



City of Lemon Grove
City Council Regular Meeting Agenda
Tuesday, October 17, 2017, 6:00 p.m.
Lemon Grove Community Center
3146 School Lane, Lemon Grove, CA

The City Council also sits as the Lemon Grove Housing Authority, Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board, and Lemon Grove Successor Agency Board

Revised Agenda

Call to Order

Pledge of Allegiance

Changes to the Agenda

Presentations

"Lemon Grove History Minute #6"

Retirement Recognition: Faustino Pedroza, 17 Years of Service

Introduction of Charlotte King-Mills, New Branch Manager, San Diego County Library, Lemon Grove

Heal Zone Youth Group Presentation

Public Comment

(Note: In accordance with State Law, the general public may bring forward an item not scheduled on the agenda; however, the City Council may not take any action at this meeting. If appropriate, the item will be referred to staff or placed on a future agenda.)

1. Consent Calendar

(Note: The items listed on the Consent Calendar will be enacted in one motion unless removed from the Consent Calendar by Council, staff, or the public.)

A. City of Lemon Grove Payment Demands

Reference: Gilbert Rojas, Interim Finance Director
Recommendation: Ratify Demands

B. Waive Full Text Reading of All Ordinances on the Agenda

Reference: James P. Lough, City Attorney
Recommendation: Waive the full text reading of all ordinances included in this agenda; Ordinances shall be introduced and adopted by title

- C. Resolution Approving a Fourth Amendment to the Option Agreement between the City of Lemon Grove and the San Diego Land Trust for 8084 Lemon Grove Way

The City Council will consider a Resolution amending the Option Agreement to provide a fourth six-month extension between the City of Lemon Grove and the San Diego Land Trust for 8084 Lemon Grove Way.

Reference: David De Vries, Development Services Director
Recommendation: Adopt Resolution

2. Public Hearing to Consider Planned Development Permit PDP-170-001-0001 and Tentative Map TM0-000-00188 to authorize the Construction of 18 Condominium Units at 3485 Olive Street and Consolidated with the Adjacent 84 Existing Condominium Units at 100 Citronica Lane

The City Council will conduct a public hearing to consider the adoption of a resolution conditionally approving Tentative Map TM0-000-00188 and certifying the mitigated negative declaration ND17-03 and considering adopting a resolution conditionally approving Planned Development Permit PDP-170-001-0001

Reference: Michael Viglione, Assistant Planner
Recommendation:

- a.) Conduct Public Hearing;
- b.) Adopt Resolution conditionally approving Tentative Map TM0-000-0188 and certifying Mitigated Negative Declaration ND17-03
- c.) Adopt Resolution conditionally approving Planned Development Permit PDP170-0001

3. Sanitary Sewer Master Plan Update

The District Board will consider the adoption of a resolution approving the Sanitary Sewer Plan Update.

Reference: Michael James, Assistant City Manager/Public Works Director
Tim Gabrielson, District Engineer

Recommendation: Adopt Resolution approving the Sanitary Sewer Plan Update

City Council Oral Comments and Reports on Meetings Attended at the Expense of the City.

(GC 53232.3 (d) states that members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.)

Department Director Reports (Non-Action Items)

Adjournment

LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY

Item No. 1.B
Dept. City Attorney

Item Title: Waive Full Text Reading of All Ordinances on the Agenda.

Staff Contact: James P. Lough, City Attorney

Recommendation:

Waive the full text reading of all ordinances included in this agenda. Ordinances shall be introduced and adopted by title only.

Fiscal Impact:

None.

Environmental Review:

- Not subject to review
 Categorical Exemption, Section

- Negative Declaration
 Mitigated Negative Declaration

Public Information:

- None
 Newsletter article
 Notice published in local newspaper

- Notice to property owners within 300 ft.
 Neighborhood meeting

Attachments:

None.

City of Lemon Grove Demands Summary

Approved as Submitted:

Gilbert Rojas, Interim Finance Director

For Council Meeting: 10/17/17

ACH/AP Checks 09/27/17-10/04/17

557,312.69

Payroll - 09/26/17

136,904.84

Total Demands

694,217.53

Check No	Vendor No	Vendor Name	Check Date	Vendor Name	Check Amount	
CHECK NO	INVOICE NO	VENDOR NAME	CHECK DATE	Description	INVOICE AMOUNT	CHECK AMOUNT
ACH	Aug16-Sep12	California Public Empl Retirement System	09/27/2017	Pers Retirement 8/16/17-9/12/17	67,496.46	67,496.46
ACH	Sep26 17	Employment Development Department	09/28/2017	State Taxes 9/26/17	8,386.48	8,386.48
ACH	Sep26 17	US Treasury	09/29/2017	Federal Taxes 9/26/17	29,517.33	29,517.33
ACH	Sep17	Wage Works	09/30/2017	FSA Reimbursement - Sep'17	93.50	93.50
ACH	Sep17	Dharma Merchant Services	10/02/2017	Merchant Fees - Sep'17	395.45	395.45
ACH	Sep17	Power Pay Biz/Evo	10/02/2017	Online Credit Card Processing - Sep'17	116.09	116.09
ACH	Oct 2017	Pers Health	10/03/2017	Pers Health Insurance - Oct 17	50,866.91	50,866.91
ACH	Sep17	Authorize.Net	10/03/2017	Merchant Fees In-Store & Online - Sep'17	44.35	44.35
ACH	Sep13-Sep26	Calpers Supplemental Income 457 Plan	10/04/2017	457 Plan 9/13/17-9/26/17	4,951.16	4,951.16
ACH	7729576	LEAF	10/04/2017	Ricoh C3502 Copier System-PW Yard - Sep'17	160.51	160.51
8374	C4134 C4135	A-Pot Rentals, Inc.	09/27/2017	Portable Restroom Rental 8/9/17-9/8/17 Portable Restroom Rental 9/9/17-10/8/17	132.10 132.10	264.20
8375	SO#561 WO#6844	Ace Uniforms & Accessories, Inc.	09/27/2017	Uniforms- DOJ JAG Grant- SDSO Pants Uniforms- DOJ JAG Grant- SDSO Shirts/Patches/Badges	965.31 641.67	1,606.98
8376	2017-17 Retn	American Asphalt South, Inc.	09/27/2017	FY2016-17 Street Rehab Proj/Contract # 2017-17 -Final Retention	14,202.70	14,202.70
8377	000010090793	AT&T	09/27/2017	Phone Service- 7/13/17-8/12/17	83.44	83.44
8378	5656673438	AutoZone, Inc.	09/27/2017	Diesel Exhaust Fluid/Coolant-Antifreeze	40.93	40.93
8379	30854	Aztec Landscaping Inc.	09/27/2017	Landscape Mgmt Svc Aug '17	9,629.00	9,629.00
8380	5322 5323	Bear Electrical Solutions, Inc.	09/27/2017	Traffic Signal Maint.-Response - Aug 2017 Traffic Signal Maint.-Routine - Aug 2017	1,452.00 1,144.00	2,596.00
8381	805801-9 807217-9 807824-9	BJ's Rentals	09/27/2017	Propane Propane Propane	16.22 16.97 16.97	50.16
8382	4023526447	Canon Solutions America, Inc.	09/27/2017	Canon Maintenance-Copier Usage 5/26/17-8/25/17 Basement	97.42	97.42
8383	694394087	Cintas Corporation #694	09/27/2017	Janitorial Supplies - 9/21/17	213.06	213.06
8384	1559 1687 1725 1726 1727 1728 1807	Clothing International, Inc.	09/27/2017	Protective Clothing - PW- MSW- Orange Shirts & Pants Protective Clothing - PW/Eng/Comm Svcs - Shirts Protective Clothing - PW- Comm Svcs- Shirts Protective Clothing - PW- Shirts Protective Clothing - PW- MSW- Shirts & Pants Protective Clothing - PW- Shirts & Hats Protective Clothing - PW Sanitation- Orange Shirts & Pants	192.21 392.94 78.59 51.68 153.57 196.99 3,023.64	4,089.62
8385	9/9/2017	Cox Communications	09/27/2017	Calsense Modem Line:8235 Mt Vernon- 9/9/17-10/8/17	94.39	94.39
8386	090417560	DAR Contractor	09/27/2017	Animal Disposal- Aug '17	162.00	162.00
8387	5432	DDL Traffic, Inc.	09/27/2017	Speed Check 15" LED Digit 30"X42" Speed Sign/Canton & Palm	13,015.15	13,015.15
8388	5-924-17548	Federal Express	09/27/2017	Shipping Charges- Sanitation Camera/CUES West 8/15/17	359.81	359.81
8389	51336	Global Power Group, Inc.	09/27/2017	Preventive Maintenance - Generator/Fire Station	367.00	367.00
8390	10137	Infrastructure Engineering Corporation	09/27/2017	Prof Svc: LGA Realignment 7/29/17-8/25/17	31,848.53	31,848.53

8391	07-2332	Lemon Grove School District	09/27/2017	Fuel Services-PW: Aug '17	2,875.23	2,875.23
8392	4329438	Mallory Safety and Supply, LLC	09/27/2017	Nitrile Gloves/Drivers Gloves/HiVis Vest/Hard Hat	344.58	344.58
8393	40002511	Maneri Sign Co., Inc.	09/27/2017	Signs- Deaf Children Near	195.16	195.16
8394	Mele	Mele, Christopher	09/27/2017	Claim Settlement-GHC0018151	850.00	850.00
8395	17-041-49	MJC Construction	09/27/2017	Waterproofing West Wall - Sheriff Station	20,200.00	20,200.00
8396	146409	Pacific Sweeping	09/27/2017	St Sweeping-Parking Lot/Power Washing-Bus Shelters - Aug '17	6,655.15	6,655.15
8397	31242535	RCP Block & Brick, Inc.	09/27/2017	Concrete Mix	71.51	71.51
8398	0056779Rev	Rick Engineering Company	09/27/2017	Prof Svc: CLG DVSP Update 7/1/17-7/28/17	22,463.01	22,463.01
8399	1052-08	SC Valley Engineering Inc.	09/27/2017	LG Sewer Upsizing Proj- 6/1/17-7/25/17	96,392.83	96,392.83
8400	82508460	SiteOne Landscape Supply, LLC	09/27/2017	Grounds Maintenance Supplies/PVC Pipe & Parts	196.14	196.14
8401	SC-106828	State Water Resources Control Board	09/27/2017	Oversight Costs - LGA Realignment Site Cleanup 4/1/17-6/30/17	3,388.71	3,388.71
8402	894914	Superior Ready Mix Concrete LP	09/27/2017	2873 Skyline Potholes- Street Repair	289.09	289.09
8403	6614	T-Man Traffic Supply	09/27/2017	Traffic Stencils-Parking Lines	146.14	146.14
8404	Sep26 17	Vantage Point Transfer Agents-457	09/27/2017	ICMA Deferred Compensation Pay Period Ending 9/26/17	580.77	580.77
8405	9792661700	Verizon Wireless	09/27/2017	City Phone Charges- 8/13/17-9/12/17	346.59	346.59
8406	71582918 71586097 71586098 71590608	Vulcan Materials Company	09/27/2017	Asphalt/SS1H 4.5 Gallon Bucket Asphalt/SS1H 4.5 Gallon Bucket Asphalt/SS1H 4 5 Gallon Bucket Asphalt	175.71 272.42 977.66 138.87	1,564.66
8407	129239	West Coast Arborists, Inc.	09/27/2017	Tree Maintenance - 8/1/17-8/15/17	12,442.75	12,442.75
8408	2016.04-014	West Coast General Corporation	09/27/2017	LGA Realignment Proj- 8/1/17-8/31/17	77,862.30	77,862.30
8409	Jul17 Aug17 Sep17	Sun Life Financial	09/28/2017	Life Insurance Premium - Jul'17 Life Insurance Premium - Aug'17 Life Insurance Premium - Sep'17	124.20 122.13 122.13	368.46
8410	12086	AAA Imaging	10/03/2017	2017-18 Budgets	484.88	484.88
8411	56257	Anthem Blue Cross EAP	10/03/2017	Employee Assistance Program - Oct 17	165.00	165.00
8412	5656930202	AutoZone, Inc.	10/03/2017	Duralast Gold Battery - LGPW#01- '12 Ford F350	130.29	130.29
8413	809519-9	BJ's Rentals	10/03/2017	Propane	16.97	16.97
8414	694396952 694396953	Cintas Corporation #694	10/03/2017	Janitorial Supplies - 9/28/17 Janitorial Supplies - 9/28/17	1,582.71 1,486.63	3,069.34
8415	90817	Cloud Security Systems	10/03/2017	Service/Security System/3225 Olive St	165.00	165.00
8416	9/19/2017 9/18/2017	Cox Communications	10/03/2017	Phone/PW Yard/2873 Skyline- 9/19/17-10/18/17 City Manager/Copy Room Fax Line- 9/18/17-10/17/17	211.02 3.88	214.90
8417	5442	DDL Traffic, Inc.	10/03/2017	Speed Check 15" LED Digit 30"X42" Sign/1513 Madera St	6,507.57	6,507.57
8418	0817.06.1348	Dexter Wilson Engineering, Inc.	10/03/2017	Metro JPA Wastewater Issues - Aug '17	5,027.50	5,027.50
8419	6/19-22/17	Esgil Corporation	10/03/2017	Re-issue 75% Building Fees- 6/19/17-6/22/17	2,307.50	2,307.50
8420	1402	Janazz, LLC SD	10/03/2017	IT Services- City Hall- Sep 17	2,599.99	2,599.99
8421	100117	Kenneth R & Linda M Family Trust	10/03/2017	Refund/Kenneth R & Linda M FamTrust 02-11-99/Sewer Fees	1,650.16	1,650.16
8422	122678 123579 123579	Knott's Pest Control, Inc.	10/03/2017	Monthly Bait Stations- Sheriff - Aug '17 Crawling Insect Control - Rec Ctr- Sep 17 Crawling Insect Control - Comm Ctr/Exterior- Sep 17	45.00 75.00 85.00	205.00
8423	07-2298 07-2339	Lemon Grove School District	10/03/2017	Fuel Services-PW: May '17 Fuel Services-PW: Sep '17	2,151.50 2,067.51	4,219.01
8424	211512	Ninyo & Moore	10/03/2017	Mass Ave Trolley Station Proj Inspection Svcs thru 8/25/17	1,355.75	1,355.75
8425	Oct-Dec 17	Ott, Mike	10/03/2017	Retiree Health Benefit - Oct'17-Dec'17	600.00	600.00
8426	Oct2017	PLIC- SBD Grand Island	10/03/2017	Dental Insurance -Oct17	4,679.18	4,679.18

8427	133995 133996	PSOMAS	10/03/2017	Lighting District Annual Administration FY2017-2018 Sanitation District Annual Administration FY2017-2018	5,815.00 14,870.00	20,685.00
8428	INV017559	RapidScale Inc.	10/03/2017	Virtual Hosting 9/30/17	2,715.03	2,715.03
8429	31248167	RCP Block & Brick, Inc.	10/03/2017	Protective Clothing- Straw Hats- PW	30.06	30.06
8430	9/21/2017 9/21/2017	SDG&E	10/03/2017	3225 Olive- 8/20/17-9/19/17 3500 1/2 Main- 8/20/17-9/19/17	272.59 49.38	321.97
8431	82744383	SiteOne Landscape Supply, LLC	10/03/2017	Classic Lifeguard Hats/PW	21.00	21.00
8432	9286	Spring Valley Lawn Mower Shop	10/03/2017	Straps-Backpack Blower	23.22	23.22
8433	Oct-17	Standard Insurance Company	10/03/2017	Long Term Disability Insurance - Oct17	1,887.68	1,887.68
8434	00055686	The East County Californian	10/03/2017	Public Hearing Notice - Celsius Phase II 9/21/17	227.50	227.50
8435	0849-6	The Sherwin-Williams Co.	10/03/2017	Graffiti Cleanup Supplies	184.63	184.63
8436	2017-012	Trauma Intervention Programs of SD	10/03/2017	On-Scene, 24 Hr Volunteer Response Services - FY18	3,825.00	3,825.00
8437	920170377	Underground Service Alert	10/03/2017	40 New Ticket Charges - Sep '17	76.00	76.00
8438	3194662-CA	US HealthWorks Medical Group,PC	10/03/2017	Medical Exam - 9/7/17	125.00	125.00
8439	9792662304 9792661701	Verizon Wireless	10/03/2017	Mobile Broadband Access- 8/13/17-9/12/17 PW Tablets- 8/13/17-9/12/17	76.02 188.78	264.80
8440	71601571 71601572	Vulcan Materials Company	10/03/2017	Asphalt/SS1H 4.5 Gallon Bucket Asphalt	130.04 143.26	273.30
8441	129667	West Coast Arborists, Inc.	10/03/2017	Tree Maintenance - 8/16/17-8/31/17	5,272.75	5,272.75
					557,312.69	557,312.69

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. _____

Mtg. Date October 17, 2017

Item Title: **Fourth Amendment to Option Agreement Between City of Lemon Grove and the San Diego Community Land Trust for 8084 Lemon Grove Way**

Staff Contact: **David De Vries, Development Services Director**

Discussion:

On September 22, 2014, the City and San Diego Community Land Trust (SDCLT) entered into a Purchase Option Agreement for the eventual sale of 8084 Lemon Grove Way which is owned by the Lemon Grove Housing Authority (City Council Resolution No. 2014-3284 dated September 16, 2014). A nine unit housing development is currently entitled on the subject property based on approvals in 2007 and amendments approved on March 1, 2016. The Purchase Option Agreement allows SDCLT to purchase the property for one dollar per unit in exchange for constructing the units and restricting them to moderate income households included in their 99-year ground lease mechanism. SDCLT is required to achieve certain milestones by specified dates. These milestones ensure that SDCLT has done their due diligence to determine whether the project is feasible.

The first milestone—submission of a business plan—was to be achieved by December 2014. The business plan was submitted on December 1, 2014 and the City Council reviewed the business plan and provided feedback to SDCLT on January 6, 2015.

The second milestone—securing entitlements and construction financing—was to be achieved by September 2, 2015 and October 19, 2015, respectively. Minimal revisions to the approved Tentative Map (TM0052) and Planned Development Permit (PDP06-09) were proposed and amendments to the floor and elevation plans were approved by the City Council on March 1, 2016. Entitlements for both the tentative map and planned development permit have been secured since there has been substantial progress towards the issuance of a final map, grading plan, improvement plan and building permits for the completion of the project. On September 4, 2015, SDCLT submitted a Letter of Intent (LOI) from Torrey Pines Bank that has been signed with the Bank required deposit providing conditional approval for construction financing from Torrey Pines Bank. The LOI has since expired and a new LOI with deposit was required to be provided by SDCLT to the City on July 19, 2017. A pre-approval letter was provided, but it does not secure financing. Staff recommends amending the option to allow SDCLT to secure financing a minimum of 10 days prior to exercising the option as shown in the draft Resolution Amending the Option Agreement (**Attachment B**).

The third milestone—submit building and site improvement applications—was to be achieved by April 4, 2016. This milestone requires submittal of development plans and technical studies required for a grading permit, building permit, landscape permit, and a final map. Appropriate plans and reports include building and site construction plans, grading plans, a landscape documentation package, an acoustical analysis, a Storm Water Quality Management Plan and a hydrology report, draft Conditions, Covenants, and Restrictions (CC&Rs), and potentially other necessary reports, studies, and plans in accordance with City Council Resolutions 2694 and 2695, which approved TM0052 and PDP06-09 respectively. A “Hold Harmless” agreement was

Attachment A

required for each submittal. In February of 2016, SDCLT submitted the necessary permit applications achieving the third milestone.

The fourth milestone—securing building and site improvement permits and securing approval as to form of the 99-year ground lease proposed to be used as the conveyance of Affordable Unit interests—was to be achieved by May 19, 2016; but is now extended to October 19, 2017. This requires that all permits applied for in the third milestone are secured (permits issued and improvements secured either through a bond or cash deposit with appropriate fees paid). At this time, SDCLT recently submitted their third resubmittal and corrections from the City are in review. City staff estimates all of the needed engineering and building permits in the fourth milestone should be able to be issued and secured within three to six months assuming corrections are addressed. City staff recommends that a fourth six month extension to the Option Agreement be provided in order to allow SDCLT sufficient time to secure the permits and arrange for funding the permit fees. In addition, SDCLT and the City have approved as to form a draft ground lease and an affordable housing regulatory agreement. A draft of the affordability and regulatory agreements is attached to the draft Resolution Amending the Option Agreement (**Attachment B**).

Should the City Council decide to take no action providing for no amendment to the Option Agreement, then the Option Agreement will terminate on October 19, 2017 since the second and fourth milestones would not have been achieved and, thereafter, the developer would need to renegotiate a new option agreement with the City should they continue to pursue the project. The City Council may pursue other opportunities for the property if this option agreement terminates.

Conclusion:

City staff recommends that the City Council adopt a resolution amending the Option Agreement to provide a fourth time extension and related amendments.

Attachment B

RESOLUTION NO. 2017-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA APPROVING AN AMENDMENT TO AN OPTION AGREEMENT WITH THE SAN DIEGO COMMUNITY LAND TRUST FOR THE PARCEL IDENTIFIED AS 8084 LEMON GROVE WAY (APN 475-450-19-00)

WHEREAS, on June 20, 2006 and June 19, 2007, the former Lemon Grove Community Development Agency and a developer entered into loan agreements for the development of nine townhome units at 8084 Lemon Grove Way; and

WHEREAS, said developer defaulted on the loan agreements, resulting in the parcel identified as 8084 Lemon Grove Way becoming property of the City of Lemon Grove; and

WHEREAS, in 2014, the San Diego Community Land Trust provided a formal offer to purchase 8084 Lemon Grove Way from the City of Lemon Grove; and

WHEREAS, the San Diego Community Land Trust's offer included a commitment to develop and construct a minimum of nine affordable housing units to be ground leased for a 99-year period to households earning from 80 percent to 120 percent of the San Diego Area Median Income at the time of sale or resale; and

WHEREAS, the provision of these affordable units helps exceed the City's moderate housing targets established by the Regional Housing Needs Assessment (January 1, 2013 – December 31, 2020); and

WHEREAS, on June 17, 2014, the City Council directed City staff to negotiate purchase agreements with the San Diego Community Land Trust, based on its offer; and

WHEREAS, on September 16, 2014, the City Council approved an Option Agreement and a Real Estate Purchase and Sale Agreement between the City of Lemon Grove and the San Diego Community Land Trust; and

WHEREAS, on May 17, 2016, the City Council approved an amendment to the Option Agreement with the San Diego Community Land Trust extending the expiration date of milestone 7.4 to October 19, 2016 and the option term to March 22, 2017 (both six month extensions) and including an Optionee requirement to execute an Affordable Housing Agreement and Regulatory Agreement and a Notice of Affordability Restrictions on Transfer of Property; and

WHEREAS, the City has negotiated a second amendment to the Option Agreement with the San Diego Community Land Trust further extending the expiration date of milestone 7.4 to April 19, 2017 and the option term to September 22, 2017 (both six month extensions); and

WHEREAS, the City has negotiated a third amendment to the Option Agreement with the San Diego Community Land Trust further extending the expiration date of milestone 7.4 to October 19, 2017 and the option term to March 22, 2018 (both six month extensions) and requiring milestone 7.2 – secure construction financing – to be completed by July 19, 2017; and

WHEREAS, the City has negotiated a fourth amendment to the Option Agreement with the San Diego Community Land Trust further extending the expiration date of milestone 7.4 to April 19, 2018 and the option term to September 22, 2018 (both six month extensions) and requiring milestone 7.2 – secure construction financing – to be completed a minimum of 10 days prior to the execution of the option; and

WHEREAS, the City Council has reviewed said amendment; and

WHEREAS, the City Council finds it in the best interest of the City of Lemon Grove to approve said amendment; and

Attachment B

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Approves a Fourth Amendment to the Option Agreement (Exhibit 1) between the City of Lemon Grove and the San Diego Community Land Trust with the approval as to form of the draft 99-year ground lease and the Regulatory Agreement; and
2. Authorizes the City Manager to execute said Amendment and related documents reasonably necessary for fulfilling the terms of the Option Agreement, subject to minor modifications.

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Attachment B

EXHIBIT 1 (PAGES 7 THROUGH 115)

FOURTH AMENDMENT TO OPTION AGREEMENT

This Fourth Amendment to Option Agreement ("**Fourth Amendment**") is entered into as of October ____, 2017, by and between and between THE CITY OF LEMON GROVE a public body ("**Optionor**") and THE SAN DIEGO COMMUNITY LAND TRUST a California 501(c)(3) non-profit organization ("**Optionee**"),

RECITALS:

A. Optionor and Optionee entered into that certain Option Agreement dated September 22, 2014 relating to the Property commonly known as 8084 Lemon Grove Way, Lemon Grove, CA (APN475-450-19-00), as amended by the First Amendment dated March 18, 2016, as amended by the Second Amendment dated October 5, 2016, and as amended by the Third Amendment dated April 17, 2017 (together the "**Option Agreement**").

B. Optionor and Optionee desire to further amend the Option Agreement set forth herein. All initially capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Option Agreement.

AGREEMENT:

NOW THEREFORE, and in consideration of the mutual agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Optionor and Optionee hereby agree as follows:

1. Extension of Option Term. Paragraph 4 of the Option Agreement is deleted in its entirety and replaced as follows:

"4. Option Term. The Option may be exercised upon the Effective Date and no later than September 22, 2018 (the "**Option Term**"), unless terminated earlier under the terms of Section 6. If the Option is not exercised in accordance with the provisions and conditions hereof during the Option Term, then the Option shall expire and the parties shall have no further obligations under this Agreement with the exception of any surviving indemnification obligations as provided in this Agreement."

2. Extension of deadline to Secure Construction Financing. Subparagraph 7.2 of the Option Agreement is deleted in its entirety and replaced as follows:

"7.2 No later than September 2, 2015, Optionee to complete project modification and secure entitlement (including approval of a Tentative Subdivision Map and Planned Development Permit in conformance with City of Lemon Grove Resolutions 2694 (attached as Exhibit E) and 2695, as approved by Lemon Grove City Council on February 20, 2017 (attached as Exhibit F). As a condition to exercise of the Option, Optionee shall have delivered to Optionor for Optionor's review and approval (said review to be in Optionor's reasonable discretion), a commitment letter with term sheets from a construction lender qualified to do business in California. Optionee shall deliver said loan commitment documents to Optionor ten (10) business days prior to the exercise of the Option." Final construction loan documents shall be delivered by Optionee in escrow for Optionor's review and approval. Optionor's approval shall be a condition to escrow closing.

Attachment B

3. Extension of deadline for Permits and Optionor's Approval. Subparagraph 7.4 of the Option Agreement is deleted in its entirety and replaced as follows:

"7.4 No later than April 19, 2018, Optionee shall have (i) completed all requirements necessary for Building and Site Improvement Permits (including building, street improvement, and grading plans shall be issued and the final map shall be recorded), with the exception of payment of fees for the foregoing permits and plans ("Permit Fees"). All outstanding Permit Fees shall be delivered to Escrow prior to the transfer of the Property to Optionor and shall be a Developer (Optionee) deliverable under section 2.6 of the revised Real Estate Purchase and Sale Agreement ("PSA"), attached to this Fourth Amendment as Fourth Amendment Exhibit A."

