

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 FLAGS/OPERATORS[2] AND RETAIL/RESTAURANT/ENTERTAINMENT COMPONENT TENANTS/OPERATORS

Pre-Approved Additional Hotels

Aloft (Starwood)
Cambria Suites (Choice Hotels)
Country Inn and Suites (Carlson)
Courtyard (Marriott)
Destination Hotels and Resorts
Doubletree Hotel (Hilton)
Element (Starwood)
Fairfield Inn and Suites (Marriott)
Four Points by Sheraton (Starwood)
Hard Rock Hotel
Hawthorne Suites
Hilton Grand Vacations
Hilton Hotel
Holiday Inn (IHG)
Holiday Inn Club Vacations (IHG)
Hotel Indigo (IHG)
Hyatt Place (Hyatt)
Hyatt Vacation Club
Kimpton Hotel
Landry's Restaurant Themed Hotel
Marriott Hotel(s)
Marriott Vacation Club
Nickelodeon Hotel
Radisson Hotel (Carlson)
Red Lion Hotel
Sheraton Hotel (Starwood)
Springhill Suites (Marriott)
Staybridge Suites (IHG)
Starwood Vacation Ownership
Summerfield Suites (Hyatt)
Towne Place Suites (Marriott)
Tryp by Wyndham (Whyndam)
Warner Hotels and Resorts
Whyndam Hotel
Wingate (Wyndham)
Worldmark by Wyndham
Whyndam Garden
Whyndam Resorts Vacation Ownerships

Pre Approved Upper Upscale Hotels

[2] Approval of those Hotels/Operators associated with Vacation Ownership Resort (Timeshare) projects are subject to City approval of construction / operation of a Vacation Ownership Resort (Timeshare) pursuant to the Scope of Development (Exhibit C).

Andaz Hotel (Hyatt)
Autograph Collection (Marriott)
Destination Hotels and Resorts
Doral Hotel and Resorts
Dreamworks Hotel
Fairmont
Four Seasons
Grand Pacific Resorts
Hard Rock Hotel
Joie de Vivre Hotels
Jumeira Hotels
JW Marriott
Kessler Collection
KSL Resorts
Kimpton Hotel
Langham Hotel
Le Méridien
Loews
Luxury Collection (Starwood)
Mandarin Oriental Hotel
Marriott Hotels
Marriott Vacation Club
MGM Hotel
Millenium Hotels
Montage
Morgans Hotels Group
Nickelodeon Hotel
Omni Hotel and Resorts
Pan Pacific Hotel
Peabody Hotel
Planet Hollywood Hotel
Radisson Blu
Renaissance
Rosen Hotel
Sheraton Hotel
Sol Melia Hotels
Sonesta
Taj Hotel(s)
Thompson Hotel
Trump Hotel
W Hotels
Warner Hotels and Resorts
Westin
Wyndham Collection/Resort
Wyndham Resorts Vacation Ownership

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

Horwath HTL

Hotel, Tourism and Leisure

Horwath Hospitality & Leisure LLC
1050 Northgate Drive, Suite 440
San Rafael, CA 94903 USA
415.925.8800
415.925.8804 Fax
www.HorwathHTL.com

March 20, 2013

Mr. Greg Blodgett
Project Manager
City of Garden Grove
11222 Acacia Parkway, 3rd Floor
Garden Grove, CA 92840

Sent via: greg1@ci.garden-grove.ca.us
714-741-5124

Re: Proposed Upper-Upscale and Full Service, Select-Service and Suites Hotels Located in Garden Grove, California

Dear Mr. Blodgett:

We have completed our analysis of the potential performance of the aforementioned hotels to be developed in Garden Grove, California, to the south of the Disneyland Resort and Anaheim Convention Center. This summary report is subject to the attached statement of general assumptions and limiting conditions.

Background

It is our understanding that you require an analysis for the support of the subject properties for your internal purposes. The development is proposed for a city owned parcel referred to as Site C situated on the northeast quadrant of Harbor Boulevard and Twintree Lane. The hotels will be a component of a mixed-use development site, with inline entertainment, retail and restaurants along Harbor Boulevard. It is estimated the project will take approximately 12 to 18 months to complete the working drawings and obtain financing, and approximately 18 to 24 months to construct. Horwath has assumed 2017 as the first full operating year of the subject hotels.