4. Acceptance of Ground lease, Ground Lease Rider and Regulatory Agreement. As of the date of execution of this Fourth Amendment, Optionor accepts the form of the 99-year ground lease proposed to be used as the conveyance of Affordable Unit interests; and its rider (attached hereto as Fourth Amendment Exhibit B) and has approved for recording in the records of San Diego County the Affordable Housing Agreement and Regulatory Agreement ("Regulatory Agreement", attached hereto as Forth Amendment Exhibit C). Optionor and Optionee agree that delivery of a recordable Regulatory Agreement with recording of the Regulatory Agreement to be immediately after recording of the Grant Deed to Optionee, shall be a condition precedent of Optionor's ("City's") obligation to transfer the Property to the Optionee ("Developer") under the Purchase Agreement and section 2.8 of the Purchase Agreement shall be amended to include said condition prior to execution."

5. Counterparts. This Fourth Amendment may be signed in multiple counterparts with the same force and effect as if all original signatures appeared on one copy; and in the event, this Fourth Amendment is signed in counterparts, each counterpart shall be deemed an original and all of the counterparts shall be deemed to be one Third Amendment.

6. Effect of Fourth Amendment. Except as amended hereby, the Option Agreement remains in full force and effect.

Attachment B

IN WITNESS WHEREOF, Optionor and Optionee have executed this Fourth Amendment as of the date set forth above.

OPTIONOR:

THE CITY OF LEMON GROVE,

By: _____

Name: _____

Its: _____

Approved as to legal form:

By _____
James P. Lough, City Attorney

OPTIONEE:

THE SAN DIEGO COMMUNITY LAND TRUST,

By: _____

Name: _____

Its: _____

Attachment B

FOURTH AMENDMENT EXHIBIT A PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "Agreement") is made and entered into as of the ____ day of _____, 2018 (the "Effective Date") by and between the CITY OF LEMON GROVE, a public body (hereinafter "City"), and The San Diego Community Land Trust, a California 501(c)(3) non-profit organization (hereinafter "Developer"). The City and the Developer are sometimes collectively referred to herein as the "Parties" or individually as a "Party."

RECITALS AND BACKGROUND

WHEREAS, the City owns certain property located 8084 Lemon Grove Way (APN _____), Lemon Grove, California, (as more particularly defined below, the "Property"); and

WHEREAS, Developer was granted an option to purchase the Property pursuant to the terms of an Option Agreement dated _____, 2014, as amended ("Option Agreement"), and has performed extensive due diligence and permitting;

WHEREAS, Developer is interested in purchasing the Property for the purpose of constructing certain improvements thereon (as more particularly defined below, the "Developer Improvements"), and City is willing to sell the Property to Developer for such purpose, on the terms and conditions contained herein.

NOW, THEREFORE, the Parties hereby agree as follows:

Definitions

As used herein, the following terms shall have the meanings respectively indicated:

"City Deed" means the grant deed from City to Developer conveying title, including a deed restriction relating to the development of affordable housing.

"Closing" means the transfer of title to the Property by City to Developer in accordance with Section 2. below.

"Closing Date" has the meaning specified in Section 2.2 below.

"Covered Parties" means the City and its past, present and future directors, officers, employees, representatives and agents.

"Escrow Holder" means Lawyer's Title.

"Hazardous Material" means any substance or material which is defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "acutely hazardous wastes," "restricted hazardous waste," "toxic substances," or "known to cause cancer or reproductive toxicity" (or words of similar import), petroleum products (including crude oil or any fraction thereof) or any other chemical, substance or material which is prohibited, limited or regulated under any federal, state or local law, ordinance, regulation, order, permit, license, decree, common law, or treaty now or hereafter in force regulating, relating to or imposing liability or standards concerning materials or substances

Attachment B

known or suspected to be toxic or hazardous to health and safety, the environment or natural resources.

“Property” means that certain real property described on Exhibit A attached hereto, together with all improvements thereon.

“Developer Improvements” means the improvements reflected in City of Lemon Grove Resolution No. 2694 and Resolution No. 2694 (Resolutions included as Exhibit B), or subsequently approved Resolutions related to the project.

“Purchase Price” means the payment to be paid by Developer to City for the Property as described in Section 1.3 below.

“Title Company” means Lawyers Title.

Agreement of Purchase and Sale

Sale of the Property. In consideration of and subject to the terms and conditions contained herein, City hereby agrees to sell the Property to Developer and Developer hereby agrees to purchase the Property from City.

Title. Prior to execution of this Agreement, Developer shall have examined the title report prepared by the Title Company. Prior to execution of this Agreement, Developer shall have reviewed accepted the title status of the Property. Subsequent to execution of this Agreement, (i) City shall not record any further liens and encumbrances against the Property. And (ii) Developer has the right to review (and reasonably disapprove by written notice) any new liens and encumbrances recorded against the Property. In the event of a title disapproval, City shall have ten (10) business days to cure any disapproved lien or encumbrance.

Purchase Price. The Purchase Price to be paid by Developer to City for the Property is the sum of Nine Dollars (\$9.00), payable at the Closing.

Inspection. As of the execution of this Agreement, Developer shall have fully inspected the Property and approve the condition of the Property, including condition of title, in all respects in Developer’s sole discretion.

Post-Closing covenants: After the Closing:

Developer Improvements. Developer shall develop nine (9) permanently affordable ownership homes as described in Exhibit B (“Developer Improvements”) that will be made available to households earning from 80 percent to 120 percent of the San Diego Area Median Income at the time of sale or resale.

Commencement and Completion of Developer Improvements. Developer agrees to commence the construction of Developer Improvements within ten (10) calendar days after the Closing Date. Developer agrees to complete construction and have secured a certificate of occupancy for the Improvements within 14 months of construction commencement.

Right to Reacquire. City shall have the right to reacquire the Property from Developer at the same price purchased by Developer, in the event that (i) Developer does not commence and complete construction of Developer Improvements as provided above; or (b) Developer ceases operation as a nonprofit provider of affordable housing and fails to transfer ownership to a to a qualified nonprofit affordable housing entity.

Attachment B

The Post Closing covenants shall survive the Closing and/or termination of this Agreement.

Title Company. Following the execution of this Agreement, the parties shall cooperate in opening of escrow with the Title Company. A copy of this Agreement shall be provided to the Title Company to advise the Title Company of the terms and conditions hereof. Prior to Closing, Developer and City shall give separate written closing instructions to the Title Company (with a copy sent concurrently to the other Party) which instructions shall be consistent with the provisions of this Agreement.

Outside Closing Date. The Closing hereunder shall take place on a date (the "Closing Date") that is on or before sixty days from Developer's exercise of the Option as defined in the Option Agreement. (the "Outside Closing Date"). If for any reason, other than City's default hereunder, the Closing does not occur on or before the Outside Closing Date, this Agreement shall automatically terminate, subject to surviving indemnification obligations under this Agreement..

Prorations. Normal prorations of taxes and related items shall be made at Closing. If the Closing shall occur before the tax rate is fixed for the then current year, the proration of taxes shall be based upon taxes for the prior year and adjusted for the year of Closing within a reasonable time after they become finally determined for such year.

Costs. Escrow fees and recording fees shall be paid equally by the Parties. City shall pay the cost of the premium for a standard form owner's policy of title insurance. If Developer elects extended coverage, Developer shall pay the difference between the title insurance premium for standard coverage and the title insurance premium for extended coverage. Developer shall pay the costs of any endorsements requested by Developer.

2.5 Possession. Possession of the Property shall be delivered to Developer by City at Closing.

2.6 Developer's Deliveries. Prior to Closing, Developer shall deliver or cause to be delivered to City through Escrow:

- (a) The Purchase Price, as set forth in Paragraph 2.3. to be distributed to City at Closing
- (b) All outstanding Permit Fees to be paid by Developer to City, to be distributed to City at Closing
- (c) Final construction loan documents

2.7 City's Deliveries. Prior to Closing, City shall deliver or cause to be delivered to Developer through Escrow:

- (a) A CLTA owner's policy of title insurance, in the amount reasonably determined by Developer, insuring the Property and any improvements, the cost of such policy to be paid by City; and
- (b) Deposit a Grant Deed substantially in conformance with the form attached as Exhibit C, with Escrow Holder including a deed restriction regarding the use of the Property for the sole purpose of providing affordable residential housing. Upon Closing, the Grant Deed will be recorded.

Attachment B

2.8 Additional Documents . Both parties shall have executed with Notary in form suitable for recording, the Affordable Housing Agreement and Regulatory Agreement (“Regulatory Agreement”) and hereby direct Escrow Holder to record said Regulatory Agreement immediately after recordation of the Grant Deed, but prior to any construction loan documents. Both parties shall execute and deliver through escrow any other documents or instruments that are reasonably necessary in order to consummate the Closing.

Other Provisions

Representations of Developer. Developer represents and warrants, as of the date this Agreement is fully executed and as of the Closing Date, that Developer has taken all action required by law, and all required action under its governing documents necessary to authorize Developer to enter into this Agreement and to carry out its obligations hereunder.

No Representations as to the Property. Developer acknowledges that Developer has conducted such investigations and inspections of the Property as it desires. Developer hereby affirms that City, its agents, employees and/or attorneys have not made, nor has Developer relied upon any representation, warranty or promise with respect to the Property or any other subject matter of this Agreement except as expressly set forth in this Agreement and/or the City Deed, including, without limitation, any warranties or representations, express or implied, as to the general plan designation, zoning, value, use, tax status or physical condition of the Property, or improvements thereon, or any part thereof, including, but not limited to, the flood elevations, drainage patterns and soils and subsoils composition and compaction level, and other conditions at the Property, or the existence or non-existence of Hazardous Material on or under the Property or adjacent property, or as to the accuracy of any boundary survey or other survey or any soils reports or other plans or reports therefor. Without limiting the generality of the foregoing, and except for the warranties and covenants set forth in the City Deed, Developer is purchasing the Property from City in an “AS IS”, “WHERE IS” CONDITION, SUBJECT TO “ALL FAULTS,” INCLUDING, BUT NOT LIMITED TO, BOTH LATENT AND PATENT DEFECTS, AND THE EXISTENCE OF HAZARDOUS MATERIAL. EXCEPT AS OTHERWISE PROVIDED IN THE CITY DEED, DEVELOPER HEREBY WAIVES ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE TITLE, CONDITION AND USE OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Developer’s Release and Indemnity. Developer hereby indemnifies, holds harmless and agrees to defend the Covered Parties from and against all claims, damages, expenses (including, without limitation, reasonable attorneys’ fees and reasonable investigative and discovery costs), liabilities and judgments on account of injury to persons, loss of life, or damage to property occurring on the Property and/or incurred as a result of or arising out of:

with respect to events occurring during the period from the date of this Agreement through the completion of Developer Improvements under this Agreement: (i) the active or passive negligence or willful conduct of Developer, and its agents, servants and employees, (ii) the breach of any of Developer’s obligations hereunder, and (iii) any necessary or appropriate investigation, repair, cleanup, remediation or detoxification of the Property and other affected property and the preparation of any corrective action, closure or other required plans or reports, to the full extent that such actions are alleged to be attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of Hazardous Material by Developer or its agents and relate to or involve the Property, and

with respect to events occurring during the period from the Closing Date through the completion of Developer Improvements under the Agreement, the condition and use

Attachment B

of the Property.

The indemnity obligation shall survive the Closing and/or termination of this Agreement.

Scope of Release and 1542 Waiver. The release set forth in Section 3.2, includes claims of which Developer is presently unaware or which Developer does not presently suspect to exist which, if known by Developer, would materially affect Developer's release to City. Developer specifically waives the provision of California Civil Code Section 1542, which provides as follows:

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

In this connection and to the extent permitted by law, Developer hereby agrees, represents and warrants, which representation and warranty shall survive the Closing, that Developer realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown and unsuspected, and Developer further agrees, represents and warrants, which representation and warranty shall survive the Closing, that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Developer nevertheless hereby intends to release, discharge and acquit City from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which might in any way be included as a material portion of the consideration given to City by Developer in exchange for City's performance hereunder. The foregoing release shall not apply to any of the matters expressly contained in this Agreement.

City has given Developer material concessions regarding this transaction in exchange for Developer agreeing to the provisions of this Section. City and Developer have each initialed this Section to further indicate their awareness and acceptance of each and every provision hereof.

City's Initials ____

Developer's Initials ____

Commissions. City and Developer represent that neither Party has entered into any written contracts with any brokers or finders nor obligated themselves to pay any real estate commissions or finders' fees on account of the execution of this Agreement, or the close of the transaction contemplated hereby. Based on such representations, Developer and City hereby agree to indemnify and hold each other harmless from any claims, damages, expenses, liabilities, liens or judgments (including costs, expenses and attorneys' fees in defending the same) which arise on account of any claim made against the indemnifying party that real estate commissions or finders' fees (including those identified above) are payable and have not been discharged in their entirety.

Attachment B

General Provisions

Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be given by (a) Federal Express (or other established express delivery service which maintains delivery records), (b) hand delivery, or (c) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or such other addresses as the Parties may designate from time to time by written notice in the above manner:

To City: CITY OF LEMON GROVE
3232 Main Street
Lemon Grove, CA 91945
Attn: City Manager

To Developer: The San Diego Community Land Trust
10620 Trenea Street, Suite 230
San Diego, CA 92131
Attn: Jean M. Diaz, Executive Director

Such communications may also be given by electronic mail, provided any such communication is concurrently given by one of the above methods. Notices shall be deemed effective upon the receipt, or upon attempted delivery thereof if the delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means of accomplishing delivery. Upon at least ten (10) days prior written notice, each Party shall have the right to change its address to any other address within the United States of America.

References. All references to "Article," "Articles," "Section," or "Sections" contained herein are, unless specifically indicated otherwise, references to Articles and Sections of this Agreement.

Exhibits. All references to "Exhibits" contained herein are references to exhibits attached hereto, all of which are made a part hereof for all purposes.

Captions. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

Number and Gender of Words. Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.

Attorney's Fees. In the event a Party commences a legal proceeding to enforce any of the terms of this Agreement, the prevailing Party in such action shall have the right to recover reasonable attorneys' fees and costs from the other Party to be fixed by the court in the same action. The term "legal proceedings" as used above shall be deemed to include appeals from a lower court judgment and it shall include proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters.

Governing Law. This Agreement is intended to be performed in the State of Utah, and the laws of such State shall govern the validity, construction, enforcement and interpretation of this Agreement, unless otherwise specified herein.

Amendments. This Agreement may be amended or supplemented only by an

Attachment B

instrument in writing, executed by both City and Developer.

Invalid Provisions. Except as otherwise provided in the next sentence, if any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable, and this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement, but the parties shall equitably resolve and negotiate the effect of such deletion. In the event that either the provision relating to City's obligation to convey the Property or Developer's obligation to pay the Purchase Price is held to be illegal, invalid, or unenforceable under present or future laws, this Agreement shall be null and void.

Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by City and Developer, City and Developer agree to perform, execute and deliver or cause to be performed, executed, and delivered at the Closing or after the Closing any and all such further acts, deeds and assurances as may be reasonably necessary to consummate the transactions contemplated hereby.

Survival. All indemnities, covenants, representations and warranties contained herein shall survive the termination of this Agreement, Closing, the delivery of the City Deed, and the acquisition of the Property by Developer.

Conflict of Interests. No member, official or employee of the City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating, to the Agreement which is prohibited by law.

Warranty Against Payment of Consideration for Agreement. Developer represents and warrants that neither it nor any of its members, managers, employees or officers has: (1) provided an illegal gift to City officer or employee or former City or City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in City's conflict of interest ordinance; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in City's conflict of interest ordinance.

No liability of City Officials and Employees. No member, official or employee of City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to Developer or successor or on any obligation under the terms of this Agreement.

Attachment B

IN WITNESS WHEREOF, the Parties have caused this Purchase and Sale Agreement to be duly executed as of the date first written.

CITY:

By _____
Lydia Romero, City Manager

Approved as to legal form:

1.

By _____
James P. Lough, City Attorney

DEVELOPER:

By _____
Jean M. Diaz, Executive Director

Attachment B

EXHIBIT A

Legal Description of Property

That certain real property located in Lemon Grove, San Diego County, California more particularly described as follows:

Attachment B

EXHIBIT B

Resolution No. 2694 and Resolution No. 2695 inserted

Attachment B

EXHIBIT C
Grant Deed with Deed Restriction

RECORDING REQUESTED BY:
AND WHEN RECORDED MAIL TO:

MAIL TAX STATEMENTS TO:

APN

(Space Above For Recorder's Use)

GRANT DEED AND DEED RESTRICTION

The undersigned grantor declares:
Documentary Transfer Tax not shown pursuant
To Section 11932 of the Revenue and
Taxation Code

City of Lemon Grove

THAT THE CITY OF LEMON GROVE, CALIFORNIA, a public body ("Grantor"), for good and valuable consideration paid in hand by The San Diego Community Land Trust, a California 501(c)(3) non-profit organization_ ("Grantee"), whose address is _____, the receipt and sufficiency of which are hereby acknowledged, HAS GRANTED, BARGAINED, SOLD AND CONVEYED and by these presents DOES GRANT, BARGAIN, SELL AND CONVEY unto Grantee all that certain land situated in the City of Lemon Grove, County of San Diego, State of California, and described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes, together with all of Grantor's right, title and interest in and to all appurtenances thereon or in any way appertaining thereto and all of Grantor's right, title and interest in and to all buildings, structures, fixtures and improvements located thereon (said land, real property, rights improvements and appurtenances being herein collectively referred to as the "Property").

The Property shall be used exclusively for the development of nine (9) affordable housing units to be made available by Grantee to households earning from 80 percent to 120 percent of the San Diego Area Median Income (as determined by the U.S. Department of Housing and Urban Development) at the time of sale or resale. Sales and resales of individual housing units will be subject to a 99 year ground lease

Attachment B

between prospective household owners as ground lessee and Grantee as ground lessor.

EXECUTED on _____, 201_, to be effective upon delivery of this Grant Deed by or on behalf of Grantor to Grantee.

GRANTOR:

THE CITY OF LEMON GROVE,
CALIFORNIA,
a public body

By: _____

Name: _____

Title: _____

Attachment B

Exhibit A to Grant Deed
Legal Description

Attachment B

FOURTH AMENDMENT EXHIBIT B

Ground Lease and Purchase Option

between

San Diego Community Land Trust

SDCLT

and

Homeowner

Dated as of _____, 20__

Note: this lease template is for a home or townhome that sits on an individual parcel of land. For projects with un subdivided land, the lease would look very similar but the owners would each lease an "undivided interest" in the underlying land. When there is an HOA with maintenance and insurance responsibilities, the relevant sections of the lease would be modified to reflect those responsibilities.

Address of Premises:

Attachment B

<u>TABLE OF CONTENTS</u>	<u>Page</u>
ARTICLE 1: LETTER OF STIPULATION AND CERTIFICATIONS	30
1.1 LETTER OF STIPULATION.....	30
1.2 HOMEOWNER CERTIFICATIONS.....	30
ARTICLE 2: LEASING OF RIGHTS TO THE LAND.....	31
2.1 SDCLT LEASES THE LAND TO THE HOMEOWNER.....	31
2.2 RESERVATION OF MINERAL RIGHTS	31
ARTICLE 3: DURATION OF LEASE	31
3.1 PRINCIPAL TERM.....	31
3.2 HOMEOWNER CAN RENEW LEASE FOR ANOTHER 99 YEARS.....	31
3.3 WHAT HAPPENS IF SDCLT DECIDES TO SELL THE LEASED LAND	32
ARTICLE 4: USE OF LEASED LAND	33
4.1 HOMEOWNER MAY USE THE HOME ONLY FOR RESIDENTIAL RELATED PURPOSES.....	33
4.2 HOMEOWNER MUST USE THE HOME AND LEASED LAND RESPONSIBLY AND IN COMPLIANCE WITH THE LAW	33
4.3 HOMEOWNER IS RESPONSIBLE FOR USE BY OTHERS.....	33
4.4 HOMEOWNER IS RESPONSIBLE FOR SERVICES AND REPAIRS	33
4.5 HAZARDOUS MATERIALS AND ENVIRONMENTALLY HARMFUL USES ARE NOT PERMITTED	33
4.6 HOMEOWNER MUST OCCUPY THE HOME FOR AT LEAST TEN MONTHS EACH YEAR.....	34
4.7 SDCLT HAS A RIGHT TO INSPECT THE LEASED LAND.....	35
4.8 HOMEOWNER HAS A RIGHT TO PEACEFUL ENJOYMENT	36
4.9 LEASED LAND MAY NOT BE SUBLEASED WITHOUT SDCLT’S PERMISSION.....	36
ARTICLE 5: GROUND LEASE FEE.....	36
5.1 AMOUNT OF GROUND LEASE FEE	36
5.2 WHEN THE GROUND LEASE FEE IS TO BE PAID.....	36
5.3 HOW THE GROUND LEASE FEE HAS BEEN DETERMINED	37
5.4 SDCLT MAY REDUCE OR SUSPEND THE GROUND LEASE FEE TO IMPROVE AFFORDABILITY	37
5.5 GROUND LEASE FEE MAY BE INCREASED FROM TIME TO TIME.....	37
5.6 GROUND LEASE FEE INCREASED BY ANNUAL CPI CHANGE	37

Attachment B

5.7	HOMEOWNER RESPONSIBLE FOR PAYMENT OF ADDITIONAL GROUND LEASE FEE.....	37
5.8	GROUND LEASE FEE AND ADDITIONAL GROUND LEASE FEE MAY BECOME A LIEN.....	37
5.9	SDCLT CAN COLLECT UNPAID FEES WHEN HOME IS SOLD	38
5.10	GROUND LEASE FEE AND ADDITIONAL GROUND LEASE FEE DEEMED TO BE RENT	38
ARTICLE 6: TAXES AND ASSESSMENTS		38
6.1	HOMEOWNER RESPONSIBLE FOR PAYING ALL TAXES AND ASSESSMENTS.....	38
6.2	SDCLT REIMBURSED FOR ASSESSMENTS PAID ON HOMEOWNER'S BEHALF	38
6.3	HOMEOWNER HAS A RIGHT TO CONTEST.....	38
6.4	IF HOMEOWNER FAILS TO PAY TAXES, SDCLT MAY INCREASE GROUND LEASE FEE.....	39
6.5	PARTY THAT PAYS TAXES MUST SHOW PROOF OF COMPLIANCE.....	39
ARTICLE 7: HOME AND IMPROVEMENTS.....		39
7.1	HOMEOWNER OWNS THE HOUSE AND ALL OTHER IMPROVEMENTS ON THE LEASED LAND	39
7.2	PURCHASE OF IMPROVEMENTS BY HOMEOWNER.....	39
7.3	CONSTRUCTION AND ALTERATION BY HOMEOWNER MUST COMPLY WITH CERTAIN REQUIREMENTS	39
7.4	HOMEOWNER MAY NOT ALLOW LIENS TO REMAIN AGAINST THE LEASED LAND OR HOME.....	40
7.5	PROHIBITION OF OTHER LIENS	40
7.6	HOMEOWNER IS RESPONSIBLE FOR SERVICES, MAINTENANCE AND REPAIRS	40
7.7	A REPAIR RESERVE FUND IS ESTABLISHED TO SUPPORT FUTURE REPAIRS.....	40
7.8	WHEN LEASE ENDS, OWNERSHIP REVERTS TO CLT, WHICH SHALL REIMBURSE HOMEOWNER	40
ARTICLE 8: FINANCING.....		41
8.1	HOMEOWNER CANNOT MORTGAGE THE HOME WITHOUT SDCLT's PERMISSION	41
8.2	BY SIGNING LEASE, CLT GIVES PERMISSION FOR ORIGINAL MORTGAGE.....	41
8.3	HOMEOWNER MUST GET SPECIFIC PERMISSION FOR REFINANCING OR OTHER SUBSEQUENT MORTGAGES.....	41

Attachment B

- 8.4 SDCLT IS REQUIRED TO PERMIT A “STANDARD PERMITTED MORTGAGE” 42
- 8.5 A PERMITTED MORTGAGEE HAS CERTAIN OBLIGATIONS UNDER THE LEASE..... 42
- 8.6 A PERMITTED MORTGAGEE HAS CERTAIN RIGHTS UNDER THE LEASE 42
- 8.7 IN THE EVENT OF FORECLOSURE, ANY PROCEEDS IN EXCESS OF THE PURCHASE OPTION PRICE WILL GO TO SDCLT 42

- ARTICLE 9: LIABILITY, INSURANCE, DAMAGE AND DESTRUCTION, EMINENT DOMAIN 43
 - 9.1 HOMEOWNER ASSUMES ALL LIABILITY 43
 - 9.2 HOMEOWNER MUST DEFEND SDCLT AGAINST ALL CLAIMS OF LIABILITY 43
 - 9.3 HOMEOWNER MUST REIMBURSE SDCLT: 43
 - 9.4 HOMEOWNER MUST INSURE THE HOME AGAINST LOSS AND MUST MAINTAIN LIABILITY INSURANCE ON HOME AND LEASED LAND 43
 - 9.5 WHAT HAPPENS IF HOME IS DAMAGED OR DESTROYED 45
 - 9.6 WHAT HAPPENS IF SOME OR ALL OF THE LAND IS TAKEN FOR PUBLIC USE..... 46
 - 9.7 IF LEASE IS TERMINATED BY DAMAGE, DESTRUCTION OR TAKING, SDCLT WILL TRY TO HELP HOMEOWNER BUY ANOTHER SDCLT HOME 46

- ARTICLE 10: TRANSFER, SALE, OR DISPOSITION OF IMPROVEMENTS 46
 - 10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY..... 46
 - 10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO SDCLT OR QUALIFIED PERSONS..... 47
 - 10.3 THE HOME MAY BE TRANSFERRED TO CERTAIN HEIRS OF HOMEOWNER 47
 - 10.4 HOMEOWNER’S NOTICE OF INTENT TO SELL 47
 - 10.5 SDCLT TO OBTAIN APPRAISAL OF HOME..... 48
 - 10.6 SDCLT’S RESPONSE TO NOTICE OF INTENT TO SELL..... 48
 - 10.7 HOMEOWNER ACKNOWLEDGEMENT OF FIRST RESPONSE NOTICE..... 49
 - 10.8 SDCLT HAS AN OPTION TO PURCHASE THE HOME..... 49
 - 10.9 SALE TO ELIGIBLE PURCHASER..... 49
 - 10.10 FAILURE TO LOCATE AN ELIGIBLE PURCHASER 51
 - 10.11 PURCHASE OPTION PRICE EQUALS LESSER OF APPRAISED VALUE OF HOMEOWNER’S OWNERSHIP INTEREST OR FORMULA PRICE..... 52
 - 10.12 QUALIFIED PURCHASER’S CHOICE OF NEW LEASE OR ASSIGNMENT OF EXISTING LEASE..... 53
 - 10.13 PURCHASER MAY BE CHARGED A TRANSFER FEE..... 53

Attachment B

10.14	HOMEOWNER REQUIRED TO MAKE NECESSARY REPAIRS AT TRANSFER.....	53	
ARTICLE 11: 54			
ARTICLE 12: DEFAULT			54
12.1	WHAT HAPPENS IF HOMEOWNER FAILS TO MAKE PAYMENTS TO SDCLT THAT ARE REQUIRED BY THE LEASE.....	54	
12.2	WHAT HAPPENS IF HOMEOWNER VIOLATES OTHER (NON-MONETARY) TERMS OF THE LEASE.....	54	
12.3	WHAT HAPPENS IF HOMEOWNER DEFAULTS AS A RESULT OF JUDICIAL PROCESS	55	
12.4	A DEFAULT (UNCURED VIOLATION) GIVES SDCLT THE RIGHT TO TERMINATE THE LEASE OR EXERCISE ITS PURCHASE OPTION.....	55	
12.5	WHAT HAPPENS IF SDCLT DEFAULTS	56	
ARTICLE 13: ARBITRATION			57
13.1	MEDIATION AND ARBITRATION ARE PERMITTED.....	57	
13.2	HOMEOWNER AND SDCLT SHALL SHARE COST OF ARBITRATION	57	
ARTICLE 14: GENERAL PROVISIONS			57
14.1	NOTICES.....	57	
14.2	NO BROKERAGE	58	
14.3	SEVERABILITY AND DURATION OF LEASE.....	58	
14.4	RIGHT OF FIRST REFUSAL IN LIEU OF OPTION	58	
14.5	WAIVER.....	58	
14.6	SDCLT'S RIGHT TO PROSECUTE OR DEFEND.....	59	
14.7	INTERPRETATION.....	59	
14.8	PARTIES BOUND	59	
14.9	GOVERNING LAW.....	59	
14.10	RECORDING	59	
14.11	MEMO OF OPTION AND RIGHT OF FIRST REFUSAL.....	59	
14.12	EXHIBITS	60	
14.13	COUNTERPARTS	60	
14.14	ATTORNEYS FEES	60	
14.15	ESTOPPEL CERTIFICATES	60	
EXHIBIT A—LETTER OF STIPULATION			A-1
EXHIBIT B—DESCRIPTION OF LEASED LAND.....			B-1
EXHIBIT C—FORM OF DEED.....			C-1
EXHIBIT D—FIRST REFUSAL.....			D-1
EXHIBIT E—PERMITTED MORTGAGES.....			E-1

Attachment B

EXHIBIT F—PERMITTED MORTGAGE AGREEMENT.....	F-1
EXHIBIT G—NOTICE OF INTENT TO SELL.....	G-1
EXHIBIT H—CERTIFICATE OF SELLER AND PROPOSED OWNER	H-1
EXHIBIT I—TITLE REPORT	I-1
EXHIBIT J—MEMORANDUM OF LEASE.....	J-1
EXHIBIT K—MEMORANDUM OF OPTION AND RIGHT OF FIRST REFUSAL	K-1
EXHIBIT L—REIMBURSEMENT AGREEMENT.....	L-1
EXHIBIT M—FORM OF DEED OF TRUST.....	M-1

GROUND LEASE

This GROUND LEASE is made and entered into this ___ day of _____, 20___, by and between San Diego Community Land Trust Incorporated ("SDCLT," or "the SDCLT"), a California non-profit public benefit corporation, and _____ ("Homeowner" or "the Homeowner").

The following Recitals and Definitions are a substantive part of this Lease. Capitalized terms used in the Definitions section shall have the meaning set forth therein unless otherwise defined in this Lease.

RECITALS

- A. SDCLT is organized exclusively for charitable purposes, including: to lessen the burdens of government by assisting local governments in San Diego County, California (the "County") to ensure that its residents are able to secure housing by, among other things, developing, constructing, financing, managing, selling, renting, subsidizing, and monitoring single- and multi-family housing, and to conduct or perform any ancillary or related activity in furtherance of the foregoing.
- B. A goal of SDCLT is to stimulate the conveyance of decent, affordable housing among low- and moderate-income households by providing access to housing for such persons at affordable prices through the long-term leasing of land under said housing.
- C. The Land described hereunder has been acquired and is being ground leased by SDCLT in furtherance of these charitable purposes.
- D. The SDCLT and Homeowner recognize the special nature of the terms and conditions of the Lease, and each of the parties hereto freely accepts said terms and conditions, including, without limitation, such terms and conditions as might affect the marketability and resale price of any residential structures or other improvements on the Land being leased from SDCLT.
- E. Therefore, in consideration of the foregoing recitals, the mutual promises of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the SDCLT and Homeowner agree as follows:

DEFINITIONS

- a) "**Additional Ground Lease Fee**" shall mean any amounts due SDCLT from Homeowner pursuant to Sections 5.7, 6.4, 7.4, 8.1, 9.3, 9.4 and 14.6 of this Lease.
- b) "**Capital System**" shall mean the roof, plumbing, foundation, electrical, heating, cooling unit(s) and water and sewer line systems.
- c) "**Eligible Capital Improvements**" shall mean only those improvements approved in writing by the SDCLT or its designee in accordance with SDCLT's Capital Improvements Policy as revised from time to time.

Attachment B

- d) "**Full Replacement Value**" means the actual replacement cost of the improvements on the Leased Land as determined from time to time less exclusions provided in the normal hazard insurance policy.
- e) "**Home**" shall mean the buildings, structures and residential improvements, including the building fixtures, now or in the future located on and permanently affixed to the Land.
- f) "**Income Qualified Resident**" shall mean a person or group of persons within a household whose combined income does not exceed the limits specified in Section 10.2 of this Lease.
- g) "**Jurisdiction**" shall mean _____, California.
- h) "**Land**" shall mean that land composed of the parcel(s), upon which the Home will be located, which land is being leased to the Homeowner pursuant to this Lease, as is more fully described in the attached Exhibit B.
- i) "**Lease**" or "**Ground Lease**" shall mean this Ground Lease made and entered into by the SDCLT and Homeowner on the date set forth herein and shall include any and all amendments made to this Lease.
- j) "**Lease Term**" shall mean the ninety-nine (99) year period set forth in Section 3.1 below, or such shorter or longer period during which this Lease shall operate if earlier terminated or later extended in accordance with the provisions of this Lease and the approval of Lenders, if required.
- k) "**Permitted Mortgages**" shall mean A mortgage or deed of trust on the Home and the Homeowner's right to possess, occupy and use the Leased Land granted to a lender by the Homeowner with the SDCLT's Permission. The Homeowner may not mortgage the SDCLT's interest in the Leased Land, and may not grant any mortgage or deed of trust without SDCLT's Permission."**Permitted Mortgagee**" shall mean **each and all of the** lenders providing the loans to Homeowner as set forth in Section 8.1.

ARTICLE 1: LETTER OF STIPULATION AND CERTIFICATIONS

1.1 LETTER OF STIPULATION

Attached hereto as Exhibit A and made part of this Lease by reference is a Letter of Stipulation of Homeowner setting forth their review and understanding of this Lease (in particular, Article 10 hereof), the terms and conditions contained herein, and related documents for this transaction.

1.2 HOMEOWNER CERTIFICATIONS

The Homeowner certifies that (i) the financial and other information previously provided in order to qualify to lease the Leased Land is true and correct as of the date first written above, (ii) the Homeowner shall occupy the Leased Land and Home as Homeowner's principal place of residence during the entire term of this Ground Lease, (iii) the Homeowner is an Eligible

Attachment B

Purchaser as hereinafter defined; (iv) Homeowner will fully cooperate with SDCLT in providing all information requested by SDCLT in monitoring Homeowner's compliance with this Ground Lease within ten (10) business days of SDCLT's request for such information. Homeowner acknowledges that failure by the Homeowner to occupy the Leased Land as Homeowner's principal place of residence at all times during the entire term of this Ground Lease or to provide true and correct income information shall result in termination of this Ground Lease.

ARTICLE 2: LEASING OF RIGHTS TO THE LAND

2.1 SDCLT LEASES THE LAND TO THE HOMEOWNER

The SDCLT, in consideration of the rents reserved and the terms, conditions, covenants and agreements herein, does hereby demise and leave unto Homeowner, and Homeowner does hereby take and hire from SDCLT, the property described in Exhibit B attached hereto ("Leased Land"). Homeowner acknowledges having received a copy of the most current, if any, title report for the Leased Land, and Homeowner accepts title to the Leased Land in its condition "as is" as of the execution of this Lease.

2.2 RESERVATION OF MINERAL RIGHTS

SDCLT reserves to itself all the minerals and other extractive resources in, on, or under the Leased Land. This reservation shall not diminish the right of Homeowner to occupy and freely use the Leased Land. Any extraction by SDCLT of minerals or other extractive resources shall be carried out without a surface right of access and otherwise without material disruption of Homeowner.

ARTICLE 3: DURATION OF LEASE

3.1 PRINCIPAL TERM

The term of this Lease (the Term") shall be 99 years, commencing on the ___ day of _____, 20__, and terminating on the _____ day of _____, 21____, unless terminated sooner or extended as provided below.

3.2 HOMEOWNER CAN RENEW LEASE FOR ANOTHER 99 YEARS

Homeowner may renew this Lease for one additional period of 99 years. The SDCLT may change the terms of the Lease for the renewal period prior to the beginning of the renewal period but only if these changes do not materially and adversely interfere with the rights possessed by Homeowner under the Lease. Not more than 365 nor less than 180 days before the last day of the first 99-year period, SDCLT shall give Homeowner a written notice that states the date of the expiration of the first 99-year period and the conditions for renewal as set forth in the following paragraph ("the Expiration Notice"). The Expiration Notice shall also describe any changes that SDCLT intends to make in the Lease for the renewal period as permitted above.

The Homeowner shall then have the right to renew the Lease only if the following conditions are met: (a) within 60 days of receipt of the Expiration Notice, the Homeowner shall give SDCLT written notice stating the Homeowner's desire to renew ("the Renewal Notice"); (b) this Lease shall be in effect on the last day of the original 99-year term, and (c) the Homeowner shall not

Attachment B

be in default under this Lease or under any Permitted Mortgage on the last day of the original 99-year term.

When Homeowner has exercised the option to renew, Homeowner and SDCLT shall sign a memorandum stating that the option has been exercised. The memorandum shall comply with the requirements for a notice of lease as stated in Section 14.12 below. The SDCLT shall record this memorandum in accordance with the requirements of law promptly after the beginning of the renewal period.

3.3 WHAT HAPPENS IF SDCLT DECIDES TO SELL THE LEASED LAND

In the event that ownership of the land comprising the Leased Land ("the Land") is conveyed or transferred (whether voluntarily or involuntarily) by SDCLT to any other person or entity, this Lease shall not cease, but shall remain binding and unaffected. However, in the event SDCLT desires or attempts to convey the Land to any person or entity other than a nonprofit corporation, charitable trust, governmental agency or other similar entity sharing the goals described in the Recitals above (or as security for a mortgage loan), the Homeowner shall have a right of first refusal to purchase the Land. The details of this right shall be as stated in the attached Exhibit First Refusal. Any sale or transfer contrary to this Section 3.3 shall be null and void.

Attachment B

ARTICLE 4: USE OF LEASED LAND

4.1 HOMEOWNER MAY USE THE HOME ONLY FOR RESIDENTIAL RELATED PURPOSES

Homeowner shall use, and shall cause all occupants thereof to use, the Leased Land and Home (as defined in Section 7.1 below) only for residential purposes and such incidental activities related to residential use that are currently permitted by applicable zoning law.

4.2 HOMEOWNER MUST USE THE HOME AND LEASED LAND RESPONSIBLY AND IN COMPLIANCE WITH THE LAW

Homeowner shall use the Leased Land in a manner so as not to create any nuisances, public or private. Homeowner shall dispose of any and all waste in a safe and sanitary manner. Homeowner shall use the Leased Land and Home in a manner consistent with all applicable laws, ordinances, rules and regulations of any governmental authority with jurisdiction over the Leased Land and Home and acknowledges that failure to abide by this provision may result in a termination of this Lease. Homeowner shall, at Homeowner's sole expense, maintain the Leased Land and all Home in good, safe, and habitable condition in all respects except for normal wear and tear, and in full compliance with all applicable laws, ordinances, rules and regulations of any governmental authority with jurisdiction over matters concerning the condition of the Leased Land and Home, and in such condition as is required to maintain the insurance coverage required by Section 9.4 of this Lease.

4.3 HOMEOWNER IS RESPONSIBLE FOR USE BY OTHERS

Homeowner shall be responsible for the use of the Leased Land by any residents thereof and their families, friends or visitors or anyone else using the Leased Land with or without their consent.

4.4 HOMEOWNER IS RESPONSIBLE FOR SERVICES AND REPAIRS

SDCLT shall not be required to furnish any services or facilities, including but not limited to heat, electricity, air conditioning or water, or to make any repairs to the Leased Land or Home, and Homeowner hereby assumes the full and sole responsibility for furnishing all services or facilities.

4.5 HAZARDOUS MATERIALS AND ENVIRONMENTALLY HARMFUL USES ARE NOT PERMITTED

- (a) Prohibition of Hazardous Substances. Homeowner shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Land or Home. Homeowner shall not do, nor allow anyone else to do, anything affecting the Land or Home that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Land or Home of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Land or Home.

Attachment B

(b) Definition.

(1) "Hazardous Substances" shall mean those substances defined as toxic or hazardous substances or hazardous waste under any Environmental Law, and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials.

(2) "Environmental Law" shall mean all federal and state of California laws that relate to health, safety or environmental protection.

(c) Notice and Remediation. Homeowner shall, as soon as possible but no later than five (5) business days of learning of such event, give SDCLT written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Land or Home and any Hazardous Substance or Environmental Law of which Homeowner has actual knowledge. If Homeowner learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Land or Home is necessary, Homeowner shall, as soon as possible but no later than twenty-one (21) days of such notification or of learning of such event, commence all necessary remedial actions in accordance with Environmental Law and shall diligently pursue such remediation until completion.

(d) Indemnity. Homeowner shall indemnify SDCLT and its respective agents, employees, officers and board members for the failure of the Homeowner or any other person or entity, other than any Homeowner, to comply with any Environmental Law. This provision shall survive the termination of the Ground Lease.

4.6 **HOMEOWNER MUST OCCUPY THE HOME FOR AT LEAST TEN MONTHS EACH YEAR**

Homeowner must occupy the Leased Land and improvements for at least 10 months of each calendar year and maintain the Leased Land and improvements as his or her sole, exclusive and permanent place of residence at all times during the term of this Lease. A permanent residence shall mean the home or place in which one's habitation is fixed and to which one, whenever he or she is absent, has a present intention of returning after a departure or absence. In determining what is a permanent residence, the following circumstances relating to the Homeowner may be taken into account: ~~business pursuits, employment, income sources, residence for income or other tax purposes, residence of parents, spouse and children, if any,~~ location of personal and real property, voter registration, motor vehicle registration, and any other information relevant for the purpose of determining the permanent place of residence of the Homeowner. Occupancy by the spouse of the Homeowner, the child or children of the Homeowner, or member(s) of the Homeowner's household who have resided upon the Leased Land for at least one year immediately prior to the Homeowner's planned absence from the Leased Land shall be considered occupancy by Homeowner.

In the event that SDCLT or SDCLT's authorized designee is of the reasonable belief, based on documented and supportable evidence, that Homeowner is not in compliance with

Attachment B

Homeowner's obligation to occupy the Leased Land as Homeowner's permanent place of residence, SDCLT shall deliver to Homeowner a written notice of possible occupancy violation (the "Possible Occupancy Violation Notice"). The Possible Occupancy Violation Notice shall set forth the reasons for SDCLT's belief that Homeowner is not using the Leased Land as Homeowner's permanent place of residence. Homeowner shall respond to SDCLT in writing to the Possible Occupancy Violation Notice immediately and in no event later than sixty (60) days after delivery. Homeowner shall set forth in the response any and all reasons, based on documented and supportable evidence, that refute SDCLT's belief that the Leased Land is not being used as Homeowner's permanent place of residence. SDCLT's Board of Directors shall conduct a hearing on the possible occupancy violation at the next regularly scheduled Board of Director's meeting after receipt of Homeowner's response to the Possible Occupancy Violation Notice, or if no meeting is scheduled within six (6) months following receipt of Homeowner's response, then the Board of Directors shall schedule a special meeting to hear the possible occupancy violation within six (6) months of receipt of Homeowner's response. At the hearing, the Board of Directors shall consider any and all evidence in support of SDCLT's and Homeowner's positions, and shall have the authority to ask questions of Homeowner and require additional evidence from Homeowner that is relevant to the determination of the possible occupancy violation. The Board of Directors shall have the power to conduct the hearing in accordance with any procedures as the Board deems necessary in its reasonable discretion. No later than thirty (30) days after the conclusion of the hearing on the possible occupancy violation, SDCLT's Board of Directors shall issue a decision. In the event that the Board of Directors determines that Homeowner is occupying the Leased Land as Homeowner's permanent place of residence, SDCLT shall not have the authority to terminate the Lease on the basis of a violation of Section 4.6 of this Lease for one (1) year after the date of the Board of Director's decision; provided, however, that the Board of Director's decision on the possible occupancy violation shall have no effect on SDCLT's rights and remedies for any other event of default as may be committed by Homeowner. In the event that the Board of Directors determines that Homeowner is not occupying the Leased Land as Homeowner's permanent place of residence, Homeowner shall have committed an event of default and SDCLT may pursue any of its rights and remedies authorized in Article 12 of this Lease. In the event that Homeowner fails to respond to the Possible Occupancy Violation Notice within sixty (60) days of delivery, SDCLT may deem the failure to timely respond as an event of default and may pursue any of its rights and remedies authorized in Article 12 of this Lease.

4.7 SDCLT HAS A RIGHT TO INSPECT THE LEASED LAND

SDCLT may enter the Leased Land and Home during normal business hours for any one of the following reasons: (i) in case of emergency; (ii) to exhibit the Leased Land and Home to prospective or actual purchasers, mortgagees, tenants, workers, or contractors; (iii) when Homeowner has abandoned or surrendered the Leased Land; and (iv) pursuant to court order. Except for emergencies, SDCLT shall provide written notice to Homeowner no less than twenty-four (24) hours prior to SDCLT's entry if the notice is personally delivered to Homeowner or left on, near, or under the usual entry door for the Leased Land, and no less than six (6) days prior to SDCLT's entry if the notice is mailed to Homeowner. In the event of emergency, SDCLT may enter any portion of the Leased Land, including the interior of Homeowner's Home, without notice provided SDCLT shall have made reasonable efforts to give advance notice to Homeowner.

Attachment B

4.8 HOMEOWNER HAS A RIGHT TO PEACEFUL ENJOYMENT

Homeowner has the right to undisturbed enjoyment of the Leased Land, and SDCLT has no desire or intention to interfere with the personal lives, associations, expressions, or actions of Homeowner, subject to the terms, covenants, conditions, provisions, restrictions, or reservations of this Lease.

4.9 LEASED LAND MAY NOT BE SUBLEASED WITHOUT SDCLT'S PERMISSION.

Except as otherwise provided in Article 8 and Article 10, Homeowner shall not sublease, sell or otherwise convey any of Homeowner's rights under this Lease, for any period of time, without the written permission of SDCLT. Homeowner agrees that SDCLT shall have the right to withhold such consent in order to further the purposes of this Lease.

If permission for subleasing is granted, the sublease shall be subject to the following conditions.

- a) Any sublease shall be subject to all of the terms of this Lease.
- b) The rental or occupancy fee charged the sub-lessee shall not be more than the amount of the Lease Fee charged the Homeowner by the SDCLT, plus an amount approved by SDCLT to cover Homeowner's costs in owning the Home, including but not limited to the cost of taxes, insurance and mortgage interest.

ARTICLE 5: GROUND LEASE FEE

5.1 AMOUNT OF GROUND LEASE FEE

In consideration of the possession, continued use, and occupancy of the Leased Promises, Homeowner shall pay to SDCLT a monthly payment ("Ground Lease Fee") in an amount equal to the sum of (a) a Land Use Fee of \$_____ to be paid in return for the continuing right to possess, occupy and use the Leased Land, plus (b) a Repair Reserve Fee of \$_____ to be held by the CLT and used for the purpose of preserving the physical quality of the Home for the long term in accordance with Section 7.7 below.

5.2 WHEN THE GROUND LEASE FEE IS TO BE PAID

The Ground Lease Fee shall be payable to the SDCLT, at the address specified in this Lease as SDCLT's address, on the first day of each month for as long as this Lease remains in effect, unless with SDCLT's consent, the Ground Lease Fee is to be escrowed by a Permitted Mortgagee, in which case payment shall be made as specified by that Mortgagee. If the Lease commences on a day other than the first of the month, a pro-rata portion of the Ground Lease Fee shall be paid for the balance of the month at the time the Lease is executed.

Attachment B

5.3 HOW THE GROUND LEASE FEE HAS BEEN DETERMINED

The Ground Lease Fee specified in section 5.1 above has been calculated as follows: First, an amount approximating the monthly fair rental value of the Leased Land has been established, current as of the commencement of the Term, recognizing that use of the Leased Land is restricted by some of the provisions of this Lease. Then the affordability of this monthly amount for the Homeowner has been analyzed and, if necessary, the amount has been reduced to yield the amount stated in section 5.1 above, which has been determined to be affordable for Homeowner.

5.4 SDCLT MAY REDUCE OR SUSPEND THE GROUND LEASE FEE TO IMPROVE AFFORDABILITY

At SDCLT's sole election, SDCLT may reduce, delay or waive entirely the Ground Lease Fee at any time and from time to time for the purpose of ensuring affordable monthly housing costs for the Homeowner. Any such reduction, delay, or waiver must be in writing and signed by SDCLT before being effective.

5.5 GROUND LEASE FEE MAY BE INCREASED FROM TIME TO TIME

The Ground Lease Fee stated in section 5.1 above, as adjusted in the way provided below, shall be applicable during the term of this Lease. However, in the event that, for any reason, the provisions of Article 10 regarding transfers of the Home or section 4.6 or 4.9 regarding occupancy are suspended or invalidated for any period of time, then during that time, the Ground Lease Fee shall be increased to an amount calculated by SDCLT to equal the fair rental value of the Leased Land for use not restricted by the provisions of the suspended portions of the Lease. In such event, SDCLT shall notify Homeowner of the amount calculated in this way, and the Ground Lease Fee shall then be this amount.

5.6 GROUND LEASE FEE INCREASED BY ANNUAL CPI CHANGE

Except as provided in Section 5.5, the Ground Lease Fee shall be increased every year during the term of the Ground Lease by the percentage of increase in the Consumer Price Index. "Consumer Price Index" as used in this Ground Lease, means the Consumer Price Index for All Urban Wage Earners and Clerical Workers (San Diego County CA, All Urban Consumers All Items, Base 1982-1984=100), as published by the Bureau of Labor Statistics of the United States Department of Labor. SDCLT shall determine and notify Homeowner of the amount of such yearly increase 30 days prior to the increase taking effect. In the event such index is not in existence when any determination relying on such index under this Lease is to be made, the most comparable governmental index as determined by SDCLT in its sole discretion published in lieu thereof shall be substituted therefore.

5.7 HOMEOWNER RESPONSIBLE FOR PAYMENT OF ADDITIONAL GROUND LEASE FEE

In the event the Homeowner owes any Additional Ground Lease Fee to SDCLT, SDCLT shall determine and notify Homeowner of the time and the manner (e.g. in lump sum or several payments) in which any Additional Ground Lease fee is to be paid by Homeowner. All Additional Ground Lease Fees shall be payable to SDCLT, at the address specified in Section 14.1.

5.8 GROUND LEASE FEE AND ADDITIONAL GROUND LEASE FEE MAY BECOME A LIEN

Attachment B

In addition to any other rights contained in this Ground Lease, in the event any amount of Ground Lease Fee and Additional Ground Lease Fee remains unpaid for a period of fifteen (15) business days after it is due (collectively, the "Debt"), SDCLT shall send written notice to Homeowner specifying the amount of Debt then owed by Homeowner. In the event any amount of Debt remains unpaid for an additional thirty (30) days from the time such notice is sent, the Debt shall be a lien in favor of SDCLT on the Homeowner's interest in the Leased Land and Home from and after the time the SDCLT records a notice of delinquent Debt against the Leased Land and Home in the Official Records (the "Notice of Delinquent Payment"). Any Notice of Delinquent Payment shall indicate the amount of Debt owed by Homeowner to SDCLT and shall include a legal description of the Leased Land and Home. SDCLT shall notify Homeowner prior to recording the Notice of Delinquent Payment against the Leased Land and Home. The lien created in connection with the Notice of Delinquent Payment (the "Debt Lien") shall be prior in right to all other liens arising after the Notice of Delinquent Payment, except all taxes, or other levies which by law would be prior to the Debt Lien and except for the lien of any mortgage recorded prior to the date any such Debt became due.

5.9 SDCLT CAN COLLECT UNPAID FEES WHEN HOME IS SOLD

In the event that any amount of Ground Lease Fee or any Additional Ground Lease Fee remains unpaid when the Home is sold and the Ground Lease is terminated or assigned to another party, any Additional Ground Lease Fee owed shall be paid to SDCLT out of any proceeds from the sale of the Home otherwise due to Homeowner at the time of such sale.

5.10 GROUND LEASE FEE AND ADDITIONAL GROUND LEASE FEE DEEMED TO BE RENT

The Ground Lease Fee and Additional Ground Lease Fee under the terms of this Ground Lease are deemed to be rent for the purpose of California Code of Civil Procedure 1161.

ARTICLE 6: TAXES AND ASSESSMENTS

6.1 HOMEOWNER RESPONSIBLE FOR PAYING ALL TAXES AND ASSESSMENTS

Homeowner shall be responsible for payment of all taxes, charges, fees and governmental assessments that relate to Home and the Leased Land. Homeowner shall also pay directly, when due, all other service bills, homeowner's association fees and assessments, if applicable, and utility charges with respect to the Home or the Leased Land. If SDCLT so elects, Homeowner shall pay estimated taxes and assessments on a monthly basis into an impound account from which the taxes and assessments will be paid.

6.2 SDCLT REIMBURSED FOR ASSESSMENTS PAID ON HOMEOWNER'S BEHALF

In the event that the local taxing authority bills SDCLT for the taxes, charges, fees or assessments on the Leased Land, SDCLT shall bill Homeowner for this expense and Homeowner shall promptly pay the SDCLT for assessments so billed within thirty (30) days.

6.3 HOMEOWNER HAS A RIGHT TO CONTEST

Homeowner shall have the right to contest the amount or validity of any taxes relating to the Leased Land or Home. SDCLT shall, upon written request by Homeowner, join in any such proceedings if Homeowner shall reasonably determine that it shall be necessary or convenient for SDCLT to so join in order for Homeowner to prosecute such proceedings. All costs and

Attachment B

expenses of such proceedings shall be paid by Homeowner. If Homeowner contests any such tax, assessment, or charge, Homeowner may withhold or defer payment or pay under protest, but Homeowner shall protect SDCLT and the Land and Leased Land from the consequences of any such contest being unsuccessful by adequate bond or other security acceptable to SDCLT.