You are in negotiations with a developer for potential city subsidies for a development on Site C. General assumptions, published data, the developer's estimates as well as primary research have been considered to develop estimates of the future performance for the proposed project. It is our understanding that the project as proposed will consist of the following:

- 360-room full service, upper upscale hotel with approximately 15,000 square feet of conference/meeting space (including a10,000-square foot ballroom), spa and fitness center
- 150-room suites oriented hotel property
- 150-room select service hotel property

Our analysis has consisted of researching published information on statistics and trends in the lodging industry in the Garden Grove/Anaheim area, demographic/economic trends, phone calls with principals knowledgeable of the area lodging market, in-house market data, and direct interviews with hotel companies and hotel management. Our market research and analysis was conducted in March 2013. Horwath previously researched support for the upper upscale hotel in a report dated March 25, 2011. Please refer to the previous report for expanded regional information and detail on the area and site. Where appropriate, Horwath has noted relevant updates to our assumptions contained in the previous report.

Our conclusions assume that the subject properties will be operated and marketed by a competent and efficient management company and affiliated with a national chain. Further, the properties will be constructed and furnished with quality materials commensurate with their targeted level of service prototype(s) and be well maintained over the projection period. Our projections of occupancy and average daily rate (ADR) are based on the level of services envisioned for the subject properties.