6.4 IF HOMEOWNER FAILS TO PAY TAXES, SDCLT MAY INCREASE GROUND LEASE FEE

In the event that Homeowner fails to pay the taxes or other charges specified in Sections 6.1 and 6.2 above which are not otherwise part of the Ground Lease Fee, SDCLT may increase, but shall not be obligated to increase, Homeowner's Ground Lease Fee in an amount such that the total sum collected will offset the cost of any delinquent and current taxes or other charges. Upon collecting any such amount, SDCLT shall pay the amount collected to the taxing authority or homeowners association as the case may be in a timely manner.

6.5 PARTY THAT PAYS TAXES MUST SHOW PROOF OF COMPLIANCE

Concurrently with the payment of any taxes, assessments, and charges required or permitted by the provisions of this Lease, each party shall, upon request of the other, furnish evidence satisfactory to the other documenting the payment. A photocopy of a paid receipt or a cancelled check for such charges showing payment prior to the due date thereof shall be the usual method of furnishing such evidence.

ARTICLE 7: HOME AND IMPROVEMENTS

7.1 HOMEOWNER OWNS THE HOUSE AND ALL OTHER IMPROVEMENTS ON THE LEASED LAND

Any and all buildings, structures, fixtures, and other improvements purchased by the Homeowner or constructed or placed by the Homeowner upon any part of the Leased Land at any time during the term of this lease (the "Home") shall be and remain property of the Homeowner. However, the Homeowner's exercise of the rights of ownership are limited by certain provisions of this Lease including the disposition of Home by the Homeowner and the SDCLT's option to purchase the Home. In addition, Homeowner shall not remove or move Home from the Leased Land without approval of SDCLT.

7.2 PURCHASE OF IMPROVEMENTS BY HOMEOWNER

Homeowner is simultaneously purchasing the Home now located on the Leased Land and described in the Deed, the form of which is attached hereto as Exhibit C.

7.3 CONSTRUCTION AND ALTERATION BY HOMEOWNER MUST COMPLY WITH CERTAIN REQUIREMENTS

Any post-purchase construction on the Leased Land requiring issuance of a building permit, including expansion of an existing building, or the alteration of existing Home, is subject to the following conditions: (a) all costs shall be borne and paid for by the Homeowner; (b) all construction shall be performed in a worker-like manner and shall comply with all applicable laws and regulations; (c) all construction shall be consistent with the permitted uses set forth in Article 4; (d) Homeowner shall furnish to SDCLT a copy of any plans and all building permits for such construction prior to commencing construction; and (e) such construction shall not commence without the prior written consent of SDCLT, who, however, shall not unreasonably

Attachment B

withhold such consent. SDCLT's approval of any improvement or modification pursuant to this Section 7.3 shall not entitle Homeowner to an increase in the Purchase Option Price pursuant to the provisions of Section 10, below.

7.4 HOMEOWNER MAY NOT ALLOW LIENS TO REMAIN AGAINST THE LEASED LAND OR HOME

Homeowner shall not suffer or permit any vendor's, mechanic's, laborer's, or material man's statutory or similar lien to be filed against the Leased Land, Home, or any interest of the SDCLT or Homeowner that remains more than sixty (60) days after it has been filed. Homeowner shall cause any such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Homeowner fails to cause such lien to be discharged within the sixty (60) day period, then, in addition to SDCLT's right to declare a default under this Ground Lease and exercise the remedies set forth in Article 12, SDCLT may, but shall not be obligated to, discharge the lien by paying the amount in question. Any amounts paid by SDCLT to discharge such liens may be charged to Homeowner as an Additional Ground Lease Fee. Homeowner may, at Homeowner's expense, contest the validity of any such asserted lien, but Homeowner shall protect SDCLT and the Leased Land from any consequences of such contest being unsuccessful by adequate bond or the security acceptable to SDCLT.

7.5 PROHIBITION OF OTHER LIENS

Homeowner will not permit or suffer to allow liens of any type to attach to SDCLT's or Homeowner's title to or interest in the Leased Land or this Lease or to any other property owned by the SDCLT. Homeowner shall not suffer or permit any mortgage, deed of trust, promissory note or other lien to be filed against the Leased Land or Home without the express written consent of the SDCLT.

7.6 HOMEOWNER IS RESPONSIBLE FOR SERVICES, MAINTENANCE AND REPAIRS

Homeowner hereby assumes responsibility for furnishing all services or facilities on the Leased Land, including but not limited to heat, electricity, air conditioning and water. SDCLT shall not be required to furnish any services or facilities or to make any repairs to the Home. Homeowner shall maintain the Home and Leased Land as required by Section 4.2 above and shall see that all necessary repairs and replacements are accomplished when needed.

7.7 A REPAIR RESERVE FUND IS ESTABLISHED TO SUPPORT FUTURE REPAIRS

[This section must either be completed in accordance with the CLT's repair reserve policy, or omitted entirely. See Commentary on this Section 7.6.]

7.8 WHEN LEASE ENDS, OWNERSHIP REVERTS TO SDCLT, WHICH SHALL REIMBURSE HOMEOWNER

Upon the expiration of the term or termination of this Ground Lease, Homeowner shall surrender the Home together with the Leased Land to the SDCLT. Ownership of the Home shall thereupon revert to SDCLT, free and clear of all claims to or against the Leased Land by Homeowner or any third party and, without limiting any of Homeowner's other obligations to indemnify SDCLT, Homeowner shall defend and indemnify SDCLT

Attachment B

against all liability and loss arising from such claims or from Homeowner's surrender of the Home to SDCLT pursuant to this section. Upon surrender of the Home by Homeowner, SDCLT shall promptly pay to Homeowner, as consideration for the Home, an amount equal to SDCLT's Purchase Option Price calculated in accordance with Article 10 below, as of the time of reversion of ownership, less the total amount of any unpaid Ground Lease Fee, any Additional Ground Lease Fee or other amounts that may be owed by Homeowner to SDCLT in accordance with this Ground Lease. The indemnity contained in this Section 7.8 shall survive the termination of the Ground Lease.

ARTICLE 8: FINANCING

8.1 HOMEOWNER CANNOT MORTGAGE THE HOME WITHOUT SDCLT's PERMISSION

The Homeowner may mortgage the Home only with the written permission of SDCLT. Any mortgage or deed of trust permitted in writing by the SDCLT is defined as a Permitted Mortgage, and the holder of such a mortgage or deed of trust is defined as a Permitted Mortgagee. Homeowner shall pay to SDCLT, at SDCLT's option, all fees, costs and expenses, including without limitation, reasonable attorney's fees, incurred by SDCLT in connection with any Permitted Mortgage or review of another mortgage that is not consented to by SDCLT. SDCLT may collect such fees, costs and expenses as an Additional Ground Lease Fee.

8.2 BY SIGNING LEASE, CLT GIVES PERMISSION FOR ORIGINAL MORTGAGE

By signing this Lease, SDCLT gives written permission for any mortgage or deed of trust signed by the Homeowner effective on the day this Lease is signed for the purpose of financing Homeowner's purchase of the Home.

8.3 HOMEOWNER MUST GET SPECIFIC PERMISSION FOR REFINANCING OR OTHER SUBSEQUENT MORTGAGES

If, at any time subsequent to the purchase of the Home and signing of the Lease, the Homeowner seeks a loan that is to be secured by a mortgage on the Home (to refinance an existing Permitted Mortgage or to finance home repairs or for any other purpose), Homeowner must inform SDCLT, in writing, of the proposed terms and conditions of such mortgage loan at least 15 business days prior to the expected closing of the loan. The information to be provided to the SDCLT must include:

- a. the name of the proposed lender;
- b. Homeowner's reason for requesting the loan;
- c. the principal amount of the proposed loan and the total mortgage debt that will result from the combination of the loan and existing mortgage debt, if any;
- d. expected closing costs;
- e. the rate of interest;
- f. the repayment schedule;
- g. a copy of the appraisal commissioned in connection with the loan request.

Attachment B

SDCLT may also require Homeowner to submit additional information. CLT will not permit such a mortgage loan if the loan increases Homeowner's total mortgage debt to an amount greater than % of the then current Purchase Option Price, calculated in accordance with Article 10 below, or if the terms of the transaction otherwise threaten the interests of either the Homeowner or the SDCLT.

8.4 SDCLT IS REQUIRED TO PERMIT A "STANDARD PERMITTED MORTGAGE"

The SDCLT shall be required to permit any mortgage for which the mortgagee has signed a "Standard Permitted Mortgage Agreement" as set forth in "Exhibit: Permitted Mortgages, Part C," and for which the loan secured thereby does not increase Homeowner's total mortgage debt to an amount greater than % of the then current Purchase Option Price, calculated in accordance with Article 10 below.

8.5 A PERMITTED MORTGAGEE HAS CERTAIN OBLIGATIONS UNDER THE LEASE

Any Permitted Mortgagee shall be bound by each of the requirements stated in "Exhibit: Permitted Mortgages, Part A, Obligations of Permitted Mortgagee," which is made a part of this Lease by reference, unless the particular requirement is removed, contradicted or modified by a Rider to this Lease signed by the Homeowner and the SDCLT to modify the terms of the Lease during the term of the Permitted Mortgage.

8.6 A PERMITTED MORTGAGEE HAS CERTAIN RIGHTS UNDER THE LEASE

Any Permitted Mortgagee shall have all of the rights and protections stated in "Exhibit: Permitted Mortgages, Part B, Rights of Permitted Mortgagee," which is made a part of this Lease by reference.

8.7 IN THE EVENT OF FORECLOSURE, ANY PROCEEDS IN EXCESS OF THE PURCHASE OPTION PRICE WILL GO TO SDCLT

Homeowner and SDCLT recognize that it would be contrary to the purposes of this agreement if Homeowner could receive more than the Purchase Option Price as the result of the foreclosure of a mortgage. Therefore, Homeowner hereby irrevocably assigns to SDCLT all net proceeds of sale of the Home that would otherwise have been payable to Homeowner and that exceed the amount of net proceeds that Homeowner would have received if the property had been sold for the Purchase Option Price, calculated as described in Section 10.10 below. Homeowner authorizes and instructs the Permitted Mortgagee, or any party conducting any sale, to pay such excess amount directly to SDCLT. If, for any reason, such excess amount is paid to Homeowner, Homeowner hereby agrees to promptly pay such amount to SDCLT.

**ARTICLE 9:
LIABILITY, INSURANCE, DAMAGE AND
DESTRUCTION, EMINENT DOMAIN**

9.1 HOMEOWNER ASSUMES ALL LIABILITY

Homeowner assumes sole responsibility and liability to all persons and authorities related to its possession, occupancy, and use of the Leased Land.

9.2 HOMEOWNER MUST DEFEND SDCLT AGAINST ALL CLAIMS OF LIABILITY

Homeowner shall defend, indemnify, and hold SDCLT and its respective agents, employees, officers, and/or board members harmless against all liability and claims of liability for injury or damage to person or property from any cause on or about the Leased Land. Homeowner waives all claims against SDCLT and its respective agents, employees, officers, board members and/or council members for such injury or damage. However, Homeowner shall not be obligated to SDCLT under this Section for injury or damage due to the grossly negligent or intentional acts or omissions of SDCLT or SDCLT's agents, employees, officers and board members. This provision shall survive the termination of the Ground Lease.

9.3 HOMEOWNER MUST REIMBURSE SDCLT

In the event the SDCLT shall be required to pay any sum that is the Homeowner's responsibility or liability, pursuant to Section 9.1 and 9.2, the Homeowner shall reimburse the SDCLT for such payment and for reasonable expenses caused thereby and such payment may be charged by SDCLT to Homeowner as Additional Ground Lease Fee.

9.4 HOMEOWNER MUST INSURE THE HOME AGAINST LOSS AND MUST MAINTAIN LIABILITY INSURANCE ON HOME AND LEASED LAND

a) Hazard Insurance. Homeowner shall, at Homeowner's sole expense, keep the Leased Land and Home continuously insured against loss or damage by fire and the extended coverage hazards for the Full Replacement Value of such Leased Land and Home (adjusted every five (5) years by appraisal if requested by SDCLT). If the Leased Land is located in a flood plain, Homeowner shall also obtain flood insurance. In no event shall the amount of insurance be less than the amount necessary to prevent SDCLT from becoming a co-insurer under the terms of the policy.

b) Liability Insurance. Homeowner shall, at Homeowner's sole expense, maintain continuously in effect liability insurance covering the Leased Land and Home. The limits of such insurance shall be not less than _____ (\$_____) (or, if a Permitted Mortgagee requires coverage in a greater dollar amount, such amount as required by that a Permitted Mortgagee) combined single limit for bodily injury and property damage. Such limit shall be adjusted every five (5) years or upon SDCLT's request. Any adjustment shall be equal to the percentage of change (positive or negative), over the period in question, of the Consumer Price Index.

Attachment B

c) Improvements. During the course of any rehabilitation of the Home located on the Leased Land, Homeowner shall hire only licensed contractors who maintain the following forms of insurance:

1. Liability Insurance. Commercial liability insurance against liability for bodily injury to or death of any person or property damage arising out of an occurrence on or about the Leased Land. The limits of such insurance shall be not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage, naming the SDCLT and its officers, employees, agents, board members and/or council members as additional insureds.
2. Worker's Compensation. Worker's compensation insurance covering all persons employed in connection with any work on the Leased Land to the extent required by law.

d) Additional Insureds. All insurance required pursuant to this Section 9.4 shall specifically insure Homeowner against all liability assumed under this Ground Lease, as well as all liability imposed by law, and shall also insure SDCLT and its respective agents, employees, officers, board members and/or council members as an additional insured so as to create the same liability on the part of insurer as though separate policies had been written for such parties and SDCLT.

e) California Insurance. The insurance carrier providing insurance pursuant to this Section 9.4 shall be licensed to do business in the State of California and shall have a rating of A:VII or better in the most recent edition of Best's Rating Guide.

f) Evidence of Insurance. Homeowner shall provide SDCLT with copies of all policies and renewals of policies. All policies shall also contain endorsements providing that they shall not be cancelled, reduced in amount or coverage or otherwise modified by the insurance carrier involved without at least thirty (30) days' prior written notice to SDCLT. Failure by Homeowner to provide evidence of insurance in accordance with this Section 10.4 will be a default under this Ground Lease. SDCLT shall have the right to hold, or cause its designated agent to hold, the policies and renewals thereof, and Homeowner shall furnish to the SDCLT, or its designated agent, the original insurance policies or certificates of insurance, all renewal notices and all receipts of paid premiums within five (5) days of SDCLT's request for such information. SDCLT shall be entitled to participate in the settlement or adjustment of any losses covered by such policies of insurance. SDCLT may make proof of loss if not made by Homeowner in a prompt manner, as determined by SDCLT in SDCLT's reasonable discretion. In the event Homeowner fails to maintain insurance pursuant to Section 9.4, SDCLT, in addition to SDCLT's right to declare a default under this Ground Lease and exercise the remedies set forth in Article 12, may, but shall not be obligated to, purchase insurance on Homeowner's behalf with this Section 9.4. SDCLT may charge Homeowner

Attachment B

Additional Ground Lease Fee to pay for any expenses SDCLT incurs in connection with its purchase of such insurance.

g) Waiver of Subrogation. Homeowner releases SDCLT from any claims for damage to any person or the Land and Home that are caused by or result from the risks insured against under any insurance policies carried by Homeowner and in force at the time of any such damage. Homeowner shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the SDCLT in connection with any damage covered by any party.

9.5 WHAT HAPPENS IF HOME IS DAMAGED OR DESTROYED

Except as provided below, in the event of fire or other damage to the Home, Homeowner shall take all steps necessary to assure the repair of such damage and the restoration of the Home to its condition immediately prior to the damage. All such repairs and restoration shall be completed as promptly as possible. Homeowner shall also promptly take all steps necessary to assure that the Leased Land is safe and that the damaged Home does not constitute a danger to persons or property.

If Homeowner, based on professional estimates, determines either (a) that full repair and restoration is physically impossible, or (b) that the available insurance proceeds will pay for less than the full cost of necessary repairs and that Homeowner cannot otherwise afford to cover the balance of the cost of repairs, then Homeowner shall notify SDCLT of this problem, and SDCLT may then help to resolve the problem. Methods used to resolve the problem may include efforts to increase the available insurance proceeds, efforts to reduce the cost of necessary repairs, efforts to arrange affordable financing covering the costs of repair not covered by insurance proceeds, and any other methods agreed upon by both Homeowner and SDCLT.

If Homeowner and SDCLT cannot agree on a way of restoring the Home in the absence of adequate insurance proceeds, then Homeowner may give SDCLT written notice of intent to terminate the Lease. The date of actual termination shall be no less than 60 days after the date of Homeowner's notice of intent to terminate. Upon termination, any insurance proceeds payable to Homeowner for damage to the Home shall be paid as follows.

- FIRST, to the expenses of their collection;
- SECOND, to any Permitted Mortgagee(s), to the extent required by the Permitted Mortgage(s);
- THIRD, to the expenses of enclosing or razing the remains of the Home and clearing debris;
- FOURTH, to the SDCLT for any amounts owed under this Lease;
- FIFTH, to the Homeowner, up to an amount equal to the Purchase Option Price, as of the day prior to the loss, less any amounts paid with respect to the second, third, and fourth clauses above;
- SIXTH, the balance, if any, to the SDCLT.

Attachment B

9.6 WHAT HAPPENS IF SOME OR ALL OF THE LAND IS TAKEN FOR PUBLIC USE

If all of the Leased Land is taken by eminent domain or otherwise for public purposes, or if so much of the Leased Land is taken that the Home is lost or damaged beyond repair, the Lease shall terminate as of the date when Homeowner is required to give up possession of the Leased Land. Upon such termination, the entire amount of any award(s) paid shall be allocated in the way described in Section 9.5 above for insurance proceeds.

In the event of a taking of a portion of the Leased Land that does not result in damage to the Home or significant reduction in the usefulness or desirability of the Leased Land for residential purposes, then any monetary compensation for such taking shall be allocated entirely to SDCLT.

In the event of a taking of a portion of the Leased Land that results in damage to the Home only to such an extent that the Home can reasonably be restored to a residential use consistent with this Lease, then the damage shall be treated as damage is treated in Section 9.5 above, and monetary compensation shall be allocated as insurance proceeds are to be allocated under Section 9.5.

9.7 IF PART OF THE LAND IS TAKEN, THE LEASE FEE MAY BE REDUCED

In the event of any taking that reduces the size of the Leased Land but does not result in the termination of the Ground Lease, SDCLT shall reassess the fair rental value of the remaining Leased Land and shall reduce the Ground Lease Fee if necessary to ensure that the monthly fee does not exceed the monthly fair rental value of the Leased Land for use as restricted by the Ground Lease.

9.8 IF LEASE IS TERMINATED BY DAMAGE, DESTRUCTION OR TAKING, SDCLT WILL TRY TO HELP HOMEOWNER BUY ANOTHER SDCLT HOME

If this Lease is terminated as a result of damage, destruction or taking, SDCLT shall take reasonable steps to allow Homeowner to purchase another home on another parcel of leased land owned by SDCLT if such home can reasonably be made available. If Homeowner purchases such a home, Homeowner agrees to apply any proceeds or award received by Homeowner to the purchase of the home. Homeowner understands that there are numerous reasons why it may not be possible to make such a home available, and shall have no claim against SDCLT if such a home is not made available.

ARTICLE 10: TRANSFER, SALE, OR DISPOSITION OF IMPROVEMENTS

10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY

It is the express understanding and intent of the parties that the terms and conditions of this Lease, and in particular of this Article 10, are intended in part to preserve the affordability of any Home on the Leased Land, thereby expanding and maintaining access to Homeownership opportunities for income qualified households, who, absent such provisions, would be unable to afford them.

Attachment B

10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO SDCLT OR QUALIFIED PERSONS

Homeowner may sell, transfer, or otherwise dispose of its interest in the Leased Land or Home only to the SDCLT or to an Income Qualified Resident as defined below or otherwise only as explicitly permitted by the provisions of this Article 10. All such transfers shall be subject to SDCLT's review and purchase option rights set forth in this Article 10. Any purported transfer done without following the procedures set forth below, except in the case of a transfer to a Permitted Mortgagee in lieu of foreclosure, shall be null and void.

"Income Qualified Resident" shall mean a person or group of persons within a household whose combined income does not exceed _____ percent (____%) of the median household income for San Diego County, California as calculated and adjusted for household size from time to time by the California Department of Housing and Community Development (HCD) in the "Official State Income Limits" published in Section 6932 of Title 25 of the California Code of Regulations or any successor thereto.

10.3 THE HOME MAY BE TRANSFERRED TO CERTAIN HEIRS OF HOMEOWNER

Upon receipt of notice from the executor or administrator of the decedent's estate given within ninety (90) days of the death of a Homeowner (or the last surviving co-owner of the Home) SDCLT shall, unless for good cause shown, consent to a transfer of Home and an assumption of this Lease to heirs of Homeowner provided that such persons

a) are:

- 1) the spouse of the Homeowner,
- 2) the child or children of the Homeowner or
- 3) member(s) of the Homeowner's household who have resided upon the Leased Land for at least one year immediately prior to the Homeowner's death; and

b) demonstrate to SDCLT's reasonable satisfaction that they meet the definition of Income Qualified Resident, as defined above; and

c) execute a Letter of Stipulation substantially in the form of Exhibit A attached to this Lease, setting forth the heirs' review, understanding, and acceptance of the terms of the Lease, submitted to SDCLT to be attached to the Lease when it is transferred to the heirs.

Any other person or persons who are heirs, legatees or devisees of Homeowner but do not meet the above qualifications shall not be entitled to possession of the Leased Land but must transfer the Leased Land in accordance with the provisions of this Article 10 within 12 months of inheritance.

10.4 HOMEOWNER'S NOTICE OF INTENT TO SELL

In the event that Homeowner wishes to transfer its interest in the Leased Land and Home, Homeowner shall promptly notify SDCLT in writing of such wish ("the Notice of Intent to Sell"), in the form attached as Exhibit G to this Lease. The Homeowner's Notice of Intent to Sell shall be sent to the SDCLT by certified mail, return receipt requested at the address provided in Section 14.1 of this Lease.

Attachment B

THE HOMEOWNER SHOULD NOT CONTRACT WITH A REAL ESTATE BROKER TO SELL THE IMPROVEMENTS UNTIL THE HOMEOWNER HAS RECEIVED THE SDCLT'S NOTICE OF EXERCISE OF OPTION OR THE PURCHASE OPTION HAS EXPIRED, AS THE SERVICES OF A BROKER WILL NOT BE REQUIRED IF THE SDCLT EXERCISES THE PURCHASE OPTION PURSUANT TO SECTION 10.7, AND IN SUCH EVENT NO BROKERAGE COMMISSION WILL BE PAID TO A THIRD PARTY.

Within thirty (30) days of delivery of the Notice of Intent to Sell, the Homeowner shall obtain and deliver to the SDCLT a current written report of inspection of the Home by a licensed structural pest control operator. Homeowner shall allow the SDCLT or a designee to inspect the Home to determine their physical condition, and, if requested by the SDCLT, following such inspection, the Homeowner shall obtain and deliver to the SDCLT a home inspection report prepared by a licensed home inspector.

10.5 SDCLT TO OBTAIN APPRAISAL OF HOME

No later than ten (10) business days after SDCLT's receipt of a complete Homeowner's Notice of Intent to Sell that includes all information required under Section 10.4, including SDCLT's receipt of the pest control report and home inspection report (if any) required pursuant to Section 10.4 above, SDCLT shall commission a certified MAI or other qualified real estate appraiser to perform an appraisal of the fair market value of the Land and Home as if they were a fee simple property and not subject to the terms and conditions of this Lease. The value of the Land and Home together as if they were fee simple property and not subject to the terms and conditions of the Ground Lease shall be referred to in this Ground Lease as the "Appraised Value". SDCLT shall pay for the appraisal required by this Section 10.5.

10.6 SDCLT'S RESPONSE TO NOTICE OF INTENT TO SELL.

SDCLT shall respond in writing (the "First Response Notice") to Homeowner's Notice of Intent to Sell within sixty (60) days of SDCLT's receipt of a complete Homeowner's Notice of Intent to Sell that includes all information required under Section 10.4, including SDCLT's receipt of the pest control report and home inspection report (if any) required pursuant to Section 10.4 above. The First Response Notice shall inform Homeowner of the Purchase Option Price, as determined by SDCLT and of the SDCLT's election to proceed under one of the following two (2) alternatives:

- a) SDCLT Exercise of Purchase Option. The First Response Notice may notify the Homeowner that the SDCLT elects to exercise the Purchase Option, or assign the Purchase Option to an Assignee.
- b) Homeowner Sale to Eligible Purchaser. In the event the First Response Notice notifies the Homeowner that the SDCLT will not exercise or assign the Purchase Option then Homeowner may proceed to sell the Home and transfer the Leased Land to an Eligible Purchaser, for a price not to exceed the Purchase Option Price, pursuant to the procedure set forth in Section 10.9 below. In this event, the First Response Notice shall include the following information: (1) the maximum qualifying income for an Eligible Purchaser; and (2) the certifications required of an Eligible Purchaser.
- c) SDCLT Failure to Respond. If SDCLT does not respond in the manner set forth in this Section, Homeowner shall make a good faith effort to inform SDCLT of

Attachment B

Homeowner's intent to convey the Home. Such good faith effort shall include but not be limited to sending another Notice of Intent to Sell to SDCLT (the "Second Notice of Intent to Sell") a copy of which shall be also sent to the Jurisdiction at the address provided in Section 14.1. In the event Homeowner has made a good faith effort to inform SDCLT of Homeowner's intent to sell the Home and has sent a Second Notice of Intent to Sell and SDCLT does not send the Response Notice within thirty (30) days of receipt of such Second Notice of Intent to Sell, Homeowner may proceed to sell the Home to an eligible purchaser in accordance with Section 10.9.

10.7 HOMEOWNER ACKNOWLEDGEMENT OF FIRST RESPONSE NOTICE.

No later than five (5) business days following the date of the First Response Notice, the Homeowner shall acknowledge in writing to the SDCLT that he/she has received the First Response Notice and still intends to complete a sale of the Home.

10.8 SDCLT HAS AN OPTION TO PURCHASE THE HOME.

Homeowner agrees that the SDCLT shall have the option to purchase the Home for the Purchase Option Price (the "Purchase Option"). The Purchase Option is designed to further the purpose of preserving the affordability of the Home for succeeding Eligible Purchasers while taking fair account of the investment by the Homeowner. In addition, the SDCLT may, instead of purchasing the Home itself, assign the right to purchase the Home to a public agency, a nonprofit corporation, or to an Eligible Purchaser (the "Assignee"). If the SDCLT assigns the Purchase Option, the Assignee shall sign the First Response Notice and shall thereby be bound to purchase the Home pursuant to the terms of the Purchase Option as set forth in this Lease.

The Homeowner may be required to pay the SDCLT a transaction fee equal to the SDCLT's reasonable costs associated with the exercise of the Purchase Option if the SDCLT (or its assignee) exercises the Purchase Option and purchases the Home; provided, however that such transaction fee shall not exceed three percent (3%) of the sales price of the Home. The Purchase Option may be exercised by the SDCLT or Assignee in the First Response Notice. If the First Response Notice notifies the Homeowner that the SDCLT or Assignee will exercise the Purchase Option, the SDCLT or Assignee (as applicable) shall purchase the Home within forty five (45) days of the date of the First Response Notice and title to the Home shall be delivered by the Homeowner to the SDCLT or Assignee (as applicable) by deed, free and clear of any mortgage or other liens unless approved in writing by the purchaser. In the event SDCLT or Assignee (as applicable) fails to purchase the Home within the forty-five (45) day period identified above or such later date as may be mutually agreed to in writing by the parties, Homeowner may transfer the Home to an Eligible Purchaser for the Purchase Option Price and in accordance with Section 10.9.

10.9 SALE TO ELIGIBLE PURCHASER

If the First Response Notice tells Homeowner to proceed with a sale of the Home to an Eligible Purchaser, if the SDCLT or Assignee does not exercise or complete its option to purchase in accordance with Section 10.8, or if the SDCLT does not respond to Homeowner as provided in Section 10.6(c), Homeowner may proceed to sell the Home in compliance with the following requirements:

- a) Marketing Period. The Homeowner shall use bona fide good faith efforts to sell the Home to an Eligible Purchaser in compliance with this Article 10,

Attachment B

including listing the Home on the Multiple Listing Service, keeping the Home in an orderly condition, making the Home available to show to agents and prospective buyers, and providing buyers with Eligible Purchaser requirements, including income qualifications and an updated version of the Lease. A household that proposes to purchase the Home ("Proposed Purchaser") who the Homeowner believes will qualify as an Eligible Purchaser shall be referred to SDCLT or its designee for an eligibility determination.

- b) Eligible Purchaser. Eligible Purchaser shall mean a Proposed Purchaser who meets the following requirements, as determined by SDCLT:
1. Income Qualified Resident. The Proposed Purchaser shall be an Income Qualified Resident as defined in Article 10.2 of this lease.
 2. Intent to Occupy. The Proposed Purchaser shall certify that he or she will occupy the Home and Leased Land as his or her principal place of residence throughout his or her ownership.
 3. Agreement to Sign Updated Lease, Letter and to Cooperate with SDCLT. The Proposed Purchaser shall agree to sign an updated Ground Lease restricting future resale of the Home and transfer of the Leased Land and updated Letter of Stipulation (as defined in Section 1.1(a)). The proposed purchaser shall also cooperate fully with the SDCLT in providing, within five (5) business days of SDCLT's request, all information requested by the SDCLT to assist the SDCLT in monitoring the proposed purchaser's compliance with the Lease.
- c) Disclosure and Submittals. The Homeowner and the Proposed Purchaser shall provide the following information and documents to the SDCLT:
1. The name, address and telephone number in writing of the Proposed Purchaser.
 2. A signed financial statement of the Proposed Purchaser in a form acceptable to the SDCLT and any other supporting documentation requested by the SDCLT. The financial information shall be used by the SDCLT to determine the income eligibility of the Proposed Purchaser.
 3. The proposed sales contract and all other related documents that shall set forth all the terms of the sale of the Home. Said documents shall include at least the following terms: (a) the sales price; and (b) the price to be paid by the Proposed Purchaser for the Homeowner's personal property, if any, for the services of the Homeowner, if any, and any credits, allowances or other consideration, if any.
 4. A sworn statement, the form of which is attached hereto as Exhibit H, from the Homeowner and the Proposed Purchaser in a form acceptable to the SDCLT, that the sale shall be closed in accordance with the terms of the sales contract and other documents submitted to and approved by the SDCLT. In any event, any costs, liabilities or obligations incurred by the Homeowner and the Proposed

Attachment B

Purchaser for the return of any moneys paid or received in violation of this Ground Lease or for any of the Homeowner's and/or the Proposed Purchaser's costs and legal expenses, shall be borne by the Homeowner and/or the Proposed Purchaser and, without limiting any of Homeowner's other obligations to indemnify SDCLT, Homeowner and/or Proposed Purchaser shall hold the SDCLT and its designee harmless and reimburse the SDCLT's and its designee's expenses, legal fees and costs for any action they reasonably take in good faith in enforcing the terms of this Lease.

5. A new form of Ground Lease and Letter of Stipulation, as updated and provided by the SDCLT, executed by the Proposed Purchaser. The recordation of the new Ground Lease shall be a condition of the SDCLT's approval of the proposed sale.
6. The name of the title company escrow holder for the sale of the Home, the escrow number, and name, address, and phone number of the escrow officer.
7. Upon the close of the proposed sale, certified copies of the recorded Lease, a copy of the final sales contract, settlement statement, escrow instructions, and any other documents that the SDCLT may reasonably request.

10.10 FAILURE TO LOCATE AN ELIGIBLE PURCHASER

If, after six (6) months from the date Homeowner receives a First Response Notice informing Homeowner that Homeowner may transfer the Home to an Eligible Purchaser (or six (6) months after Homeowner sent a Second Notice of Intent to Convey to which SDCLT does not respond as provided for in Section 10.6(c)), and provided that the Homeowner has used good faith efforts to market the Home to an Eligible Purchaser during the entire six month period in accordance with Section 10.9(a), and the Home still have not been sold, Homeowner shall notify SDCLT (the "Notice of Failure to Locate Eligible Purchaser"). Within forty-five (45) days of receipt of the Notice of Failure to Locate Eligible Purchaser, the SDCLT shall respond in writing (the "Second Response Notice") to Homeowner's Notice of Failure to Locate Eligible Purchaser.

In the event Homeowner delivers the Notice of Failure to Locate an Eligible Purchaser, Homeowner grants to SDCLT the option to purchase the Home for the Purchase Option Price. If the SDCLT assigns the Second Purchase Option, the Assignee shall sign the Second Response Notice and shall thereby be bound to purchase the Home pursuant to the terms of this Section 10.10. If the Second Response Notice notifies the Homeowner that the SDCLT or Assignee will exercise the Second Purchase Option, the SDCLT or Assignee, as applicable, shall purchase the Home within sixty (60) days of the date of the Second Response Notice and title to the Home shall be delivered by the Homeowner to such purchaser by deed, free and clear of any mortgage or other liens, unless approved in writing by the purchaser.

IN THE EVENT THE SDCLT DOES NOT EXERCISE THE SECOND PURCHASE OPTION, THE HOMEOWNER MAY SELL TO ANY PERSON OR ENTITY UNDER ANY TERMS PROVIDED THAT ANY NET PROCEEDS REALIZED FROM SUCH SALE IN EXCESS OF THE PURCHASE OPTION PRICE AS DEFINED IN SECTION 10 OF THIS LEASE SHALL BE PAID TO THE SDCLT AS EXCESS PROCEEDS.

Attachment B

10.11 PURCHASE OPTION PRICE EQUALS LESSER OF APPRAISED VALUE OF HOMEOWNER'S OWNERSHIP INTEREST OR FORMULA PRICE

The Purchase Option Price shall be the **lesser** of (a) the price calculated in accordance with the formula described below ("the Formula Price") or (b) the Appraised Value as determined by an Appraisal conducted according to the terms of Section 10.5 of this Lease.

CALCULATION OF THE FORMULA PRICE: The Formula Price shall be equal to the Purchase Price of the Home paid by the Homeowner ("Initial Purchase Price"), plus:

- a) **INDEXED APPRECIATION:** an increase in an amount equal to the Initial Purchase Price multiplied by the percentage change in the median household income for San Diego County California as determined from time to time by the California Department of Housing and Community Development (HCD) or any successor thereto. Such change shall be measured by comparing the median household income on the date of the sale of the Home to Homeowner to the median household income on the date the determination is made and adjusted to provide a prorated increase for any partial years of ownership. In the event that the median household income declines during the term of ownership, no adjustment will be made to the formula price.
- b) **CAPITAL IMPROVEMENTS CREDIT:** an increase to reflect the depreciated value of any Eligible Capital Improvements (hereinafter defined) made by Homeowner.

The term "Eligible Capital Improvements" shall mean only those improvements approved in writing by the SDCLT or its designee in accordance with SDCLT's Capital Improvements Policy as revised from time to time. To qualify for an Eligible Capital Improvement, Homeowner must submit a request for approval to SDCLT or its designee in advance of performing any work, along with plans and specifications for the proposed work, and contractor bids or other cost estimates and any other items required by SDCLT's Capital Improvements Policy. SDCLT or its designee shall approve any Eligible Capital Improvements prior to the commencement of construction. The Approved Value of any Eligible Capital Improvement shall not exceed eighty-five percent (85%) of the documented costs of such improvement. SDCLT shall have an opportunity to inspect to insure completion and satisfactory workmanship prior to issuing a final letter stating the Approved Value of an Eligible Capital Improvement and the approved depreciation schedule.

The Total Capital Improvements Credit claimed at the time of sale for all Eligible Capital Improvements shall not exceed five percent (5%) of the sum of the Initial Purchase Price plus the Indexed Appreciation calculated according to Article 10.11.a.

Nothing in this section shall prohibit Homeowner from making an improvement, which does not qualify as a Eligible Capital Improvement. However, only Eligible Capital Improvements, authorized in advance and approved after completion by SDCLT or its designee, may be included in the calculation of the Formula Price, as set forth herein.

- c) **EXCESSIVE DAMAGE CHARGE:** a decrease in the amount equal to the value of any excessive damage or neglect. Excessive damage or neglect is defined as damages beyond normal wear and tear. Such excessive damage may be described as, but not necessarily be limited to holes in walls, damaged or neglected floor coverings and Capital Systems, severely degenerated interior or exterior painted

Attachment B

surfaces, damage resulting from neglected Capital Systems, or missing essential household fixtures that were originally a part of the edifice. Determination of excessive damage value will be at the sole discretion of the SDCLT and/or its agents.

The Formula Price, therefore, shall be calculated as follows:

Initial Purchase Price	\$ _____
Plus Indexed Appreciation	+ \$ _____
Plus Capital Improvements Credit, if any	+ \$ _____
Less Excessive Damage Charge, if any	- \$ _____
Equals Formula Price	= \$ _____

10.12 QUALIFIED PURCHASER'S CHOICE OF NEW LEASE OR ASSIGNMENT OF EXISTING LEASE

An Income-qualified Resident who purchases the Home in accordance with the provisions of this Article 10 shall have the option of receiving either an assignment of this Lease from the seller, with the approval of SDCLT, or a new Lease from SDCLT, which new Lease shall be substantially the same as this Lease in the rights, benefits and obligations assigned to Homeowner and SDCLT.

10.13 PURCHASER MAY BE CHARGED A TRANSFER FEE

In the event that Homeowner sells the home to a party other than the SDCLT (whether directly to such party or as a result of SDCLT's assignment of its Purchase Option to such party), the price to be paid by such purchaser shall include in addition to the Purchase Option Price, at the discretion of the SDCLT, a transfer fee to compensate the SDCLT for carrying out its responsibilities with regard to the transaction. The amount of the transfer fee shall be no more than ___% of the Purchase Option Price.

10.14 HOMEOWNER REQUIRED TO MAKE NECESSARY REPAIRS AT TRANSFER

The Homeowner is required to make necessary repairs when she voluntarily transfers the Home as follows:

- a) The person purchasing the Home ("Buyer") shall, prior to purchasing the Home, hire at its sole expense a building inspector with a current Home Inspector license from the _____ [licensing agency] to assess the condition of the Home and prepare a written report of the condition ("Inspection Report"). The Homeowner shall cooperate fully with the inspection.
- b) The Buyer shall provide a copy of the Inspection Report to Buyer's lender (if any), the Homeowner, and the SDCLT within 10 days after receiving the Inspection Report.

Attachment B

- c) Homeowner shall repair specific reported defects or conditions necessary to bring the Home into full compliance with Sections 4.2 and 7.6 above prior to transferring the Home.
- d) Homeowner shall bear the full cost of the necessary repairs and replacements. However, upon Homeowner's written request, the SDCLT may allow the Homeowner to pay all or a portion of the repair costs after transfer, from Homeowner's proceeds of sale, if Homeowner cannot afford to pay such costs prior to the transfer. In such event, either (i) 150% of the unpaid estimated cost of repairs or (ii) 100% of the unpaid cost of completed repairs shall be withheld from Homeowner's proceeds of sale in a SDCLT-approved escrow account. ***[Add the following sentence only if provision is made for a repair reserve:*** Also, upon Homeowner's written request, SDCLT may, at its discretion, agree to release funds from the Repair Reserve Fund to cover some or all of the cost of such repairs, provided that such use of the Reserve is in full compliance with Section 7.7 above.]
- e) Homeowner shall allow SDCLT, Buyer, and Buyer's building inspector and lender's representative to inspect the repairs prior to closing to determine that the repairs have been satisfactorily completed.
- f) Upon sale or other transfer, Homeowner shall either (i) transfer the Home with all originally purchased appliances or replacements in the Home in good working order or (ii) reduce the Purchase Option Price by the market value of any such appliances that are not left with the Home in good working order.

ARTICLE 11: RESERVED

ARTICLE 12: DEFAULT

12.1 WHAT HAPPENS IF HOMEOWNER FAILS TO MAKE PAYMENTS TO SDCLT THAT ARE REQUIRED BY THE LEASE

It shall be an event of default if Homeowner fails to pay the Lease Fee or other charges required by the terms of this Lease and such failure is not cured by Homeowner or a Permitted Mortgagee within thirty (30) days after notice of such failure is given by SDCLT to Homeowner and Permitted Mortgagee. However, if Homeowner makes a good faith partial payment of at least two-thirds (2/3) of the amount owed during the 30-day cure period, then the cure period shall be extended by an additional 30 days.

12.2 WHAT HAPPENS IF HOMEOWNER VIOLATES OTHER (NON-MONETARY) TERMS OF THE LEASE

It shall be an event of default if:

- a) SDCLT determines that the Homeowner has made a material misrepresentation to obtain the benefits of this Ground Lease and purchase of the Home;

Attachment B

- b) Homeowner fails to occupy the Home in accordance with Section 4.6;
- c) Homeowner fails to provide annual certifications in accordance with Section 1.2 or 9.4;
- d) Homeowner makes a Conveyance of the Home or Leased Land in violation of this Lease;
- e) Homeowner fails to maintain the Home or Leased Land in accordance with Article 4;
- f) Homeowner fails to maintain insurance in accordance with Article 9;
- g) A notice of default is issued under a Permitted Mortgage;
- h) A lien is recorded against the Home or Leased Land, other than a Permitted Mortgage;
- i) Homeowner otherwise fails to abide by any other material term or condition in this Lease.

In the event Homeowner defaults under this Section 12.2 Homeowner or a Permitted Mortgagee shall have thirty (30) days after notice of such failure is given by SDCLT to Homeowner and Permitted Mortgagee to cure such failure; provided however, that no cure period shall be provided in the event of a default described in Section 12.3. In the case where the Homeowner or Permitted Mortgagee has commenced to cure such default within such thirty (30) day period and is continuing such cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period may be extended by SDCLT, in its sole and absolute discretion, for such additional period as may be reasonably required under the circumstances to complete such cure.

12.3 WHAT HAPPENS IF HOMEOWNER DEFAULTS AS A RESULT OF JUDICIAL PROCESS

It shall be an event of default if the estate hereby created is taken on execution or by other process of law, or if Homeowner is judicially declared bankrupt or insolvent according to law, or if any assignment is made of the property of Homeowner for the benefit of creditors, or if a receiver, trustee in involuntary bankruptcy or other similar officer is appointed to take charge of any substantial part of Homeowner's property by a court of competent jurisdiction, or if a petition is filed for the reorganization of Homeowner under any provisions of the Bankruptcy Act now or hereafter enacted, or if Homeowner files a petition for such reorganization, or for arrangements under any provision of the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for payment of debts.

12.4 A DEFAULT (UNCURED VIOLATION) GIVES SDCLT THE RIGHT TO TERMINATE THE LEASE OR EXERCISE ITS PURCHASE OPTION

- (a) **TERMINATION:** In the case of any of the events of default described above, SDCLT may terminate this lease and initiate summary proceedings under applicable law against Homeowner, and SDCLT shall have all the rights and remedies consistent

Attachment B

with such laws and resulting court orders to enter the Leased Land and Home and repossess the entire Leased Land and Home, and expel Homeowner and those claiming rights through Homeowner. In addition, SDCLT shall have such additional rights and remedies to recover from Homeowner arrears of rent and damages from any preceding breach of any covenant of this Lease. If this Lease is terminated by SDCLT pursuant to an Event of Default, then, as provided in Section 7.7 above, upon thus assuming title to the Home, SDCLT shall pay to Homeowner and any Permitted Mortgagee an amount equal to the Purchase Option Price calculated in accordance with Section 10.9 above, as of the time of reversion of ownership, less the total amount of any unpaid Lease Fee and any other amounts owed to the SDCLT under the terms of this Lease and all reasonable costs (including reasonable attorneys' fees) incurred by SDCLT in pursuit of its remedies under this Lease.

If SDCLT elects to terminate the Lease, then the Permitted Mortgagee shall have the right (subject to Article 8 above and the attached Exhibit: Permitted Mortgages) to postpone and extend the specified date for the termination of the Lease for a period sufficient to enable the Permitted Mortgagee or its designee to acquire Homeowner's interest in the Home and the Leased Land by foreclosure of its mortgage or otherwise.

- b) **EXERCISE OF OPTION:** In the case of any of the events of default described above, Homeowner hereby grants to the SDCLT (or its assignee) the option to purchase the Home for the Purchase Option Price as such price is defined in Article 10 above. Within thirty (30) days after the expiration of any applicable cure period as established in Sections 12.1 or 12.2 above or within 30 days after any of the events constituting an Event of Default under Section 12.3 above, SDCLT shall notify the Homeowner and the Permitted Mortgagee(s) of its decision to exercise its option to purchase under this Section 12.4(b). Not later than ninety (90) days after the SDCLT gives notice to the Homeowner of the SDCLT's intent to exercise its option under this Section 12.4(a), the SDCLT or its assignee shall purchase the Home for the Purchase Option Price.

12.5 WHAT HAPPENS IF SDCLT DEFAULTS

SDCLT shall in no event be in default in the performance of any of its obligations under the Lease unless and until SDCLT has failed to perform such obligations within sixty (60) days, or such additional time as is reasonably required to correct any default, after notice by Homeowner to SDCLT properly specifying SDCLT's failure to perform any such obligation.

**ARTICLE 13:
ARBITRATION**

13.1 MEDIATION AND ARBITRATION ARE PERMITTED

Nothing in this Lease shall be construed as preventing the parties from utilizing any process of mediation or arbitration in which the parties agree to engage for the purpose of resolving a dispute.

13.2 HOMEOWNER AND SDCLT SHALL SHARE COST OF ARBITRATION

Homeowner and SDCLT shall each pay one half (50%) of any costs incurred in carrying out mediation or arbitration in which the parties have agreed to engage.

THE PARTIES AGREE AND ACKNOWLEDGE THAT: (1) THE ARBITRATOR'S AWARD SHALL BE FINAL AND BINDING ON THE PARTIES; (2) TO THE EXTENT THAT SUCH WAIVER IS AUTHORIZED AND ENFORCEABLE BY CALIFORNIA LAW, THE PARTIES ARE WAIVING THEIR RIGHT TO SEEK REMEDIES IN COURT, INCLUDING THE RIGHT TO A JURY TRIAL (3) PRE-ARBITRATION DISCOVERY IS GENERALLY MORE LIMITED THAN AND DIFFERENT FROM COURT PROCEEDINGS; (4) THE ARBITRATOR'S AWARD IS NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING AND ANY PARTY'S RIGHT TO APPEAL OR TO SEEK MODIFICATION OF RULINGS BY ARBITRATORS IS STRICTLY LIMITED; AND (5) THE ABOVE PROVISIONS REQUIRE ANY ARBITRATION TO TAKE PLACE IN San Diego COUNTY, CALIFORNIA

**ARTICLE 14:
GENERAL PROVISIONS**

14.1 NOTICES

Whenever this Lease requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice:

if to SDCLT:
San Diego Community Land Trust

if to Homeowner:
(name of Homeowner)

Attachment B

If to Jurisdiction :

All notices, demands and requests shall be effective upon being deposited in the United States Mail or, in the case of personal delivery, upon actual receipt.

14.2 HOMEOWNER'S MEMBERSHIP IN SDCLT

The Homeowner under this Lease shall automatically be a regular voting member of the SDCLT.

14.3 NO BROKERAGE

Unless otherwise set forth in the Letters of Stipulation and Acknowledgment, Homeowner warrants and represents that it has not dealt with any broker in connection with the consummation of this Lease. In the event any claim is made against SDCLT relative to dealings with brokers other than that set forth in the Letter of Stipulation, Homeowner shall defend the claim against SDCLT with counsel of SDCLT's selection and save harmless and indemnify SDCLT on account of loss, cost or damage which may arise by reason of any such claim. This indemnity contained in this Section shall survive the termination of the Lease.

14.4 SEVERABILITY AND DURATION OF LEASE

If any part of this Lease shall be unenforceable or invalid, such material shall be read out of this Lease and shall not affect the validity of any other part of this Lease or give rise to any cause of action of Homeowner or SDCLT against the other, and the remainder of this Lease shall be valid and enforced to the fullest extent permitted by law. It is the intention of the parties that their respective options to purchase and all other rights and options hereunder shall continue in full force and effect for the duration of the Term and any renewal thereof, and such options and other rights shall be considered to be coupled with an interest. In the event any such option or right shall be construed to be subject to any rule of law limiting the duration thereof, the time period for the exercising of such option or right shall be construed to expire twenty (20) years after the death of the following persons:

NOTE: List the children living as of the date of this Lease

14.5 RIGHT OF FIRST REFUSAL IN LIEU OF OPTION

If the provisions of the purchase option set forth in Article 10 of this Lease shall, for any reason, become unenforceable, SDCLT shall nevertheless have a right of first refusal to purchase the Home at the highest documented bona fide purchase price offer made to Homeowner. Such right shall be as specified in the attached Exhibit D (FIRST REFUSAL). Any sale or transfer contrary to this section, when applicable, shall be null and void.

14.6 WAIVER

The waiver by SDCLT of, or the failure of SDCLT to take action with respect to, any breach of any term or condition contained herein shall not be deemed to be a waiver of such term or condition with regard to any subsequent breach of such term or condition, or of any other term

Attachment B

or condition of the Lease. SDCLT may grant waivers in the terms of this Lease, but such must be in writing and signed by SDCLT before being effective.

The subsequent acceptance of Ground Lease Fee payments hereunder by SDCLT shall not be deemed to be a waiver of any preceding breach by Homeowner of any term or condition of this Lease, other than the failure of Homeowner to pay the particular Ground Lease Fee so accepted, regardless of SDCLT's knowledge of such preceding breach at the time of acceptance of such Ground Lease Fee payment.

14.7 SDCLT'S RIGHT TO PROSECUTE OR DEFEND

Homeowner shall, within five (5) business days of receiving such information, inform SDCLT in writing of any claim, demand, or charge made against the Leased Land or Home. SDCLT shall have the right, but shall be under no obligation, to prosecute or defend, in its own or the Homeowner's name, any actions or proceedings appropriate to the protection of SDCLT's title to, and Homeowner's interest in, the Leased Land. Whenever requested by SDCLT, Homeowner shall give SDCLT all reasonable aid in any such action or proceeding. In the event SDCLT prosecutes or defends in accordance with this Section, Homeowner shall reimburse SDCLT for SDCLT's reasonable expenses, which expenses shall be deemed Additional Ground Lease Fee.

14.8 INTERPRETATION

Whenever in this Lease a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand. The captions and table of contents appearing in this Lease are for convenience only, and are not a part of this Lease and do not in any way limit or amplify the terms and conditions of this Lease.

14.8 PARTIES BOUND

This Lease sets forth the entire agreement between the parties hereto with respect to the leasing of the Land; it is binding upon and inures to the benefit of the parties hereto and, in accordance with the provisions hereof, their respective successors in interest. This Lease may be altered or amended only by written notice executed by the parties hereto or their legal representatives or, in accordance with the provisions hereof, their successors in interest.

14.9 GOVERNING LAW

This Lease shall be interpreted in accordance with and governed by the laws of California. The language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against SDCLT or Homeowner.

14.10 RECORDING

The parties agree, as an alternative to the recordation of this Lease, to execute a so-called Notice of Lease or Short Form Lease in form recordable and complying with applicable law and reasonably satisfactory to the SDCLT. Any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease.

14.11 MEMO OF OPTION AND RIGHT OF FIRST REFUSAL

A Memorandum of Option and Right of First Refusal, the form of which is attached hereto as Exhibit I, evidencing the option and right of first refusal granted to SDCLT in Article 10, Section 12.4 and Section 14.4, shall be recorded concurrently with this Lease.

Attachment B

14.12 EXHIBITS

The Exhibits attached to this Ground Lease are incorporated into and made a part of this Lease.

14.13 COUNTERPARTS

This Ground Lease may be executed in counterparts.

14.14 ATTORNEYS FEES

The prevailing party in any action or proceeding brought by either party against the other under this Ground Lease shall be entitled to recover from the other party such court costs, costs and fees of the attorneys, paralegals, experts and consultants in such action or proceeding (whether in arbitration or at the administrative, trial or appellate levels) in such amount as the arbitrator or court may adjudge reasonable.

14.15 ESTOPPEL CERTIFICATES

Any party to this Lease may at any time deliver written notice to the other party requesting such party to certify in writing that, to the best knowledge of the certifying party: (i) this Lease is in full force and effect and a binding obligation of the party; (ii) this Lease has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; and (iii) the requesting party is not in default in the performance of its obligations set forth in this Lease or, if in default, to describe therein the nature and amount of any such defaults. A party receiving a request hereunder shall execute and return such certificate within sixty (60) days following the receipt thereof. Any third party, including a Permitted Mortgagee, shall be entitled to rely on the certificate executed pursuant to this Section.

IN WITNESS WHEREOF, the parties hereto have executed this Land Lease as of the date first above written.

HOMEOWNER:

Name: _____

Name: _____

SDCLT:

SAN DIEGO COMMUNITY LAND TRUST, INC., a California nonprofit public benefit corporation

Name: _____, Secretary

Attachment B

EXHIBIT A

LETTER OF STIPULATION

To: San Diego Community Land Trust (SDCLT)

Date: _____

This letter is given to SDCLT to become an exhibit to a Ground Lease between SDCLT and me. I will be leasing a parcel of land from SDCLT and will be buying the home that sits on that parcel of land. I will own only the home. I will not own the land on which my home sits. I will therefore become what is described here as a "land trust Homeowner."

SDCLT has advised me to seek legal counsel prior to purchasing my home and leasing the land. I have reviewed the Ground Lease and other legal documents that are part of this transaction. I understand the way these terms and conditions will affect my rights as a land trust Homeowner, now and in the future.

In particular I understand and agree with the following points.