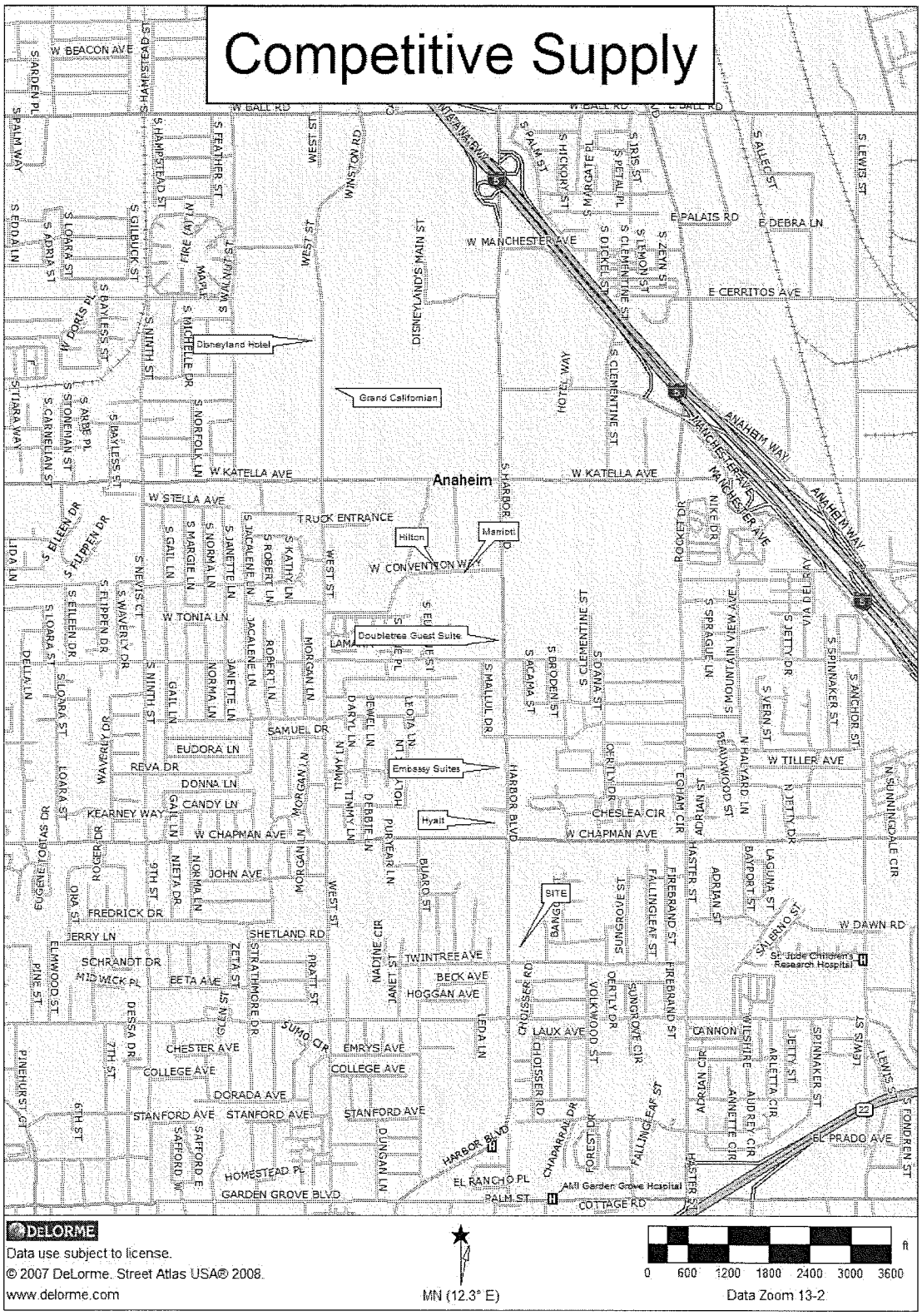
Competitive Lodging Market

There are numerous hotels within the competitive market area. In order to identify trends in the lodging market as well as support for the subject properties, we have identified a set of properties that we feel have successfully captured area demand in terms of occupancy and ADR. Assuming a ceiling in terms of ADR for the upper upscale property, we then determined a tiered capture of demand for the suites and select service properties due to their proximity and synergies within the proposed development.

There are seven full service properties that are achieving the highest average rates in the Garden Grove/Anaheim area. Chain affiliation and/or location relative to the Disneyland theme park are strong determinants as to the magnitude of both quoted and achieved rates. The locations of the properties are identified on the following map. A summary of these properties is presented as follows, followed by a map.

Competitive Set	Rooms	Open
Grand Californian Hotel	948	2001
Disneyland Hotel	969	1955
Hilton Anaheim	1,572	1984
Hyatt Regency Orange County	654	1987
Marriott Anaheim	1,030	1981
Embassy Suites Anaheim South	375	2002
Doubletree Guest Suites Anaheim Resort	251	2006
Total Keys	5,799	

Source: Hotel management & published sources


Competitive Supply
Disneyland Hotel
Grand Californian
Anaheim
Hilton
Marriott
Doubletree Guest Suite
Embassy Suites
Hyatt
SITE
W MANCHESTER AVE
W KATELLA AVE
W CHAPMAN AVE
HARBOR BLVD
W CONVENTION WAY
TRUCK ENTRANCE
ANAHEIM WAY
MANCHESTER AVE
DISNEYLAND DR
S CLEMENTINE ST
S HARBOR BLVD
W BALL RD
E PALAIS RD
E DEBRA LN
E CERRITOS AVE
W STELLA AVE
W TONIA LN
EUDORA LN
REVA DR
DONNA LN
CANDY LN
KEARNEY WAY
JOHN AVE
FREDRICK DR
JERRY LN
SHETLAND RD
SCHRANDT DR
MIDWICK PL
BEETA AVE
ZETA ST
TWINTREE AVE
BECK AVE
HOGGAN AVE
LAUX AVE
CANNON
CHESTER AVE
COLLEGE AVE
EMRYS AVE
DORADA AVE
STANFORD AVE
HOMESTEAD PL
GARDEN GROVE BLVD
EL RANCHO PL
PALM ST
COTTAGE RD
W DAWN RD
EL PRADO AVE
CHESLEA CIR
St. Jude Children's Research Hospital
AMI Garden Grove Hospital
DELORME
Data use subject to license.
© 2007 DeLorme. Street Atlas USA® 2008.
www.delorme.com
MN (12.3° E)
0 600 1200 1800 2400 3000 3600 ft
Data Zoom 13-2

Horwath

As indicated on the previous competitive supply chart, in 2012, there were seven properties totaling 5,799 guest rooms considered as the potential Garden Grove/Anaheim competitive supply for the subject upper upscale hotel. These properties were selected due to their ADR, size, facilities and amenities, quality and/or national brand affiliations, locations and market orientations.

With the exception of the two Disneyland hotels (Grand Californian Hotel and the Disneyland Hotel), all of the properties were nationally branded, chain-affiliated hotels. While there are some high-quality, independently owned and operated properties catering to Disneyland or the convention center, the importance of a chain affiliation is that it provides a recognizable, corporately mandated prototype that has been developed with a consistency in standard of operation, and benefits from shared support services such as marketing, reservations and frequent traveler reward programs. The independent properties were especially negatively impacted during the 2008/2009/2010 economic downturn, underscoring the importance of a recognized, national (or international) marketing program during downturns and/or off peak periods. As such, independently owned/operated properties were not included in the subject's competitive supply. Further, it should be noted that a Sheraton hotel in Garden Grove and one in Anaheim were not included in the competitive set as they share a reservation system with a third Sheraton property located closer to the Disneyland theme park, which has diluted their market share. As such, these properties have been negatively impacted by their lack of a brand differentiation coupled with secondary locations relative to the theme park, which impacted ADR. As this would have skewed the market set, they were not considered in the subject's competitive supply set.