- SDCLT's mission is to develop and preserve long-term affordable Homeownership for people of limited financial resources.
- SDCLT is the owner of the land on which the home I am buying is located.
- In the Ground Lease, my home is referred to as the "Home".
- The Price at which I may resell my home is limited by a resale formula in the Ground Lease.
- Both SDCLT and I agree that the terms and conditions of the Ground Lease require me to sell the home for a price affordable to another Income Qualified Resident.
- I intend to occupy my home according to the terms of the Ground Lease.
- Should I decide to sell my home, SDCLT will have the right to purchase my home for an affordable price before it is offered to anyone else. SDCLT may also approve a sale at an affordable price to an "Income Qualified Resident".
- The affordable price at which SDCLT or another purchaser would purchase my home is referred to as the Purchase Option Price in the Ground Lease.
- I understand that I can leave my home to my child or children or certain other members of my household and that, after my death, they can sell it on the terms permitted by the Ground Lease or if they are income eligible and agree to abide by the terms of the Ground Lease they can own the home for as long as they want to live in it.

Attachment B

- If my home is not left to my child or children or certain other family members, the person inheriting the home may be required to sell the home to another Eligible Purchaser.
- As a land trust Homeowner, it is my desire to see the terms of the Ground Lease and related documents honored. I consider these terms fair to me and others. I acknowledge the restrictions and requirements included in the Ground Lease and by signing this letter, I agree to them.
- I eagerly and freely accept the ownership of my home on the terms and conditions set forth in the Ground Lease.

Sincerely,

By: _____

Name: _____
(print)

By: _____

Name: _____
(print)

Date: _____

Attachment B

EXHIBIT B DESCRIPTION OF LEASED LAND

**EXHIBIT C
FORM OF DEED**

Attachment B

EXHIBIT D

FIRST REFUSAL

Whenever any party under the Ground Lease shall have a right of first refusal as to certain property, the following procedures shall apply. If the owner of the property offering it for sale ("Offering Party") shall within the term of the Ground Lease receive a bona fide, third-party offer to purchase the property that such Offering Party is willing to accept, the holder of the right of first refusal (the "Holder") shall have the following rights:

- a. Offering Party shall give written notice of such offer ("the Notice of Offer") to Holder setting forth (a) the name and address of the prospective purchaser of the property, (b) the purchase price offered by the prospective purchaser and (c) all other terms and conditions of the sale. Holder shall have a period of forty-five (45) days after the receipt of the Notice of Offer ("the Election Period") within which to exercise the right of first refusal by giving notice of intent to purchase the property ("the Notice of Intent to Purchase") for the same price and on the same terms and conditions set forth in the Notice of Offer. Such Notice of Intent to Purchase shall be given in writing to the Offering Party within the Election Period.
- b. If Holder exercises the right to purchase the property, such purchase shall be completed within sixty (60) days after the Notice of Intent to Purchase is given by Holder (or if the Notice of Offer shall specify a later date for closing, such date) by performance of the terms and conditions of the Notice of Offer, including payment of the purchase price provided therein.

EXHIBIT E

PERMITTED MORTGAGES

The rights and provisions set forth in this Exhibit shall be understood to be provisions of Section 8.2 of the of the Lease. All terminology used in this Exhibit shall have the meaning assigned to it in the Lease.

A. OBLIGATIONS OF PERMITTED MORTGAGEE

Any Permitted Mortgagee shall be bound by each of the following requirements unless the particular requirement is removed, contradicted or modified by a rider to this Lease signed by the Homeowner and the SDCLT to modify the terms of the Lease during the term of the Permitted Mortgage.

1. If Permitted Mortgagee sends a notice of default to the Homeowner because the Homeowner has failed to comply with the terms of the Permitted Mortgage, the Permitted Mortgagee shall, at the same time, send a copy of that notice to the SDCLT. Upon receiving a copy of the notice of default and within that period of time in which the Homeowner has a right to cure such default (the "cure period"), the SDCLT shall have the right to cure the default on the Homeowner's behalf, provided that all current payments due the Permitted Mortgagee since the notice of default was given are made to the Permitted Mortgagee.
2. If, after the cure period has expired, the Permitted Mortgagee intends to accelerate the note secured by the Permitted Mortgage or begin foreclosure proceedings under the Permitted Mortgage, the Permitted Mortgagee shall first notify SDCLT of its intention to do so, and SDCLT shall then have the right, upon notifying the Permitted Mortgagee within thirty (30) days of receipt of such notice, to acquire the Permitted Mortgage by paying off the debt secured by the Permitted Mortgage.
3. If the Permitted Mortgagee acquires title to the Home through foreclosure or acceptance of a deed in lieu of foreclosure, the Permitted Mortgagee shall give SDCLT written notice of such acquisition and SDCLT shall then have an option to purchase the Home from the Permitted Mortgagee for the full amount owing to the Permitted Mortgagee under the Permitted Mortgage. To exercise this option to purchase, SDCLT must give written notice to the Permitted Mortgagee of SDCLT's intent to purchase the Home within thirty (30) days following SDCLT's receipt of the Permitted Mortgagee's notice. SDCLT must then complete the purchase of the Home within sixty (60) days of having given written notice of its intent to purchase. If SDCLT does not complete the purchase within this 60-day period, the Permitted Mortgagee shall be free to sell the Home to another person.
4. Nothing in the Permitted Mortgage or related documents shall be construed as giving Permitted Mortgagee a claim on SDCLT's interest in the Leased Land, or as assigning

Attachment B

any form of liability to the SDCLT with regard to the Leased Land, the Home, or the Permitted Mortgage.

5. Nothing in the Permitted Mortgage or related documents shall be construed as rendering SDCLT or any subsequent Mortgagee of SDCLT's interest in this Lease, or their respective heirs, executors, successors or assigns, personally liable for the payment of the debt secured by the Permitted Mortgage or any part thereof.
6. The Permitted Mortgagee shall not look to SDCLT or SDCLT's interest in the Leased Land, but will look solely to Homeowner, Homeowner's interest in the Leased Land, and the Home for the payment of the debt secured thereby or any part thereof. (It is the intention of the parties hereto that SDCLT's consent to such the Permitted Mortgage shall be without any liability on the part of SDCLT for any deficiency judgment.)
7. In the event any part of the Security is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the Permitted Mortgagee in accordance with the provisions of ARTICLE 9 hereof.
8. SDCLT shall not be obligated to execute an assignment of the Lease Fee or other rent payable by Homeowner under the terms of this Lease.

B. RIGHTS OF PERMITTED MORTGAGEE

The rights of a Permitted Mortgagee as referenced under Section 8.6 of the Lease to which this Exhibit is attached shall be as set forth below.

1. Any Permitted Mortgagee shall, without further consent by SDCLT, have the right to (a) cure any default under this Lease, and perform any obligation required under this Lease, such cure or performance being effective as if it had been performed by Homeowner; (b) acquire and convey, assign, transfer and exercise any right, remedy or privilege granted to Homeowner by this Lease or otherwise by law, subject to the provisions, if any, in the Permitted Mortgage, which may limit any exercise of any such right, remedy or privilege; and (c) rely upon and enforce any provisions of the Lease to the extent that such provisions are for the benefit of a Permitted Mortgagee.
2. A Permitted Mortgagee shall not be required, as a condition to the exercise of its rights under the Lease, to assume personal liability for the payment and performance of the obligations of the Homeowner under the Lease. Any such payment or performance or other act by Permitted Mortgagee under the Lease shall not be construed as an agreement by Permitted Mortgagee to assume such personal liability except to the extent Permitted Mortgagee actually takes possession of the Home and Leased Land. In the event Permitted Mortgagee does take possession of the Home and Leased Land and thereupon transfers such property, any such transferee shall be required to enter into a written

Attachment B

agreement assuming such personal liability and upon any such assumption the Permitted Mortgagee shall automatically be released from personal liability under the Lease.

3. In the event that title to the estates of both SDCLT and Homeowner are acquired at any time by the same person or persons, no merger of these estates shall occur without the prior written declaration of merger by Permitted Mortgagee, so long as Permitted Mortgagee owns any interest in the Security or in a Permitted Mortgage.
4. If the Lease is terminated for any reason, or in the event of the rejection or disaffirmance of the Lease pursuant to bankruptcy law or other law affecting creditors' rights, SDCLT shall enter into a new lease for the Leased Land with the Permitted Mortgagee (or with any party designated by the Permitted Mortgagee, subject to SDCLT's approval, which approval shall not be unreasonably withheld), not more than thirty (30) days after the request of the Permitted Mortgagee. Such lease shall be for the remainder of the term of the Lease, effective as of the date of such termination, rejection or disaffirmance, and upon all the terms and provisions contained in the Lease. However, the Permitted Mortgagee shall make a written request to SDCLT for such new lease within sixty (60) days after the effective date of such termination, rejection or disaffirmance, as the case may be. Such written request shall be accompanied by a copy of such new lease, duly executed and acknowledged by the Permitted Mortgagee or the party designated by the Permitted Mortgagee to be the Homeowner thereunder. Any new lease made pursuant to this Section shall have the same priority with respect to other interests in the Land as the Lease. The provisions of this Section shall survive the termination, rejection or disaffirmance of the Lease and shall continue in full effect thereafter to the same extent as if this Section were independent and an independent contract made by SDCLT, Homeowner and the Permitted Mortgagee.
5. The SDCLT shall have no right to terminate the Lease during such time as the Permitted Mortgagee has commenced foreclosure in accordance with the provisions of the Lease and is diligently pursuing the same.
6. In the event that SDCLT sends a notice of default under the Lease to Homeowner, SDCLT shall also send a notice of Homeowner's default to Permitted Mortgagee. Such notice shall be given in the manner set forth in Section 14.2 of the Lease to the Permitted Mortgagee at the address which has been given by the Permitted Mortgagee to SDCLT by a written notice to SDCLT sent in the manner set forth in said Section 14.2 of the Lease.
7. In the event of foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure in accordance with the provisions of the Lease, at the election of the Permitted Mortgagee the provisions of Article 10, Sections 10.1 through 10.11 shall be deleted and thereupon shall be of no further force or effect as to only so much of the Security so foreclosed upon or transferred.

Attachment B

8. Before becoming effective, any amendments to this Lease must be approved in writing by Permitted Mortgagee, which approval shall not be unreasonably withheld. If Permitted Mortgagee has neither approved nor rejected a proposed amendment within 60 days of its submission to Permitted Mortgagee, then the proposed amendment shall be deemed to be approved.

C. STANDARD PERMITTED MORTGAGE AGREEMENT

A Standard Permitted Mortgage Agreement, as identified in Section 8.4 of this Lease, shall be written as follows, and shall be signed by Mortgagee and Homeowner.

This Agreement is made by and among:

_____ (Mortgagee) and
_____ ("Homeowner"),

Whereas:

- a) _____ SDCLT (the "SDCLT") and Homeowner have entered, or are entering, into a ground lease ("the Lease"), conveying to Homeowner a leasehold interest in the Land located at _____ ("the Leased Land"); and Homeowner has purchased, or is purchasing, the Home located on the Leased Land ("the Home").
- b) The Mortgagee has been asked to provide certain financing to the Homeowner, and is being granted concurrently herewith a mortgage and security interest (the "Mortgage") in the Leased Land and Home, all as more particularly set forth in the Mortgage, attached hereto as Schedule A.
- c) The Ground Lease states that the Homeowner may mortgage the Leased Land only with the written consent of SDCLT. The Ground Lease further provides that SDCLT is required to give such consent only if the Mortgagee signs this Standard Permitted Mortgage Agreement and thereby agrees to certain conditions that are stipulated herein ("the Stipulated Conditions").

Now, therefore, the Homeowner/Mortgagor and the Mortgagee hereby agree that the terms and conditions of the Mortgage shall include the Stipulated Conditions stated below.

ARTICLE 14: Stipulated Conditions:

1) If Mortgagee sends a notice of default to the Homeowner because the Homeowner has failed to comply with the terms of the Mortgage, the Mortgagee shall, at the same time, send a copy of that notice to the SDCLT. Upon receiving a copy of the notice of default and within that period of time in which the Homeowner has a right to cure such default (the "cure period"), the SDCLT shall have the right to cure the default on the Homeowner's behalf, provided that all current payments due the Permitted Mortgagee since the notice of default was given are made to the Mortgagee.

2) If, after such cure period, the Mortgagee intends to accelerate the note secured by the Mortgage or initiate foreclosure proceedings under the Mortgage, in accordance with the provisions of the Lease, the Mortgagee shall first notify SDCLT of its intention to do so and SDCLT shall have the right, but not the obligation, upon notifying the Mortgagee within thirty (30) days of receipt of said notice, to purchase the Mortgagee loans and to take assignment of the Mortgage.

Attachment B

3) *If the Mortgagee acquires title to the Home and Homeowner's interest in the Leased Land through foreclosure or acceptance of a deed in lieu of foreclosure, the Mortgagee shall give the SDCLT written notice of such acquisition and the SDCLT shall have an option to purchase the Home and Homeowner's interest in the Leased Land from the Mortgagee for the full amount owing to the Mortgagee; provided, however, that the SDCLT notifies the Mortgagee in writing of the SDCLT's intent to make such purchase within thirty (30) days following the SDCLT's receipt of the Mortgagee's notice of such acquisition of the Home and Homeowner's interest in the Leased Land; further provided that SDCLT shall complete such purchase within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the SDCLT does not complete the purchase within such period, the Mortgagee shall be free to sell the Home and Homeowner's interest in the Leased Land to another person;*

4) *Nothing in the Mortgage or related documents shall be construed as giving the Mortgagee a claim on SDCLT's interest in the Leased Land, or as assigning any form of liability to the SDCLT with regard to the Leased Land, the Home, or the Mortgage.*

5) *Nothing in the Mortgage shall be construed as rendering SDCLT or any subsequent holder of the SDCLT's interest in and to the Lease, or their respective heirs, executors, successors or assigns, personally liable for the payment of the debt evidenced by such note and such Mortgage or any part thereof.*

6) *The Mortgagee shall not look to SDCLT or SDCLT's interest in the Leased Land, but will look solely to Homeowner and Homeowner's interest in the Leased Land and the Home for the payment of the debt secured by the Mortgage. (It is the intention of the parties hereto that SDCLT's consent to the Mortgage shall be without any liability on the part of SDCLT for any deficiency judgment.)*

7) *In the event that any part of the Leased Land is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the Mortgagee in accordance with the provisions of Article 9 of the Lease.*

8) *Nothing in the Mortgage shall obligate SDCLT to execute an assignment of the Lease Fee or other rent payable by Homeowner under the terms of this Lease.*

By:

_____ for Mortgagee Date: _____
_____ for Homeowner/Mortgagor Date: _____

Attachment B

EXHIBIT F PERMITTED MORTGAGE AGREEMENT

EXHIBIT G

NOTICE OF INTENT TO SELL

To: San Diego Community Land Trust ("SDCLT")

From: _____ [name of owner(s)] ("Homeowner(s)")

Address of Home: _____ ("Home")

Date: _____

Please be notified pursuant to Section 10 of the Ground Lease between Homeowner and SDCLT dated _____, that the Homeowner intends to transfer the Home listed above.

A. The following information is provided to SDCLT, pursuant to Section 10 of the Ground Lease:

- 1. Address of Leased Land: _____
- 2. Date Homeowner Purchased Home: _____
- 3. Purchase Price paid by Homeowner when Home were purchased: _____
- 4. Date Homeowner intends to vacate Home: _____
- 5. Date Home will be placed on market: _____
- 6. Name and phone number of person for Homeowner to contact to schedule inspection:
 _____ and _____
 (name) (phone number)

B. I have not listed the Home for sale with a multiple listing service, or contacted a real estate broker or financial institution. I agree to prepare the Home for sale by:

- 1. obtaining a pest control report within thirty (30) days of the date of this notice,
- 2. allowing SDCLT or a designee to inspect the Home within thirty (30) days of this notice,
- 3. if requested by SDCLT following SDCLT's inspection, I will obtain a home inspection report from a licensed home inspector,
- 4. maintaining utility connections until the Home is transferred,
- 5. permitting a walk through by SDCLT or a designee prior to close of escrow or the transfer.

This Notice of Intent to Convey is certified by Homeowner to be true and correct and is signed on _____ [insert date] under penalty of perjury.

Attachment B

By: _____
Homeowner

By: _____
Homeowner

EXHIBIT H

CERTIFICATE OF SELLER AND PROPOSED OWNER

This Certificate (the "Certificate") is executed this ____ day of _____, 200_____, by _____ (the "Seller"), and _____ (the "Proposed Owner"), to be relied upon by San Diego Community Land Trust (the "SDCLT") in approving the sale of the Home (as defined below) to the Proposed Owner, subject to the terms of that certain Ground Lease dated _____, 20_____, and recorded against the Land (as defined below) on _____, 200_____, as Instrument Number _____ in the Official Records of the County of _____ County (the "Ground Lease"). The Proposed Owner intends to purchase from the Seller the home (the "Home") located on that certain real property located at _____, _____, CA _____ (the "Land"). The Proposed Owner intends to purchase the Home only and to lease the Land from the SDCLT.

Pursuant to Section 8(c)(4) of the Ground Lease, the Seller and the Proposed Owner hereby certify to the SDCLT that:

1. The purchase price of the Home does not exceed the Purchase Option Price (as such term is defined in the Ground Lease).
2. The purchase and sale of the Home shall be in accordance the terms and conditions of the sale contract and other documents submitted and approved by the SDCLT.
3. The Proposed Owner has not, nor has any other person paid and will not pay to the Seller, and the Seller has not received, and will not receive from the Proposed Owner nor any other person, money, or other consideration, including personal property, in addition to what is set forth in the sales contract and documents submitted and approved by the SDCLT.
4. The Proposed Owner and the Seller acknowledge that if the Home is purchased in violation of the Ground Lease or if false or misleading statements have been or are made in any documents submitted to the SDCLT or this Certificate, the SDCLT shall have the right to foreclose on the Home or file an action at law or in equity, as appropriate, notwithstanding the fact that the sale may have closed and become final as between the Proposed Owner and the Seller.
5. The Proposed Owner and Seller further acknowledge that any costs, liabilities, or obligations incurred by the Proposed Owner and Seller for the return of any monies paid or received in violation of the Ground Lease or for any of the Proposed Owner's and Seller's costs and legal expenses, shall be borne by the Seller and/or Proposed Owner and they shall hold the SDCLT and/or its designee harmless and reimburse the SDCLT's and/or its designee's expenses, legal fees and costs for any action the SDCLT and/or its designee reasonably take in good faith in enforcing the terms of this Agreement.

Attachment B

EXECUTED as of the date first written above.

Seller

Proposed Owner

Attachment B

EXHIBIT I TITLE REPORT

Attachment B

EXHIBIT J

(MEMORANDUM OF LEASE FORM)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

San Diego Community Land Trust

Attn: Executive Director

THIS SPACE FOR RECORDER'S USE ONLY

MEMORANDUM OF LEASE

THIS MEMORANDUM OF GROUND LEASE is dated as of _____, 2002,
and is by and between San Diego Community Land Trust, a California nonprofit public benefit
corporation (the "SDCLT") and _____ (the "Homeowner").

SDCLT and Homeowner have entered into that certain Ground Lease ("Lease") for
certain real property located in San Diego County, California, and by recordation of this
Memorandum of Ground Lease give notice of the unrecorded Ground Lease and place of public
record the following information:

Date of Lease: _____.

Description of Leased Land: See attached Exhibit A.

Date of Term Commencement: _____.

Term: The Initial Term of this Ground Lease ("Term") shall be the period from
_____, 2_____, through _____, 2____.

All Exhibits attached hereto and referenced herein shall be deemed incorporated herein
by this reference.

This Memorandum of Ground Lease in no way modifies or amends the provisions of the
Lease.

Attachment B

IN WITNESS WHEREOF, the parties have executed this Memorandum of lease as of the date first set forth above.

SDCLT

San Diego Community Land Trust, a California nonprofit public benefit corporation

By: _____

Its: _____

HOMEOWNER

By: _____

[Notarize signatures.]

Attachment B

EXHIBIT K

(MEMO OF OPTION AND RIGHT OF FIRST REFUSAL FORM)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

San Diego Community Land Trust

Attn: Executive Director

(Space Above This Line For Recorder's Use)

MEMORANDUM OF OPTION AND RIGHT OF FIRST REFUSAL

This Memorandum of Option and Right of First Refusal ("Memorandum") is entered into as of _____, 200__ by and between San Diego Community Land Trust, a California nonprofit public benefit corporation (the "SDCLT") and _____ (the "Homeowner") with respect to certain rights granted to the Homeowner under those certain options and rights of first refusal to purchase the Home (as defined below) contained in Article 10, Section 12.4, and Section 14.4 of that certain Ground Lease (as defined below).

Pursuant to the ground lease by and between SDCLT and Homeowner dated _____ (the "Ground Lease"), Homeowner is leasing from SDCLT that certain real property more particularly described in the attached Exhibit B (the "Leased Land"). Homeowner is the owner of those certain improvements constructed on the Leased Land (the "Home").

Section 10.7 of the Ground Lease grants to SDCLT or the Assignee the option to purchase the Home on the terms and conditions stated in Section 10.7 of the Ground Lease (the "First Option").

Section 10.9 of the Ground Lease grants to SDCLT or the Assignee a second option to purchase the Home on the terms and conditions stated in Section 10.9 of the Ground Lease (the "Second Option").

Section 12.4 of the Ground Lease grants to SDCLT an option to purchase the Home in the event of Homeowner's default on the terms and conditions stated in Section 12.4 of the Ground Lease (the "Default Option").

Section 14.4 of the Ground Lease grants to SDCLT a right of first refusal to purchase the Home on the terms and conditions stated in Section 14.4 of the Ground Lease (the "Right of First Refusal").

This Memorandum shall incorporate all of the terms and provisions of the First Option, the Second Option, Default Option, and the Right of First Refusal as though fully set forth in this Memorandum of Option and Right of First Refusal.

Attachment B

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the rights granted under the First Option, the Second Option, the Default Option, and the Right of First Refusal, of which this is a memorandum.

This Memorandum may be executed in any number of counterparts, all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS MEMORANDUM AS OF THE DATE FIRST WRITTEN ABOVE:

SDCLT:

By: _____

Name: _____

Its: _____

HOMEOWNER:

By: _____

Name: _____

By: _____

Name: _____

[Notarize Signatures.]

Attachment B

EXHIBIT L

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT, dated as of _____, 200_ (the "Reimbursement Agreement"), is hereby entered into by and between the San Diego Community Land Trust, a California nonprofit public benefit corporation ("SDCLT"), and _____ (the "Homeowner").

RECITALS

A. SDCLT and Homeowner have executed that certain Ground Lease and Purchase Option (the "Ground Lease") of even date of this Reimbursement Agreement, which leases the Leased Land for a Term of ninety-nine (99) years subject to specified restrictions that Homeowner's interest in the Home and Leased Land may be transferred only to Income Qualified Residents so as to expand and maintain access to Homeownership opportunities for income qualified households.

B. Homeowner may mortgage, pledge or encumber the Leased Land or any portion thereof to a Permitted Mortgagee pursuant to the terms and conditions of the Ground Lease. In the event that Homeowner defaults on any Permitted Mortgage, SDCLT has, among other rights and remedies specified in the Ground Lease, the right but not the obligation to cure such default on behalf of Homeowner prior to the commencement of any foreclosure proceeding or sale in lieu thereof.

C. SDCLT's right to make payments to cure a default by Homeowner on a Permitted Mortgage will be of benefit to SDCLT by allowing SDCLT to prevent the foreclosure of the Leased Land and Home. SDCLT's right to make payments to cure a default by Homeowner on a Permitted Mortgage will also be of benefit to Homeowner by allowing Homeowner to retain Homeowner's interest in the Leased Land and Home, and to avoid foreclosure.

D. To secure repayment from Homeowner to SDCLT for any payment made by SDCLT on behalf of Homeowner to cure a default under a Permitted Mortgage, Homeowner agrees to enter into this Reimbursement Agreement. Homeowner further agrees to secure Homeowner's repayment obligations set forth in this Reimbursement Agreement by a deed of trust to be recorded against Homeowner's interest in the Leased Land as set forth in the Ground Lease.

E. Unless otherwise defined in this Reimbursement Agreement, the capitalized words and terms used in this Reimbursement Agreement shall have the same meanings as set forth in the Ground Lease.

AGREEMENT

NOW, THEREFORE, based upon the foregoing Recitals, which are incorporated to the Reimbursement Agreement by this reference, and in consideration of the mutual covenants herein contained, it is agreed by and between the SDCLT and Homeowner as follows:

1. Cure of Loan Default. Pursuant to the terms and conditions of the Ground Lease and this Reimbursement Agreement, SDCLT has the right but not the obligation to make payments on behalf of Homeowner to a Permitted Mortgagee to fully or partially cure any default or delinquency in payments of a Permitted Mortgage.

2. Reimbursement Obligation of Homeowner. Homeowner shall reimburse SDCLT for any and all payments made by SDCLT to fully or partially cure any default or

Attachment B

delinquency in payments of a Permitted Mortgagee and for any costs incurred by SDCLT in making such payments, including but not limited to the cost of staff time and interest on the sums advanced by SDCLT at the maximum allowable interest rate pursuant to law. Such payments shall be delivered to SDCLT within thirty (30) days after written demand is made therefor from SDCLT to Homeowner. SDCLT may make such written demand to Homeowner at any time after making such payments to a Permitted Mortgagee. If such written demand is made by personal delivery to Homeowner or to the Leased Land, such demand shall be deemed given immediately upon such delivery. If such written demand is made by reliable overnight delivery service (such as FedEx), such demand shall be deemed given one business day after deposit of the written demand with the overnight delivery service. If such written demand is made by registered or certified U.S. Mail, such demand shall be deemed given three (3) business days after deposit of the written demand with the U.S. Postal Service.

3. Security for Reimbursement. The obligation of Homeowner to make the reimbursement payments to SDCLT required under Section 2 shall be secured by a leasehold deed of trust (the "Deed of Trust"), which shall encumber Homeowner's interest in the Leased Land and Home. Such Deed of Trust shall be executed by Homeowner and shall be recorded in the official records of San Diego County, California, at the time Homeowner acquires the interest in the Leased Land by way of the Ground Lease. Homeowner consents to recordation of such Deed of Trust in the official records of San Diego County, California. The Deed of Trust shall secure all amounts due from Homeowner and/or his, her or their successors and assigns as provided in this Reimbursement Agreement.

4. Notice of Default and Delinquency. Homeowner shall deliver to SDCLT a copy of any notice of default or delinquency in repayment of a Permitted Mortgage which Homeowner receives from or on behalf of a Permitted Mortgagee. Such notices shall be delivered to SDCLT within five (5) days of Homeowner's receipt of such notice from a Permitted Mortgagee.

5. Waivers.

(a) Homeowner expressly agrees that any payment due hereunder may be extended from time to time at SDCLT's sole and absolute discretion and that SDCLT may accept security in consideration for any such extension or release any security for this Reimbursement Agreement at its sole discretion all without in any way affecting the liability of Homeowner.

(b) No extension of time for payment of the amounts due pursuant to this Reimbursement Agreement made by agreement by SDCLT with any person now or hereafter liable for the payment of this Reimbursement Agreement shall operate to release, discharge, modify, change or affect the original liability of Homeowner under this Reimbursement Agreement, either in whole or in part.

(c) The obligations of Homeowner under this Reimbursement Agreement shall be absolute and Homeowner waives any and all rights to offset, deduct or withhold any payments or charges due under this Reimbursement Agreement for any reasons whatsoever.

(d) To the extent permitted by law, Homeowner waives presentment, demand, notice of protest and nonpayment, notice of default or delinquency, notice of acceleration, notice of

Attachment B

costs, expenses or leases or interest thereon, notice of dishonor, diligence in collection or in proceeding against any of the rights of interests in or to properties securing of this Reimbursement Agreement, and the benefit of any exemption under any homestead exemption laws, if applicable.

(e) No previous waiver and no failure or delay by SDCLT in acting with respect to the terms of this Reimbursement Agreement shall constitute a waiver of any breach, default, or failure or condition under this Reimbursement Agreement. A waiver of any term of this Reimbursement Agreement must be made in writing and shall be limited to the express written terms of such waiver.

6. Attorneys' Fees and Costs. Homeowner agrees that if any amounts due under this Reimbursement Agreement are not paid when due, Homeowner shall pay all costs and expenses, including but not limited to reasonable attorneys' fees, paid or incurred by SDCLT in connection with the collection or enforcement of this Reimbursement Agreement, whether or not suit is filed. Homeowner further agrees that the provisions of Section 14.14 of the Ground Lease regarding attorneys fees and costs shall be equally applicable to this Reimbursement Agreement.

7. Miscellaneous.

(a) **Term of Agreement.** This Reimbursement Agreement shall take effect upon the date set forth in the first paragraph hereof and shall remain enforceable for the Term of the Ground Lease. In the event that SDCLT or Homeowner terminates the Ground Lease for any reason whatsoever, the terms and conditions of this Reimbursement Agreement shall survive until such time as SDCLT has been fully reimbursed by Homeowner for any payments, costs, and expenses to which SDCLT is entitled under this Reimbursement Agreement.

(b) **Successor is Deemed Included in All References to Predecessor.** Whenever in this Reimbursement Agreement either Homeowner or SDCLT is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Reimbursement Agreement contained by or on behalf of Homeowner or SDCLT shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

(c) **Amendment.** No modification, rescission, waiver, release or amendment of any provision of this Reimbursement Agreement shall be made except by a written agreement executed by SDCLT and Homeowner.

(d) **Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received in the manner and to the addresses set forth in Article 14 of the Ground Lease unless this Reimbursement Agreement specifies otherwise.

(e) **Further Assurances and Corrective Instruments.** Homeowner shall execute any further documents consistent with the terms of this Reimbursement Agreement, including documents in recordable form, as SDCLT shall from time to time find necessary or appropriate to effectuate its purposes in entering into this Reimbursement Agreement.

Attachment B

(f) **Execution in Counterparts.** This Reimbursement Agreement may be executed in two or more separate counterparts, each of which, when so executed, shall be deemed to be an original. Such counterparts shall, together, constitute and shall be one and the same instrument.

(g) **Applicable Law.** This Reimbursement Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflict of law principles.

(h) **Captions.** The captions or headings in this Reimbursement Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Reimbursement Agreement.

[signatures on next page]

Attachment B

IN WITNESS WHEREOF, the SDCLT and Homeowner have duly executed this Reimbursement Agreement, all as of the date first above written.

“HOMEOWNER”

Name:

Name:

“SDCLT”

SAN DIEGO COMMUNITY LAND TRUST, INC., a California nonprofit public benefit corporation

By: _____

Its: _____

EXHIBIT M

(FORM OF DEED OF TRUST)

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

San Diego Community Land Trust

Attn: Executive Director

THIS SPACE FOR RECORDER'S USE ONLY

LEASEHOLD DEED OF TRUST

This LEASEHOLD DEED OF TRUST ("Deed of Trust") is made this ____ day of _____, 200__, by and among _____ [insert Homeowner] ("Trustor"), whose address is _____, California _____, _____ TITLE INSURANCE COMPANY, a California corporation ("Trustee"), and the SAN DIEGO COMMUNITY LAND TRUST, a California nonprofit public benefit corporation ("Beneficiary").

1. Grant In Trust. For the purposes and upon the terms and conditions in this Deed of Trust, Trustor grants, transfers, and assigns to Trustee, in trust, with power of sale and right of entry and possession, the following property and any interest therein (collectively, the "Trust Estate"): (a) Trustor's leasehold interest in and to that certain real property in the City of _____, County of San Diego, State of California, described as set forth in Attachment "1" attached hereto and incorporated herein by reference (the "Leased Land"), as provided by that certain Ground Lease and Purchase Option of even date herewith by and between Trustor and Beneficiary (the "Ground Lease"); and (b) all buildings, structures, and residential improvements, including the building fixtures, now or in the future located on and permanently affixed to the Land (the "Home") (collectively, the "Home" and together with the Leased Land shall sometimes be referred to as the "Site").

2. Obligations Secured. Trustor makes this grant and assignment for the purpose of securing the following: (a) payment of any amounts owed pursuant to that certain Reimbursement Agreement of even date herewith by and between Trustor and Beneficiary, and extensions, modifications or renewals thereof; and (b) payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or its successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust. Any capitalized terms contained in this Deed of Trust which are not defined herein shall have the meaning given in the Ground Lease, unless expressly provided to the contrary.

3. Payment Upon Sale, Encumbrance, Refinance, or Default. To the extent permitted by applicable law, if Trustor shall: (a) directly or indirectly, voluntarily or involuntarily, sell, assign, transfer, dispose of, alienate, encumber, lease, or agree to sell, assign, transfer, dispose of, alienate, encumber, or lease all or any portion of the Trust Estate (excluding the lien of a Permitted Mortgage, and any other assignment, transfer, or encumbrance approved in writing by Beneficiary pursuant to the terms and conditions of the Ground Lease); (b) unless otherwise approved in writing by Beneficiary, refinance any lien or encumbrance which has priority over the Deed of Trust; or (c) default on any of its obligations set forth in the

Attachment B

Reimbursement Agreement and fail to cure the default within any applicable cure period, Beneficiary, at its option, may declare the entire indebtedness evidenced hereby to be immediately due and payable and collectible then or thereafter as Beneficiary may elect, regardless of the date of maturity.

4. Incorporation of Fictitious Leasehold Deed of Trust. To protect the security of this Deed of Trust, and with respect to the Site above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B, of the fictitious deed of trust recorded in the San Diego County Recorder's Office on August 18, 1964, in the book and at the page of Official Records in the office of the county recorder of the county where said Site is located, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Kings	858	713	Placer	1028	379	Sierra	38	187
Alpine	3	130-31	Lake	437	110	Plumas	166	1307	Siskiyou	506	762
Amador	133	438	Lassen	192	367	Riverside	3778	347	Solano	1287	621
Butte	1330	513	Los Angeles	T-3878	874	Sacramento	5039	124	Sonoma	2067	427
Calaveras	185	338	Madera	911	136	San Benito	300	405	Stanislaus	1970	56
Colusa	323	391	Marin	1849	122	San Bernardino	6213	768	Sutter	655	585
Contra Costa	4684	1	Mariposa	90	453	San Francisco	A-804	596	Tehama	457	183
Del Norte	101	549	Mendocino	667	99	San Joaquin	2855	283	Trinity	108	595
El Dorado	704	635	Merced	1660	753	San Luis Obispo	1311	137	Tulare	2530	108
Fresno	5052	623	Modoc	191	93	San Mateo	4778	175	Tuolumne	177	160
Glenn	469	76	Mono	69	302	Santa Barbara	2065	881	Ventura	2607	237
Humboldt	801	83	Monterey	357	239	Santa Clara	6626	664	Yolo	769	16
Imperial	1189	701	Napa	704	742	Santa Cruz	1638	607	Yuba	398	693
Inyo	165	672	Nevada	363	94	Shasta	800	633			
Kern	3756	690	Orange	7182	18	San Diego	SERIES 5 Book 1964, Page 149774				

shall inure to and bind the parties hereto, with respect to the Site.

NOW, THEREFORE, Trustor has caused this Deed of Trust to be executed as of the date set forth above.

“TRUSTOR”

Name:

Name:

[Notarize Signatures]

Attachment B

DO NOT RECORD

The following is a copy of Subdivisions A and B of the fictitious Deed of Trust recorded in each county in California as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as if set forth at length therein.

A. To protect the security of this Deed of Trust, Trustor agrees:

1) To keep said property in good condition and repair, not to remove or demolish any building thereon; to complete or restore promptly and in a good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.

4) To pay: at least ten (10) days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary of Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from the date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

B. It is mutually agreed:

1) That any award in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

3) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien or charge hereof.

4) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in the performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or be a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collecting of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

6) That upon default by Trustor in payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property; which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any

Attachment B

portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

9) That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

<p>REQUEST FOR FULL RECONVEYANCE To be used only when note has been paid</p>	
<p>Date _____</p> <p>To: _____ Trustee: _____</p> <p>The undersigned is the legal owner and holder of all indebtedness secured by this Deed of Trust. All sums secured by said Deed of Trust have been paid, and you are requested, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel all evidences of indebtedness, secured by said Deed of Trust, delivered to you herewith and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, the estate now held by you under the same.</p>	
<p><u>Mail Reconveyance to:</u></p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>By: _____</p> <p>By: _____</p>
<p>Do not lose or destroy this Deed of Trust OR the Note which it secures. Both must be delivered to the Trustee for cancellation before reconveyance will be made.</p>	

Attachment B

ATTACHMENT "1" TO DEED OF TRUST

DESCRIPTION OF LEASED LAND

[Attached]

Community Land Trust Ground Lease Rider

[For use with CLT ground leases substantially based on either the Institute for Community Economics or the National Community Land Trust Network model ground lease as identified in Fannie Mae's *Selling Guide*]

THIS COMMUNITY LAND TRUST GROUND LEASE RIDER (the "Rider") is made this _____ day of _____, _____, and amends and supplements a certain ground lease (referred to herein as "the CLT Ground Lease") dated _____ that is by and between _____ as lessor (herein referred to as "the "Lessor" but may otherwise be referred to in the CLT Ground Lease as the "CLT") and _____, as lessee (herein referred to as "the "Lessee" but may otherwise be referred to in the CLT Ground Lease as "Homeowner"). This Rider shall be deemed incorporated into the CLT Ground Lease, and the CLT Ground Lease as amended by this Rider, shall hereafter be referred to as the "Lease." unless otherwise indicated.

The CLT Ground Lease is a long-term lease of the Lessor's fee interest in the land located at _____, referred to herein as the "Leased Land," as improved by a residential structure or unit, referred to herein as the "Improvements." The Leased Land and the Improvements are collectively referred to herein as the "Leased Premises."

This Rider amends the CLT Ground Lease for the purpose of enabling the Lessee to obtain Fannie Mae financing in the form of a mortgage or deed of trust given this ___ day of _____, _____, by Lessee to _____ (the "Specified Mortgage"), and the interest of the Specified Mortgagee in the Leased Premises as secured by such mortgage or deed of trust may be referred to herein as the "Leasehold Estate." The Specified Mortgage is recognized by Lessor as a "Permitted Mortgage" (or as such concept is otherwise defined) under the CLT Ground Lease, and the holder of the Specified Mortgage (the "Specified Mortgagee") is recognized as a "Permitted Mortgagee" (or as such concept is otherwise defined) under the CLT Ground Lease.

ADDITIONAL COVENANTS. Notwithstanding anything to the contrary contained in the CLT Ground Lease, and in addition to the covenants and agreements made in the CLT Ground Lease, the Lessor and the Lessee further covenant and agree, so long (but only so long) as the Specified Mortgagee, its successors and assigns shall have an interest in the Leased Premises, as a holder of the Specified Mortgage or as an owner of the Lessee's interest pursuant to any sale after or in lieu of foreclosure, the following provisions shall apply to the CLT Ground Lease as modifications thereof:

A. **No Assignment or Transfer.** The making of the Specified Mortgage shall not be deemed to constitute an assignment or transfer of the Lease or Leasehold Estate so as to require the Specified Mortgagee to assume the performance of any of the Lessee's obligations under the Lease.

B. **Status of the Fee Estate.** The Lessor represents and warrants that there is no existing mortgage on the fee estate, and so long as the Specified Mortgage shall remain on the Leased Premises, the Lessor and the Lessee shall not subordinate the Lease to any mortgage or lien that may hereafter be placed on the fee estate. Notwithstanding the foregoing, a state- or local-government entity ("Government Entity") may hold a prior recorded interest (represented by recorded covenants, a mortgage or deed of trust, other lien) on the fee estate if the Government Entity has agreed that in the event it (including its successors and assigns) succeeds to the interest of the Lessor under the Lease by any remedy available to the Government Entity by law or pursuant to its lien, the Government Entity shall recognize all the terms of the Lease and this Rider as though the Government Entity were acting as the Lessor. Such recognition

Attachment B

must include, but is not limited to, the provisions of this Rider whereby all provisions of the Lease regarding (a) occupancy of the Leased Premises as a primary residence by the Lessee, (b) limitation on assignment of, or sublease under, the Lease, (c) the price at which the Leasehold Estate may be transferred, and (d) the income of successive transferees, assignees or successors, shall, in the event of foreclosure or assignment in lieu of foreclosure of the Specified Mortgage, be of no further force or effect with respect to such Specified Mortgage or its successive transferees, assignees or successors. Further, in such event of the Government Entity succeeding to the interests of the Lessor, the Lessee hereby agrees to recognize the Government Entity as exercising all rights and privileges of the Government Entity as lessor under the Lease and this Rider.

Such agreement by the Government Entity may be evidenced by the agreement between the Government Entity and the Lessor under which the Government Entity's prior recorded interest is derived, or by use of a recognition agreement derived from a sample the Specified Mortgagee may obtain from Fannie Mae. Irrespective of any interest by a Government Entity, the Specified Mortgage shall constitute a first leasehold lien on the Leased Premises, and shall have priority over the Lessor's reversionary interest. If the Lessor conveys title to the Leased Land while the Specified Mortgage remains on the Leased Premises, the Lease shall remain in effect with the same priority thereto.

C. Termination, Forfeiture and Modification of Lease. There shall be no termination, forfeiture, or modification of the Lease, except as provided in this Rider, without the prior written consent of the Specified Mortgagee. The Lessor and Lessee shall amend the Lease from time to time as reasonably requested by the Specified Mortgagee, as long as the requested changes do not change the periodic fee, charge or payment due the Lessor for the rights accorded the Lessee under the Lease (the "Ground Lease Fee"), and do not materially or adversely affect the rights of Lessor or Lessee or their respective interests in the Leased Premises. An adjustment of the Ground Lease Fee may be made by the Lessor as provided in the Lease, without prior approval of the Specified Mortgagee, so long as written notice has been delivered to the Specified Mortgagee at least 60 days prior to the effective date of such adjustment with respect to adjustments other than those (i) that were scheduled at the time the Specified Mortgage was given, and (ii) reflecting routine, periodic updates to variable expenses such as property taxes and liability insurance premiums; provided, however, that the Specified Mortgagee shall have the right to arbitrate (as provided herein) any dispute as to an adjustment of the Ground Lease Fee.

D. New Lease. In the event the Lessee's interest in the Lease has been terminated, forfeited, or surrendered as provided in the Lease, and the Specified Mortgage remains outstanding, a new Lease shall automatically be created between the Lessor and the Specified Mortgagee, which Lease shall be for the remainder of the term of the Lease, with the same priority thereto, and shall be subject to the same terms of the Lease as would be applicable pursuant to Section E.1. below where the Specified Mortgagee had accelerated its note, foreclosed on the Specified Mortgage, taken an assignment in lieu of foreclosure, or exercised its other remedies for default.

E. Mortgage Default or Foreclosure. Subject to the following, upon the occurrence of an event of default under the Specified Mortgage (as determined by the Specified Mortgagee—an "Event of Default"), and without the consent of the Lessor, the Specified Mortgagee shall be permitted to accelerate its note, foreclose on the Specified Mortgage, take an assignment in lieu of foreclosure, or exercise its other remedies for default.

Further:

1. Upon the occurrence of an Event of Default under the Specified Mortgage, the Lessee shall immediately notify the Lessor of such Event of Default and shall submit to Lessor copies of all notices the Lessee received from the Specified Mortgagee relating thereto. The Specified Mortgagee

Attachment B

and the Lessor shall endeavor to communicate and cooperate in efforts to deal with the circumstances of the Event of Default and the actions the parties may take relating thereto; provided, however, the Specified Mortgagee shall have no obligation to give formal legal notice of the Event of Default to the Lessor.

2. The Lessee and the Specified Mortgagee agree that the Lessor shall have the right, but not the obligation, to cure an Event of Default in the Lessee's name and on the Lessee's behalf. If such cure is not effective and continuing, nothing herein shall be construed to prevent or delay the Specified Mortgagee from its pursuit of foreclosure and any other available remedies. The Lessee shall be responsible to the Lessor for all payments made, and expenses incurred, by the Lessor in curing such default.
3. Should the Lessor not choose to cure an Event of Default as specified above, the Lessor shall nevertheless have the option to purchase from the Specified Mortgagee its interest in the Leasehold Estate on the Leased Premises for the full amount owing to the Specified Mortgagee under the Specified Mortgage as of the date of closing of the purchase, upon written notice given by the Specified Mortgagee (the "Mortgagee Option Notice") not later than 60 days following acquisition of title to the Leasehold Estate by the Specified Mortgagee by foreclosure or by an assignment in lieu of foreclosure; provided, however, the Specified Mortgagee may give such written notice following the occurrence of an Event of Default under the Specified Mortgage and prior to the completion of foreclosure proceedings. If the Lessor elects to exercise such option to purchase, the Lessor shall give written notice to the Specified Mortgagee of the Lessor's intent to purchase the Leasehold Estate (the "Lessor Option Notice") within 45 days following the Specified Mortgagee's giving of the Mortgagee Option Notice; provided, however, at the option of the Lessor, in the event the Mortgagee Option Notice is given prior to the completion of foreclosure proceedings by the Specified Mortgagee, the Lessor shall, within such 45-day period, be able to give a written notice to the Specified Mortgagee that it will delay giving the Lessor Option Notice until a date that is not later than 30 days following written notice from the Specified Mortgagee of its acquisition of title to its interest in the Leasehold Estate on the Leased Premises.

The Lessor shall complete the purchase of the Specified Mortgagee's interest in the Leasehold Estate within 60 days of giving the Lessor Option Notice. If the Lessor does not complete the purchase within the allotted 60 days, the Specified Mortgagee shall be free to sell its interest to another person or entity. Further, if the Lessor does not complete the purchase within the allotted 60 days, the Lessor agrees to pay to the Specified Mortgagee its costs of holding its interest in the Leasehold Estate from the date of the Lessor Option Notice until the expiration of such 60-day period. If the Lessor does not purchase the Specified Mortgagee's interest in the Leasehold Estate as described herein, the Leasehold Estate may be transferred, mortgaged and sublet an unlimited number of times, and the Lessor shall not require a credit review or impose other qualifying criteria on any such transferee, mortgagee or sublessee.

4. In the event of foreclosure or assignment in lieu of foreclosure, which results in the conveyance of the Leasehold Estate on the Leased Premises from the Lessee, any adjustment of the Ground Lease Fee to reflect then current fair market rental value as provided in the Lease, shall be subject to the approval of the Specified Mortgagee. The Specified Mortgagee and the Lessor shall attempt to resolve any dispute concerning such adjustment of the Ground Lease Fee, through the normal interaction of the parties, or through formal mediation as the case may warrant. If the dispute remains unresolved, the Specified Mortgagee and the Lessor shall submit the dispute as to the fair market rental value to binding arbitration.
5. In the event the Specified Mortgagee acquires title to the Leasehold Estate on the Leased Premises through foreclosure or assignment in lieu of foreclosure of the Specified Mortgage, all provisions of the Lease regarding (a) occupancy of the Leased Premises as a primary residence by the Lessee, (b)

Attachment B

any limitation on the assignment of, or sublease under, the Lease, (c) any obligation to target certain populations in marketing the Leasehold Estate to potential transferees, (d) the price at which the Leasehold Estate on the Leased Premises may be transferred, and (e) the income of successive transferees, and their successors and assigns, shall be of no further force or effect with respect to such Specified Mortgagee or its successive transferees, assignees or successors. The foregoing sentence shall not be construed to invalidate other Lease provisions regarding permitted use of the Leased Premises. Any transfer or assignment of the Leasehold Estate encumbered by the Specified Mortgage as provided for in this paragraph shall be deemed a permitted sale, transfer or assignment of the Lease and the Leasehold Estate. Further, in such event, the Leasehold Estate may be transferred, mortgaged and sublet an unlimited number of times, and the Lessor shall not require a credit review or impose other qualifying criteria on any such transferee, mortgagee or sublessee.

F. Lease Default. There shall be no forfeiture or termination of the Lease except for (i) the nonpayment of amounts due under the Lease, and (ii) violation of one or more provisions of the Lease addressing the following: (a) prohibition or restrictions on the sale or transfer of the Lessee's interest (however, non-sale transfers resulting from marriage, divorce, death of a spouse, or a transfer otherwise permitted by applicable federal law, may not constitute a basis for default under the Lease, though the Lessor may require such transferee to agree to assume the transferor's obligations under the Lease), and (b) requirement that the Lessee occupy the Leased Premises as primary residence. Provided, however, such forfeiture or termination shall be subject to the Specified Mortgagee's right to cure a monetary default, or otherwise foreclose or take an assignment of the Leasehold Estate in lieu of foreclosure with respect to the Lessee's monetary or non-monetary default. Notwithstanding the foregoing, nothing herein shall be construed to require the Specified Mortgagee to cure any non-monetary default. Further, the Specified Mortgagee shall become subrogated to any and all rights of the Lessee with respect to such curing of a default. If the Lessee's default shall be cured as provided in the Lease, and the Specified Mortgagee shall discontinue its foreclosure or assignment in lieu of foreclosure proceedings, the Lease shall continue in full force and effect as if the Lessee had not defaulted. A default by the Lessee under the Lease shall constitute a default under the Specified Mortgage.

G. Lease Default Notice. Notwithstanding the notice requirements provided in the Lease, no default notice by the Lessor shall be deemed to have been given unless and until a copy thereof shall have been so given to the Specified Mortgagee.

H. Insurance. All insurance policies covering the Improvements shall by endorsement name the Specified Mortgagee as an additional insured and loss payee, and provide the Specified Mortgagee with 30 days' cancellation notice.

I. Casualty and Condemnation. If the Leased Premises are destroyed or taken to such an extent that the Lease is to be terminated, the insurance proceeds or condemnation award, as the case may be, shall be applied first in an amount sufficient to satisfy the Specified Mortgage. Upon the termination of the Lease as a result of a partial destruction or a condemnation of less than the entire Leased Premises, the total insurance proceeds or condemnation award, as the case may be, shall be paid to an appointed trustee, who shall first apply such insurance proceeds or condemnation award in accordance with the Specified Mortgage for restoration of the Improvements (if such trustee determines that the Improvements may reasonably be restored to a residential use consistent with the Lease), with the balance of such insurance proceeds or condemnation award to be allocated between the Lessor and Lessee as otherwise provided in the Lease. The Specified Mortgagee shall be entitled to participate in (i) the adjustment of all casualty losses and (ii) all condemnation proceedings and settlement discussions. Any insurance proceeds or condemnation award shall be applied in accordance with the Specified Mortgage. The Specified

Attachment B

Mortgagee shall also be entitled to participate in the adjustment of the Ground Lease Fee as a result of a partial destruction or taking.

J. Force Majeure. The Lessee shall not be in default where performance is delayed or prevented by "Acts of God," war, civil commotion, strikes, labor disputes or the like.

K. Easements and Alterations. Additions to and alternations in the Improvements may be made as provided in the Lease, as long as the value of the Leased Premises is not diminished. The Lessor, as owner of the fee interest in the Leased Land, shall join in all easements, permits and applications necessary for such development of the Leased Premises as is permitted under the Lease, provided that the Lessor shall have no liability or obligation under such easement, permit or application.

L. Arbitration. The Specified Mortgagee shall have the right to participate in any arbitration or legal proceedings between the Lessor and the Lessee. Any arbitration proceedings shall be conducted in accordance with arbitration statutes applicable in the state where the Leased Premises are located.

M. Merger. If the estates of the Lessor and Lessee are at any time owned by the same person, so long as the Specified Mortgagee has any interest in the security or in the Specified Mortgage, such person shall take all necessary steps to ensure that the Specified Mortgage constitutes a first lien on the combined estate.

N. Sublease. There shall be no modification, cancellation, or surrender of any subleases, or prepayment of rent thereunder without the consent of the Specified Mortgagee. If the Specified Mortgagee forecloses on the Leased Premises, or takes an assignment in lieu of foreclosure, all subtenants shall attorn to such Specified Mortgagee or its assignee.

O. Estoppel Certificate. The Lessor shall, from time to time, with 10 days written notice from the Specified Mortgagee, certify by written instrument, duly executed and acknowledged, to such Specified Mortgagee that the Lease has not been amended, the Lease is in full force and effect, that neither party is in default thereunder, and shall certify as to the existence of any offsets, counterclaims or defenses on the part of the Lessee.

Attachment B

P. Conflict. In the event of a conflict between the terms and provisions of this Rider and the terms and provisions of the Lease, the terms and provisions of this Rider shall control.

~~BY SIGNING BELOW, the Lessor and the Lessee accept and agree to the terms and conditions of this Rider.~~

IN WITNESS WHEREOF, the parties have executed this Rider at _____, on the day and year first written above.

LESSOR:

By: _____

Title: _____

LESSEE:

(Add notaries)

Instructions

Community Land Trust Ground Lease Rider

The Community Land Trust (CLT) Ground Lease Rider ensures the ground lease conforms to Fannie Mae's guidelines for mortgages secured by properties held under a community land trust ground lease.

Lenders should ensure their CLT partners approve the use of the revised version of Form 2100 (3/06 rev. 12/10). Loans are not eligible for purchase if delivered with prior versions of this form.

Copies

Original.

Printing Instructions

The PDF version of the form must be printed on letter size paper, using portrait format.

Instructions

The Community Land Trust Ground Lease Rider must be executed by both the lessor and lessee and must be recorded along with the ground lease.

Attachment B

FOURTH AMENDMENT EXHIBIT C

(2)RECORDING REQUEST BY:)
)
 CITY OF LEMON GROVE)
)
 WHEN RECORDED MAIL TO:)
 CITY CLERK)
 CITY OF LEMON GROVE)
 3232 MAIN STREET)
 LEMON GROVE, CA 91945)
)
 NO TRANSFER TAX DUE)

This space for Recorder's Use

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

AFFORDABLE HOUSING AGREEMENT AND REGULATORY AGREEMENT

(For-Sale Ground Leased Units)

Dated: _____

EFFECTIVE DATE: The Effective Date of this Agreement shall be the date the Owner takes ownership of the PROJECT, pursuant to the terms of the Option Agreement between Owner and the City of Lemon Grove dated September 22, 2014 as amended ("Option Agreement").