The properties range in age from the 55 year-old Disneyland Hotel to the 203-room expansion of the Grand Californian Hotel in September 2009. All of the non-Disney properties are chain affiliated, and oriented toward either group or leisure visiting the Anaheim Convention Center or Disneyland. With the exception of the Hyatt Regency Orange County and Embassy Suites Garden Grove, all of the competitive properties are located within the city limits of Anaheim.

Competitive Supply Summary

The key similarities between the properties considered in the competitive set are their primary dependence upon Disneyland and/or convention center demand (or overflow compression), strong brand name affiliations, extent and quality of amenities, good physical conditions and their higher ADRs. As Harbor Boulevard develops with retail, commercial, and possibly a third gate in the future for Disneyland, and the Anaheim Convention Center expands, the Garden Grove properties will benefit. However, most of the Garden Grove properties do not have enough facilities or amenities to be considered "destinations" in this market. In other words, the subject will compete directly for the higher rated leisure demand staying in the competitive set, provide more of a focus of activity south along the Garden Grove portion of Harbor Boulevard, and help "drive rate" for the existing Garden Grove hotels. As of the date of this report, there is no upper upscale hotel located in the Garden Grove sector of the delineated Anaheim/Garden Grove competitive area.

Additions to Future Supply

We have concentrated on properties entering the Garden Grove/Anaheim area that would compete primarily for the higher rated (upscale) base leisure demand along Harbor Boulevard visiting the Disneyland Resort, or properties with significant meeting space. Due to the estimated size of the subject, as well as its proposed facilities and amenities, we have considered the following properties in

the future competitive supply. Although we are aware of other rumored and potential property additions, we have considered the status of their financing as our criteria for inclusion. Since the proposed additions to supply will benefit from public/private partnerships with the cities of Garden Grove and Anaheim, it is our opinion that they have a high probability of construction. The following chart summarizes our research, and further detail follows the chart.

Proposed Additions to Supply	Rooms	Open	Location
600-Key Great Wolf Lodge (1/3 competitive)	200	Jan-2017	Garden Grove
GardenWalk Hotel	466	Sep-2017	Anaheim
Total	666		

While approximately 90% of the hotel rooms accommodating Disneyland visitors are located in Anaheim, many are independent, older or "mom and pop" operations, representing an under utilization of their sites, in many cases. Over time, it is highly likely that many of these properties will be redeveloped or demolished and replaced with newer hotels. Due to the smaller land sizes of these properties and height restrictions in Anaheim, some of them may not be financially feasible, eventually pushing most of the future new development into the Garden Grove area (which lacks height restrictions). In the short term, however, we have considered only those properties that we estimate can obtain financing.

We are aware of no other hotels in the planning stages for inclusion in our projections of future supply. However, if additional rooms other than those mentioned in this report were to be added to the competitive supply, it could have a material impact on the market and the projected performance of the subject. The following chart reflects our estimate of the rooms included in the subject's future competitive supply.

Proposed Additions to Supply	2012	2013	2014	2015	2016	2017	2018
Current Rooms Supply	5,668						
Proposed Upscale Hotel- Garden Grove						360	
2 Disneyland Hotels (net)*	131						
Garden Walk District hotel Phase I (3rd Q 2017)						117	349
Great Wolf Lodge & Water Park (1/3 comp)						200	
Cumulative Rooms Supply	5,799	5,799	5,799	5,799	5,799	6,476	6,825
Total Annual Rooms Supply	2,116,635	2,116,635	2,116,635	2,116,635	2,116,635	2,363,558	2,490,943
Growth Over the Prior Year	2.3%	0.0%	0.0%	0.0%	0.0%	11.7%	5.4%

**impact of rooms expansion*

Hotel Rooms Demand

Historical Operating Performance

According to our research, the individual occupancies within the delineated competitive supply ranged from 72% to 84%, with the largest (the group hotels) reflecting the lower occupancies. Average daily rates ranged from $131 to $304. The highest rate was achieved by the two Disney hotels combined.

The following chart presents the aggregated historical supply and demand for the properties considered in the competitive market from 2008 through 2012.

Historical Market Performance of the Competitive Supply

Year	Annual Supply	Percent Change	Occupied Rooms	Percent Change	Market Occupancy	Average Daily Rate	Percent Change	RevPAR	Percent Change
2008	2,050,205	N/A	1,516,580	N/A	74.0%	$188.20	N/A	$139.22	N/A
2009	2,050,205	0.0%	1,409,352	-7.1%	68.7%	173.29	-7.9%	119.12	-14.4%
2010	2,050,205	0.0%	1,442,765	2.4%	70.4%	172.49	-0.5%	121.38	1.9%
2011	2,068,820	0.9%	1,488,477	3.2%	71.9%	182.24	5.7%	131.12	8.0%
2012	2,116,635	2.3%	1,627,453	9.3%	76.9%	193.52	6.2%	148.80	13.5%
CAC	0.8%		1.8%			0.7%		1.7%	

Source: Horwath, STR *CAC = compound annual change*

As can be seen from the previous table, due to a gradual recovery from the economic recession, the downward trend began to reverse itself in 2010, which escalated in 2011 and continued into 2012 reflecting a 9.3% increase in occupied rooms. According to interviews, the strong recovery has continued into 2013, and several predict they are out of the recessionary period altogether. The significant uptick in both occupancy and ADR achieved in 2012 was also due to the completion of Disney's $1.1 billion renovation which included the summer opening of Cars Land.

The ADR in the market increased at a 0.7% compound annual rate from 2008 to 2012, with increases in 2011 and 2012 erasing the declines from 2008 to 2010, resulting in revenue per available room (RevPAR) compound annual increase of 1.7%.

Estimated Growth in Supply and Demand

Based on our interviews, whether due to an improving economy, completion of renovations, reservations already on their books and a stronger January than expected, management at the delineated competitive set anticipates a stronger 2013 over 2012. Presented in the following table is a summary of the projected growth in supply, demand, and the resulting occupancy levels for the competitive market for the period 2013 to 2019, when the market is anticipated to stabilize.

Projected Market Performance of the Competitive Supply

Year	Annual Supply	Percent Change	Occupied Rooms	Percent Change	Market Occupancy
2013	2,116,635	0.0%	1,660,000	2.0%	78%
2014	2,116,635	0.0%	1,676,600	1.0%	79%
2015	2,116,635	0.0%	1,715,300	2.3%	81%
2016	2,116,635	0.0%	1,773,900	3.4%	84%
2017	2,363,558	11.7%	1,837,500	3.6%	78%
2018	2,490,943	5.4%	1,901,800	3.5%	76%
2019	2,490,943	0.0%	1,920,800	1.0%	77%
CAAG	2.8%		2.5%		

Source: Horw athHTL

A continued recovery is estimated for the market. The higher increases in occupied rooms beginning in 2015 reflect the completion of the expansion of the convention center (impact to be recognized in the 3rd quarter of 2015). There will be an absorption period whereby new room supply additions will negatively impact the occupancy of the existing supply beginning in 2017. Specifically, market occupancy peaks in 2016 at 84%, but declines as a percentage, as new rooms enter the competitive supply beginning in 2017. Market occupancy will continue to increase gradually as the new rooms are absorbed, due to no new supply additions and the marketing efforts of the individual properties. Market occupancy is anticipated to stabilize at 77% in 2019. While 77% is slightly less than the 78% anticipated in 2013, it is closer to the 76.9% occupancy experienced in 2012, which is felt to be more representative of a stable market. Further, according to our interviews, hoteliers anticipate pushing ADRs, which could potentially impact rising occupancies. A stabilized market occupancy reflects an even, sustainable rate that takes into account the peaks in excess of 77%, and the valleys that occur during the cyclical fluctuations of the economy. Further, new rooms are apt to be added to the supply when occupancies rise. A stabilized occupancy of 77% reflects a healthy lodging market.

Subject Occupancy and Average Daily Rate Estimates

Our estimates of occupancy and ADR are based on a survey of competitive hotels, an analysis of the segmentation of demand in the market, and our assessment of the subject hotels' expected market position. The occupancy of the subject hotel was estimated based on its ability to penetrate each market segment. The "penetration rate" of a hotel is the percentage of room nights captured relative to the property's "fair share" based on its number of rooms in relation to its competitive supply. Factors indicating a hotel would possess competitive advantages suggest a market penetration in excess of 100% of fair market share, while competitive weaknesses are reflected in penetration rates of less than 100%.

Blending the penetration rates estimated for the individual demand segments (leisure and group) results in an overall market penetration rate of 98% of market share in the stabilized (3rd) operating year for the subject due primarily to its distance from Disneyland. The foregoing assumptions result in an estimated occupancy beginning at 64% and stabilizing at 75% in the third operating year.

The subject's stabilized market mix, based on the penetration levels estimated previously, would be approximately 52% group and 48% leisure demand. A summary of the penetration levels and subsequent occupancies is shown as follows.

Proposed Upper Upscale Hotel – Garden Grove
Market Penetration and Projected Occupancy

	2017	2018	2019
TOTAL ROOMS AVAILABLE			
Proposed Hotel	**131,400**	**131,400**	**131,400**
Competitive Market	2,363,558	2,490,943	2,490,943
Fair Share of Supply	5.6%	5.3%	5.3%
ESTIMATED TOTAL MARKET DEMAND			
Leisure	914,100	946,100	955,600
Group	923,400	955,700	965,200
TOTAL	1,837,500	1,901,800	1,920,800
FAIR SHARE OF DEMAND			
Leisure	50,800	49,900	50,400
Group	51,300	50,400	50,900
TOTAL	102,100	100,300	101,300
SUBJECT PENETRATION			
Leisure	85%	95%	95%
Group	80%	90%	100%
ROOM NIGHTS CAPTURED			
Leisure	43,200	47,400	47,900
Group	41,100	45,400	50,900
TOTAL CAPTURED DEMAND	84,300	92,800	98,800
MARKET SHARE CAPTURED	4.6%	4.9%	5.1%
OVERALL MARKET PENETRATION	**83%**	**93%**	**98%**
SUBJECT OCCUPANCY	**64%**	**71%**	**75%**
MARKET MIX			
Leisure	51%	51%	48%
Group	49%	49%	52%
TOTAL	100%	100%	100%

Source: Horwath

We have stabilized the subject at 75% occupancy in 2019. A stabilized occupancy is recognized as a typical and sustainable rate, though some years it may fluctuate due to local economic conditions and/or new supply additions.

Based on rates being achieved by the competitive supply as well as the amenities and facilities to be offered by the subject, we then estimated its potential achievable ADR.

Average rates peaked in 2008 at $188, before declining $15 in 2009. While a slight recovery ($1.00) was evident in 2010, it must be noted that this coincided with the rooms addition at the very pricey Grand Californian located on the grounds of Disneyland. A $10 recovery occurred in 2011, followed by an additional $12 increase in 2012, resulting in a $6 increase over the 2008 ADR level. As noted previously, the aggregated ADR of the two Disney properties was $278 in 2008, dropping to $248 in 2010, but estimated at $304 by year end 2012. It should also be noted that even with these strong ADRs, the aggregated occupancy of the Disney hotels in 2008 and 2012 was 87% and 81%, respectively. The Garden Grove properties will not be able to successfully compete on ADR with the

Disney hotels without the amenities to create a competitive "destination" to the Disneyland theme park. As the subject is located the farthest distance from the Disneyland Resort, it is more vulnerable to rate discounting and/or additions to supply. While the subject is anticipated to fill the upper upscale market niche as well as benefit from the Anaheim convention center, the Disneyland properties garner a premium due to their locations (and the upper upscale accommodations at the Grand Californian). Therefore, we have considered only the non-Disney properties in our analysis of a potential rate.

As noted previously, we are anticipating a premium over the non-Disney properties due to the quality of the facilities at the subject. We also anticipate continuing increases in ADRs due to an improving economy, the numerous renovations within the subject's delineated competitive supply, along with the $1.1 billion renovation/expansion of Disneyland and compression created by the expansion of the convention center.

To estimate the most probable rate for the subject, we focused on the highest ADR of the non-Disneyland properties. Assuming 2008 was a representative year (prior to the economic downturn), and affording a premium of $8.00 to the ADR achieved by the Embassy Suites, we have considered a $155 ADR in 2008 value dollars if the subject were open and operating at that time. Inflating the rate considering a 3% annual inflation rate, we have estimated a market recovery ADR of $170 by the subject in 2013 value dollars. We believe this rate positioning is appropriate taking into consideration the property's location, quality of the product, market orientation, and presumed brand identity.

The following table presents our assumptions regarding the potential occupancy and ADR achievable by the subject over the five-year period beginning January 1, 2017. While rate discounting is typical in the early years, with real rate growth over and above inflation in subsequent years, we do not anticipate the property will be able to push ADR further, unless a "destination" for increased visitation is introduced in the Garden Grove area. We have assumed a general inflation assumption of 3.0% annually, consistent with the historic levels over the past 20 years.

Proposed Upper Upscale Hotel – Garden Grove - Projected Performance

Year	Occupancy	ADR[1]	Inflated ADR[2]
2017	64%	$170.00	$191.00
2018	71%	170.00	197.00
2019[3]	75%	170.00	203.00
2020	75%	170.00	209.00
2021	75%	170.00	215.00

[1] *Average daily rate, presented in 2013 value dollars, rounded to the nearest $1.00*
[2] *Average daily rate, presented in inflated dollars at 3% annually, rounded to the nearest $1.00*
[3] *Stabilized occupancy year*

Suites and Select Service Hotels

In order to assess support for the operating performance estimated by the developer for the two other properties within the development, Horwath considered the operating performance of individual properties within the subjects' market area as well as reviewed published market projections. We have made the following assumptions regarding some of the positive factors for the proposed hotels:

- A selection of lodging alternatives offering tiered pricing of hotel product (upper upscale, all suite and select service) for referral/overflow;
- Location within a mixed-use development, offering retail and entertainment venues;
- Synergies related to sales and marketing campaigns and strategies as well as shared transportation options to the convention center, Disneyland park and other venues;
- A location along Harbor Boulevard that will benefit from the future location of a proposed third gate for Disneyland.

It should be noted that the suite and select service properties will have more competition than the upper upscale property in terms of supply, as well as not offer the meeting space and amenities to justify higher room rates. Further, we have estimated 2.5% annual inflation for ADR. Considering these and other factors, we have assumed the developers estimates as reasonable for the suites and select service properties as follows:

Proposed Hotels – Projected Performance

	150-Room Suite Hotel			150-Room Select Service Hotel		
Year	Occ.	ADR[1]	ADR[2]	Occ.	ADR[1]	ADR[2]
2017	69%	$116	$125	68%	$125	$135
2018	71%	116	132	71%	125	137
2019[3]	74%	116	143	74%	125	149
2020	74%	116	147	74%	125	154
2021	74%	116	152	74%	125	158

[1] *Average daily rate, presented in 2013 value dollars, rounded to the nearest $1.00*

[2] *Average daily rate, presented in inflated dollars*

[3] *Stabilized occupancy year*

Land Residual Analysis

Subject to the terms and conditions of the proposed resort hotel development agreement between the City of Garden Grove and the developer, the city will provide the site to the developer at no cost, free and clear. The residual value is based on estimating the value of the completed and operating project less all development costs (which includes an allocation for developer profit). The remainder represents the amount the developer could afford to pay for the site. The indicated residual land value, including city assistance, is summarized as follows.

Residual Land Value

	Total
ProjectMarket Value	$116,200,000
Construction Cost	(147,700,000)
Land Value	($31,500,000)
Rounded:	($31,500,000)

Source: HorwathHL

Therefore, based on our research and assumptions, as well as information provided by the developer, it is our opinion that the negative residual land value totals approximately $31.5 million.

Our assumptions and conclusions are based on a number of factors, which may or may not occur. Assets such as hotels are able to recover increases in costs through increases in rates, which can vary daily. This is not an option for many other real estate uses that are locked into annual lease terms. In addition to new future hotel supply securing financing, unanticipated events and circumstances can affect the forecasted estimate. Therefore, our estimated result may vary from the actual result, and the variation may be material. However, we have considered this level of residual land value as reasonable.

We appreciate the opportunity to present this report to you. If there are any questions after you have had the opportunity to review it, please do not hesitate to call us at your convenience. Thank you once again for the opportunity to be of service.

Sincerely,

Florida T. Booth, MAI, CCIM
Managing Director
Horwath Hospitality & Leisure LLC

ADDENDA

Statement of Assumptions and Limiting Conditions

Horwath

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS

Economic and Social Trends - The consultant assumes no responsibility for economic, physical or demographic factors which may affect or alter the opinions in this report if said economic, physical or demographic factors were not present as of the date of the letter of transmittal accompanying this report. The consultant is not obligated to predict future political, economic or social trends.

Information Furnished by Others - In preparing the report, the consultant was required to rely on information furnished by other individuals or found in previously existing records and/or documents. Unless otherwise indicated, such information is presumed to be reliable. However, no warranty, either expressed or implied, is given by the consultant for the accuracy of such information and the consultant assumes no responsibility for information relied upon later found to have been inaccurate. The consultant reserves the right to make such adjustments to the analyses, opinions and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.

Hidden Conditions - The consultant assumes no responsibility for hidden or unapparent conditions of the properties, subsoil, ground water or structures. No responsibility is assumed for arranging for engineering, geologic or environmental studies that may be required to discover such hidden or unapparent conditions.

Hazardous Materials - The consultant has not been provided any information regarding the presence of any material or substance on or in any portion of the subject property, which material or substance possesses or may possess toxic, hazardous and/or other harmful and/or dangerous characteristics. Unless otherwise stated in the report, the consultant did not become aware of the presence of any such material or substance during the consultant's inspection of the subject property. However, the consultant is not qualified to investigate or test for the presence of such materials or substances. The consultant assumes no responsibility for the presence of any such substance or material on or in the subject property, nor for any expertise or engineering knowledge required to discover the presence of such substance or material. Unless otherwise stated, this report assumes the subject property is in compliance with all federal, state and local environmental laws, regulations and rules.

Zoning and Land Use - Unless otherwise stated, the subject property is assumed to be in full compliance with all applicable zoning and land use regulations and restrictions.

Licenses and Permits - Unless otherwise stated, the property is assumed to have all required licenses, permits, certificates, consents or other legislative and/or administrative authority from any local, state or national government or private entity or organization that have been or can be obtained or renewed for any use on which the performance estimates contained in this report are based.

Engineering Survey - No engineering survey has been made by the consultant. Except as specifically stated, data relative to size and area of the subject property was taken from sources considered reliable and no encroachment of the subject property is considered to exist.

Subsurface Rights - No opinion is expressed as to the value of subsurface oil, gas or mineral rights or whether the property is subject to surface entry for the exploration or removal of such materials, except as is expressly stated.

Maps, Plats and Exhibits - Maps, plats and exhibits included in this report are for illustration only to serve as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose, nor should they be removed from, reproduced or used apart from the report.

Legal Matters - No opinion is intended to be expressed for matters which require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate consultants.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS
(Continued)

Right of Publication - Possession of this report, or a copy of it, does not carry with it the right of publication. Without the written consent of the consultant, this report may not be used for any purpose by any person other than the party to whom it is addressed. In any event, this report may be used only with properly written qualification and only in its entirety for its stated purpose.

Archeological Significance - No investigation has been made by the consultant and no information has been provided to the consultant regarding potential archeological significance of the subject property or any portion thereof. This report assumes no portion of the subject property has archeological significance.

Compliance with the Americans with Disabilities Act - The Americans with Disabilities Act ("ADA") became effective January 26, 1992. It is assumed that the property will be in direct compliance with the various detailed requirements of the ADA.

Definitions and Assumptions - The definitions and assumptions upon which our analyses, opinions and conclusions are based are set forth in appropriate sections of this report and are to be part of these general assumptions as if included here in their entirety.

Utilization of the Land and/or Improvements - It is assumed that the utilization of the land and/or improvements is within the boundaries or property described herein and that there is no encroachment or trespass.

Dissemination of Material - Neither all nor any part of the contents of this report shall be disseminated to the general public through advertising or sales media, public relations media, new media or other public means of communication without the prior written consent and approval of the consultant(s).

Distribution and Liability to Third Parties - The party of whom this report was prepared may distribute copies of this report only in its entirety to such third parties as may be selected by the party for whom this report was prepared; however, portions of this report shall not be given to third parties without our written consent. Liability to third parties will not be accepted.

Use in Offering Materials - This report, including all cash flow forecasts, market surveys and related data, conclusions, exhibits and supporting documentation may not be reproduced or references made to the report or to the Consultant in any sale offering, prospectus, public or private placement memorandum, proxy statement or other document ("Offering Material") in connection with a merger, liquidation or other corporate transaction unless The Consultant has approved in writing the text of any such reference or reproduction prior to the distribution and filing thereof.

Limits to Liability - The Consultant cannot be held liable in any cause of action resulting in litigation for any dollar amount which exceeds the total fees collected from this individual engagement.

Legal Expenses - Any legal expenses incurred in defending or representing ourselves concerning this assignment will be the responsibility of the client.