PROJECT NAME: Northside Commons (8084 Lemon Grove Way)

NOTICE: THIS REGULATORY AGREEMENT IMPOSES COVENANTS, CONDITIONS AND RESTRICTIONS ON THE PROPERTY WHICH STAY WITH THE PROPERTY FOR MANY YEARS, INCLUDING RESTRICTIONS ON THE RENT, SALE, AND THE USE AND MAINTENANCE OF THE PROPERTY.

In consideration of their mutual obligations and promises, the City of Lemon Grove AND the Lemon Grove Housing Authority, public bodies, corporate and politic (together the "CITY" or "AGENCY"), and THE SAN DIEGO COMMUNITY LAND TRUST ("SDCLT"), have entered this Affordable Housing Agreement and Regulatory Agreement ("REGULATORY AGREEMENT").

RECITALS.

A. SDCLT is the owner of certain real property, commonly known as 8084 Lemon Grove Way (APN 475-450-19-00) (the "Property") in the City of Lemon Grove that is the subject of this REGULATORY AGREEMENT and which is the location of the PROJECT (hereinafter defined).

B. On September 16, 2014, per City Council Resolution No. 2014-3284, the City Council approved the Option Agreement under which the Owner has the option to

Attachment B

purchase the Property from the City conditioned on Owner's commitment to construct a minimum of nine (9) affordable housing units on the property, each of which shall be sold at a purchase price affordable to households earning 120 percent or less of the San Diego Median Income subject to the terms and conditions of a ground lease recorded against the Property (hereinafter referred to as the "PROJECT").

C. The affordability covenants and restrictions contained in this REGULATORY AGREEMENT include, without limitation, the requirement that SDCLT make available and sell the housing units in the PROJECT ("AFFORDABLE HOUSING UNITS") to households with incomes that do not exceed the limits defined under California Health and Safety Code Sections 50052.5 and 25 California Code of Regulations Section 6920, for moderate income households, adjusted for family size ("Moderate Income Households"), all at a purchase price affordable to Moderate Income Households in accordance with and as defined by the San Diego County Area Median Income and State Income Limits established annually by the State of California Department of Housing and Community Development. For purposes of calculation, the "Affordable Housing Cost" as defined under the above-referenced regulations shall not exceed 35 percent of the gross income of the household. .

D. This REGULATORY AGREEMENT is being recorded and shall remain in effect for not less than fifty-five (55) years and shall commence on the date of final building permit approval of the PROJECT.

E. This Covenant shall run with the land and be binding upon and inure to the benefit of the future owners, encumbrances, successors, heirs, personal representatives, transferees and assigns of the respective parties.

F. If either party is required to incur costs to enforce the provisions of this Covenant, the prevailing party shall be entitled to full reimbursement of all costs, including reasonable attorney's fees, from the other party. The AGENCY may assign to persons impacted by the performance of this Covenant the right to enforce this Covenant against SDCLT.

G. SDCLT is making this REGULATORY AGREEMENT to fulfill its conditions for development of the PROJECT and to obtain rights to develop the PROJECT. To meet the requirements of City of Lemon Grove City Council Resolution No. 2014 -3284 **[to be updated]** ("RESOLUTION"), as amended by subsequent Resolutions, this REGULATORY AGREEMENT must be signed prior to final occupancy and grading permit final for the PROJECT, as a condition of such approval, and recorded against the land in the PROJECT.

H. The AGENCY is charged with the responsibility for improving, increasing and maintaining the stock of affordable housing in the City of Lemon Grove. Pursuant to the RESOLUTION, the SDCLT is required to enter this REGULATORY AGREEMENT as a condition of the City's approval of development of the PROJECT to assure the development of the AFFORDABLE HOUSING UNITS. AGENCY is entering this REGULATORY AGREEMENT in reliance upon SDCLT's promise to meet the requirements of the RESOLUTION, by which the stock of affordable housing in the community will be increased.

Attachment B

ARTICLE I SPECIFIC PROVISIONS AND DEFINITIONS.

1. **DEFINITIONS.** The capitalized terms in this REGULATORY AGREEMENT shall have the meanings assigned in the following table and as defined in Article II General Provisions. (Terms being defined are indicated by quotation marks.)

AGREEMENT			
Agreement	Definitions		
"Effective Date"	The date the REGULATORY AGREEMENT shall be effective.		
"SDCLT" or "Owner"	Name	THE SAN DIEGO COMMUNITY LAND TRUST	
	Legal Form	California non-profit public benefit corporation	
	Address	10620 Trenea Street, Suite 230, San Diego, CA 92131	
PROJECT	The housing project that SDCLT wishes to develop and that is subject to this REGULATORY AGREEMENT. The PROJECT shall include the Affordable Housing Units. The PROJECT is located on the following PROJECT Property and consists of the following PROJECT Description.		
	"PROJECT Property"	Parcel Size	0.47 acres
		Assessor's Parcel Number	475-450-19-00
More particularly described in the "Legal Description" included in " <u>Exhibit 1 Legal Description</u> ".			

Attachment B

<p>“PROJECT Description”</p>	<p>The PROJECT consists of nine (9) 3-bedroom, 2 bathroom Units located at 8084 Lemon Grove Way in the City of Lemon Grove, each of the Units will be sold as Affordable Housing Units to eligible Homeowners subject to a ground lease restricting the resale price of the Affordable Housing Unit. References to the “sale” of the Units in this Agreement shall be deemed to mean the sale of an Affordable Housing Unit to a Homeowner subject to the Ground Lease, as defined below. Notwithstanding that the Homeowner will be a lessee under the Ground Lease, for purposes of affordability requirements, the Affordable Housing Unit will be deemed to be an owner-occupied Unit as defined in California Health and Safety Code Section 50092.1 because the Homeowner will own the improvements.</p>		
<p>“Affordable Housing Requirement”</p>	<p>The PROJECT requires the following number of Affordable Housing Units to be built as a condition to the development of the PROJECT:</p>		
	<p>“Affordability Level”:</p>	<p>Number :</p>	<p>Unit Description of Affordable Housing Units:</p>
	<p>“Very Low Income” units for rent</p>	<p>0</p>	<p>N/A</p>
	<p>“Low Income” units for rent</p>	<p>0</p>	<p>N/A</p>
	<p>“Moderate Income” units for rent</p>	<p>9</p>	<p>3 bedroom /2 bathroom units</p>
<p>“Affordable Housing Units” or “Unit”</p>	<p>The PROJECT consists of nine Affordable Housing Units to be sold to Homeowners, subject to resale restrictions in the Ground Lease.</p>		
<p>“Affordable Housing Developer”</p>	<p>If no Affordable Housing Developer is specified below, SDCLT is developing the Affordable Housing Units.</p>		
	<p>Name</p>		
	<p>Legal Form</p>		
	<p>Address</p>		
<p>“Exhibits”</p>	<p>Exhibit Number</p>	<p>Exhibit Title</p>	

Attachment B

	1	“Legal Description” (collectively refers to the PROJECT Legal Description and the Affordable Housing PROJECT Legal Description)
“Ground Lease”		That certain Ground Lease by and between SDCLT and the Homeowner and that certain FNMA Ground Lease Rider (collectively, “Ground Lease”) pursuant to which Homeowner ground-leases the land underlying the Affordable Housing Unit and pursuant to which Homeowner agrees to restrictions on the resale price of the Affordable Housing Unit, in substantially the form approved by AGENCY pursuant to the RESOLUTIONS.
“Affordable Purchase Price”		Purchase Price for an Affordable Housing Unit which is affordable to Moderate Income households as defined in California Health and Safety Code Sections 50052.5 and 25 California Code of Regulations (CCR) Section 6920, as adjusted for family size, in accordance with and as defined by the San Diego County Area Median Income and State Income Limits established annually by the State of California Department of Housing and Community Development. For purposes of calculation, the “Affordable Housing Cost” as defined under the above-referenced regulations shall not exceed 35 percent of the gross income of the household.
“Homeowner”		Party purchasing an Affordable Housing Unit and entering into a Ground Lease with SDCLT.

2. DEVELOPMENT OF AFFORDABLE UNITS. Pursuant to the RESOLUTION, the PROJECT consists of the Affordable Housing Units which shall be built as set out in the RESOLUTION.

3. RESTRICTED UNITS. In order to assure that the Affordable Housing Units have been sold in accordance with this REGULATORY AGREEMENT, SDCLT or any subsequent owner is prohibited from selling any unit within the PROJECT until the parties have provided the AGENCY the proposed purchase price of the Affordable Housing Units, which purchase price shall be the Affordable Purchase Price as calculated above. The AGENCY shall review and approve the proposed Affordable Purchase Price and associated housing costs prior to SDCLT selling any UNIT (either initially or upon resale) during the Term of this REGULATORY AGREEMENT. AGENCY shall use commercially reasonable efforts to approve the proposed Affordable Purchase Price within fifteen (15) business days following submittal of the same by SDCLT (“Review Timeframe”). If the AGENCY fails to timely respond prior to the expiration of the Review Timeframe, AGENCY shall forfeit the right to approve the proposed Affordable Purchase Price and SDCLT shall have the right to sell the UNIT at the proposed Affordable Purchase Price.

Attachment B

If a UNIT is sold for more than the Affordable Purchase Price approved or deemed approved by AGENCY, then within thirty (30) days after demand by AGENCY, SDCLT shall repay to the AGENCY, the sale proceeds in excess of the Affordable Purchase Price. If such excess is not so repaid when due, the excess shall bear interest from the date of collection until repaid, at the maximum rate allowed by law, or such lesser rate as AGENCY may determine in its sole discretion.

4. TRANSFERABILITY. For Affordable Housing Units established pursuant to this REGULATORY AGREEMENT, the REGULATORY AGREEMENT shall be recorded against the PROJECT as covenants running with the land, whether as part of the final map, the conveyance documents to the SDCLT, or as individual regulatory agreements, against all of the Affordable Housing Units.

NOTICE. SDCLT shall provide written notice to AGENCY anytime an Affordable Housing Unit or the PROJECT property is subject to transfer.

CHANGE OF USE. Any change of use of the PROJECT not approved by AGENCY shall be a default pursuant to Article II Section 10.

RESTRICTION ON TRANSFER. SDCLT shall only have the right to transfer any interest in the PROJECT with prior approval from the AGENCY in accordance with Article II Section 6 below.

LIMITATION ON FINANCING AND REFINANCING; SUBORDINATION AND PRIORITY. In order to assure that the integrity of the affordability provisions is maintained, the SDCLT must assure that this REGULATORY AGREEMENT has priority over all monetary liens on the PROJECT Property (subject to rights granted to leasehold mortgages below), construction liens securing funds required for development of the PROJECT, and leasehold mortgages; provided, however, the affordability restrictions set forth herein shall not apply in the event of a foreclosure under a leasehold mortgage for an Affordable Housing Unit. Any other loans or advances on loans secured by the PROJECT Property shall be deemed subordinate in all respects to the Regulatory Agreement unless the AGENCY subordinates its interest in writing to such loans or advances.

5. MANAGEMENT AGREEMENT. SDCLT shall either self-maintain or obtain and maintain a property management agreement with a duly accredited real estate property management company for the management of the PROJECT Property. The property manager shall participate in "Crime Free Multi-family Housing" programs.

6. COVENANTS. This REGULATORY AGREEMENT shall be recorded against the PROJECT Property; a Release and Certification of Completion will be executed by the AGENCY after the SDCLT complies with its obligations under this Agreement.

7. ORDER OF PRECEDENCE. In the event of any conflict or inconsistency between the terms of this REGULATORY AGREEMENT and the referenced documents, the following order of precedence shall prevail: the FNMA Ground Lease Rider (attached hereto as Exhibit ___), the RESOLUTION, this REGULATORY AGREEMENT, then the Ground Lease. For purposes of clarity, the parties acknowledge and agree that, in the event of a foreclosure, any inconsistency between the terms and conditions of the FNMA Ground Lease Rider and the REGULATORY AGREEMENT will be resolved in favor of the FNMA Ground Lease Rider.

Attachment B

Article II GENERAL PROVISIONS.

1. REPRESENTATIONS. SDCLT intends to develop an affordable residential project that is subject to the requirement to enter into this REGULATORY AGREEMENT and the RESOLUTION. This REGULATORY AGREEMENT includes certain requirements that are in accordance with the laws, rules and regulations to which AGENCY is subject. Therefore, AGENCY has entered into this REGULATORY AGREEMENT conditioned upon SDCLT's agreement, for itself and its successors and assigns, to comply with all provisions of this REGULATORY AGREEMENT. SDCLT agrees to enter into this REGULATORY AGREEMENT with the AGENCY to set out the way providing Affordable Housing Units will be implemented. This REGULATORY AGREEMENT is a substantial part of the consideration to AGENCY to undertake the obligation to administer SDCLT's compliance with the RESOLUTION. SDCLT has had full opportunity to make itself independently familiar with the obligations, limitations and restrictions of the RESOLUTION applicable to the PROJECT, and SDCLT accepts them and agrees to comply fully with them.

2. COVENANTS. SDCLT makes the following covenants. Unless SDCLT has received the prior written consent or AGENCY approval otherwise, SDCLT shall fully comply with each covenant. Except as otherwise stated in this REGULATORY AGREEMENT, the following covenants shall be in full force and effect until SDCLT has fully complied with each covenant.

- (a) SDCLT shall develop or permit others to develop the PROJECT Property only in compliance with the RESOLUTION.
- (b) SDCLT shall not transfer or encumber any of the PROJECT Property or permit the conveyance, transfer, or encumbrance of the PROJECT Property unless such assignee, transferee or encumbrance has agreed, in writing and in a form suitable for recordation, to be bound by the terms of this REGULATORY AGREEMENT; provided, however, nothing herein shall restrict SDCLT's ability to convey Units to qualified Homeowners in accordance with this REGULATORY AGREEMENT or SDCLT's right to encumber the PROJECT Property with construction financing to finance the construction costs of the PROJECT.
- (c) SDCLT shall maintain the PROJECT in good repair and condition and in compliance with all habitability standards and local code requirements. SDCLT shall enforce the Ground Lease with respect to the Homeowners to ensure that all provisions herein are being observed, to include Homeowner occupancy, required maintenance of the Units, insurance, etc. SDCLT shall maintain the common areas in the PROJECT in good condition and shall keep the PROJECT reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, and waste materials. In the event of a casualty loss, SDCLT shall cause the restoration or replacement of the Units, in a timely manner and provided that such restoration or replacement is then economically feasible.
- (d) SDCLT shall not cause and shall not permit discrimination on the basis of race, color, ancestry, religion, creed, sex, marital status, or national origin in the sale, lease, or rental or in the use or occupancy of the Units. SDCLT covenants by and for himself, his heirs, executors, administrators,

Attachment B

and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the sale of the Affordable Housing Units. This covenant against discrimination shall continue in perpetuity.

- (e) Owner and AGENCY acknowledge that the Ground Lease with each Homeowner includes the following provisions:
 - (i) that a default under any leasehold mortgage shall be deemed a default by the Homeowner under the Ground Lease;
 - (ii) that in the event the Homeowner fails to make a payment under the leasehold mortgage within five (5) business days of the due date therefore, Homeowner shall deliver Notice of said failure to SDCLT and the City of Lemon Grove Planning Division.
 - (iii) that in the event of a default by the Homeowner under the Ground Lease, SDCLT shall have the right to cure any default and/or repurchase the Affordable Housing Unit.
- (f) When a Homeowner enters into a leasehold mortgage to finance its purchase of the Affordable Housing Unit, Homeowner shall file a request for Notice of Copy of Notice of Default on behalf of AGENCY with the San Diego County Recorder's Office and a recorded copy of the document shall be provided to the AGENCY.
- (g) SDCLT shall exercise its rights under the Ground Lease in the event of a default under the Ground Lease (including failure to timely pay the leasehold mortgage), which rights shall include curing any default and/or repurchasing the Unit. Within three (3) business days of receipt, SDCLT shall provide AGENCY with copies of any Notices it receives from Homeowners or lenders regarding defaults under the leasehold mortgages.
- (h) Upon notification that any proposed Homeowner has entered into a leasehold mortgage, SDCLT shall establish and maintain a reserve fund for the PROJECT to provide resources to address any default by Homeowners under a leasehold mortgage ("Mortgage Default Reserve"). SDCLT shall fund the Mortgage Default Reserve with an initial payment of \$1,000 upon the initial closing of each Affordable Housing Unit in the Project, with an additional \$10,000 payment made annually thereafter on each anniversary of the initial sale of the first Affordable Housing Unit until the Mortgage Reserve Fund equals twelve months of the largest leasehold mortgage payment in the PROJECT ("Mortgage Reserve Cap"). Evidence of the Mortgage Default Reserve shall be provided to the AGENCY by January 30th of each year and upon any payments or withdrawals. SDCLT shall only expend funds in the Mortgage Default Reserve in the event of a Homeowner default under their leasehold mortgage, and SDCLT reasonably determines that Homeowner will be unable to cure the leasehold mortgage default in a timely manner to prevent a leasehold mortgage default. After any expenditure, SDCLT will continue to replenish the Mortgage Default Reserve as provided above until the Mortgage Reserve Cap is reached.

Attachment B

- (i) In the event that SDCLT fails to either cure the mortgage default or repurchase the Affordable Housing Unit, AGENCY shall have the right to step in and cure the mortgage default on behalf of SDCLT, and SDCLT shall (i) immediately exercise the repurchase option and (ii) reimburse AGENCY for all amounts reasonably incurred by AGENCY to prevent the mortgage default upon the resale of the Affordable Housing Unit to a new income-qualified Homeowner.

3. NATURE OF COVENANTS. The provisions contained in this REGULATORY AGREEMENT are covenants which subject and burden the PROJECT Property, as covenants running with the land. It is intended and agreed that the agreements and covenants provided in this Agreement shall be covenants running with the land and equitable servitudes on the land and that they shall, in any event, and without regard to technical classifications or designation, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the AGENCY, the AGENCY's successors and assigns, any other governmental entity acting within its authority and any successor in interest to AGENCY's interest under this REGULATORY AGREEMENT against the SDCLT, its successors and assigns and every successor in interest to all or any part of the PROJECT Property.

4. SUPERSEDING EXISTING COVENANTS, CONDITIONS, & RESTRICTIONS. This REGULATORY AGREEMENT shall supersede any covenants, conditions and restrictions that have been previously recorded by, or on behalf of, the AGENCY against the PROJECT Property.

5. TERM. The term of this REGULATORY AGREEMENT shall commence on the date of final building permit approval of the PROJECT and continue until the terms of all of the covenants, including without limitation, the terms stated in the RESOLUTION, have expired or otherwise been terminated. The term of the covenants herein for the PROJECT is fifty-five (55) years from the commencement date of the REGULATORY AGREEMENT.

6. RECORDKEEPING, REPORTING, AND NOTICING. Upon request of AGENCY, SDCLT shall promptly provide any additional information or documentation requested in writing by the AGENCY to verify SDCLT's compliance with the provisions of this REGULATORY AGREEMENT. At the written request of the AGENCY, SDCLT shall, within a reasonable time following receipt of such request, furnish reports and shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operations, and condition of the PROJECT Property and SDCLT's compliance with and this REGULATORY AGREEMENT; provided, however, nothing herein shall require that SDCLT provide any financial information for Homeowners who purchased the Affordable Housing Units at an approved Affordable Purchase Price absent a request by such Homeowner to sell or transfer the Affordable Housing Unit.

If SDCLT intends to assign or sell to a third party (i) its interest in the PROJECT and as ground-lessor under the Ground Lease, SDCLT shall notify the AGENCY in writing at least sixty (60) days prior to initiating discussions with a real estate professional or taking any other steps to market the PROJECT. AGENCY shall; (a) have the right to approve the transfer to the prospective assignee, said approval not be unreasonably withheld), and (b) have the right, but not the duty, to notice SDCLT and any prospective assignee of potential violations of the REGULATORY AGREEMENT. The transfer of

Attachment B

SDCLT's interest in the PROJECT and Ground Lease shall be subject to the reacquisition provisions of the DEFAULT provisions in Section 10(d)(i) below.

7. AUDIT AND INSPECTION. The common areas of the PROJECT and all related equipment, buildings, plans, offices, books, contracts, records, documents and other related papers shall at all times be maintained in reasonable condition by SDCLT for audit and shall be subject to examination by the AGENCY or its agents with reasonable prior notice. The books and accounts of the operations of the PROJECT shall be kept in accordance with generally accepted accounting principles. SDCLT shall provide AGENCY access to the common areas of the PROJECT during reasonable hours for the purpose of reviewing SDCLT's compliance with this REGULATORY AGREEMENT and the RESOLUTION.

8. INDEMNITY FOR SDCLT'S FAILURE TO MEET LEGAL REQUIREMENTS. SDCLT shall indemnify and hold AGENCY, its officers, directors, and employees harmless from any and all liability arising from SDCLT's failure to comply with the covenants, conditions and restrictions contained in this REGULATORY AGREEMENT. Without limitation, such indemnity shall include repayment to the appropriate parties or the AGENCY of rents or sales proceeds in excess of amounts authorized to be charged.

9. CHANGES WITHOUT CONSENT OF HOMEOWNERS OR OTHERS. Only AGENCY and its successors and assigns, and SDCLT and its successors and assigns (subject to the reasonable approval of SDCLT's lender) shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in this REGULATORY AGREEMENT without the consent of any easement holder, licensee, other mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the PROJECT Property.

10. DEFAULT. Upon a breach of any of the provisions of this REGULATORY AGREEMENT by SDCLT, the AGENCY may give written notice of such breach to SDCLT by registered or certified mail. If such violation is not corrected to the satisfaction of AGENCY within sixty (60) days after the date such notice is mailed or within such further time as the AGENCY may reasonably determine is necessary to correct the breach, and without further notice to SDCLT, the AGENCY may declare a default under the Agreement. Upon such default the AGENCY may:

- (a) To the extent applicable, in the event of any breach of the covenants, conditions and restrictions contained in this REGULATORY AGREEMENT, the AGENCY shall reasonably endeavor to remedy such breach by conference and conciliation. If, in the opinion of AGENCY, the AGENCY and SDCLT are unable mutually to agree upon a suitable remedy or the circumstances so warrant, such breach may be enjoined or abated by appropriate proceedings brought by the AGENCY.
- (b) Apply to any court for specific performance of this REGULATORY AGREEMENT, for an injunction against any violation of the Agreement, for the appointment of a receiver to take over and use Mortgage Default Reserves, and operate the PROJECT in accordance with the terms of this REGULATORY AGREEMENT and fulfill the obligations of the ground- lessor under the Ground Leases, for money damages or for such other relief as may be appropriate, since the injury to the AGENCY arising from

Attachment B

a default under any of the terms in this REGULATORY AGREEMENT would be irreparable, and the amount of damage would be difficult to ascertain. AGENCY may institute or prosecute in its own name; any suit AGENCY may consider advisable in order to compel performance of any obligation of any SDCLT to develop and maintain the PROJECT Property in conformity with this REGULATORY AGREEMENT and to remedy any default of this REGULATORY AGREEMENT. AGENCY may also seek a decree requiring removal of any improvements constructed on the PROJECT Property which improvements are designed for uses not permitted under this REGULATORY AGREEMENT and which improvements are unsuitable only for uses not permitted under this REGULATORY AGREEMENT.

- (c) The remedies of the AGENCY under this REGULATORY AGREEMENT are cumulative. The exercise of one or more of such remedies shall not be deemed an election of remedies and shall not preclude the exercise by the AGENCY of any one or more of its other remedies.
- (d) SPECIFIC DEFAULT PROVISIONS. In addition to the default provisions provided in subsections (a) through (c) above, the following default remedies shall apply under the following circumstances:

- (i) AGENCY shall have the right to reacquire the PROJECT from SDCLT at the same price purchased by SDCLT if any of the following occurs: (A) SDCLT fails to commence and complete construction of the PROJECT in accordance with the requirements of the Purchase Agreement between the City of Lemon Grove and SDCLT, it being understood that, subject to Force Majeure (hereinafter defined in Section 29), SDCLT's failure to perform work on the PROJECT for a six month period following commencement of work shall be deemed a default hereunder; or (B) SDCLT ceases operation as a nonprofit and SDCLT fails to transfer ownership of the Project to a qualified nonprofit affordable housing entity approved by the AGENCY in accordance with Article II, Section 6 above or (C) upon an uncured default by SDCLT hereunder, including a failure of SDCLT to perform following the AGENCY's cure of a Homeowner default pursuant to Article 2, Section 2(i).

- (ii) If AGENCY reacquires the PROJECT pursuant to Section 10(d)(i) above, AGENCY shall also assume the obligations of ground- lessor under any Ground Leases which run with the PROJECT property at the time of the reacquisition.

- (iii) In the event AGENCY expends any funds to cure a leasehold mortgage, AGENCY shall have the right to record a lien on the PROJECT property for the amount expended with interest accruing at 5% per annum until the funds with interest are recovered in full.

- (iv) AGENCY shall not be bound to affordable housing restrictions set forth in this REGULATORY AGREEMENT in the event of a default with the AGENCY exercising the right to reacquire the PROJECT. Notwithstanding the foregoing, all terms and conditions of any Ground Leases in existence at the time of such reacquisition will be binding on the AGENCY.

Attachment B

11. BINDING SUCCESSORS IN INTEREST. This REGULATORY AGREEMENT shall bind and the benefits shall inure to the SDCLT, its successors in interest and assigns, and to the AGENCY and its successors for the term of this REGULATORY AGREEMENT.

12. CONTRADICTORY AGREEMENTS. Except as set forth RESOLUTION, SDCLT warrants that it has not, and will not, execute any other agreement with provisions contradictory of or in opposition to, the provisions of this REGULATORY AGREEMENT.

13. ATTORNEYS' FEES. If the services of any attorney are required by any party to secure the performance of this REGULATORY AGREEMENT or otherwise upon the breach of default of another party, or if any judicial remedy or mediation is necessary to enforce or interpret any provision of this REGULATORY AGREEMENT or the rights and duties of any person in relation to this REGULATORY AGREEMENT, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Any award of damages following judicial remedy or arbitration as a result of this REGULATORY AGREEMENT or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law. The prevailing party shall mean the party receiving an award in arbitration or a judgment in its favor, unless the award or judgment is less favorable than the best settlement offered in writing in a reasonable manner by the other party, in which case the prevailing party is the party making such settlement offer.

14. SEVERABILITY. If any term or provision of this REGULATORY AGREEMENT shall, to any extent, be held invalid or unenforceable, the remainder of this REGULATORY AGREEMENT shall not be affected; provided that the intent of the REGULATORY AGREEMENT may then be reasonably fulfilled. In any event, the term or provisions shall be deemed to be invalid only as to the entity and circumstance for which it was held to be invalid.

15. NO WAIVER. No waiver by the AGENCY of any breach of or default under this REGULATORY AGREEMENT shall be deemed to be a waiver of any other or subsequent breach or default.

16. NOTICES. Written notices and other written communications by and between the parties shall be addressed to the SDCLT at the SDCLT Address and to the AGENCY at the AGENCY Address or such other address as each respective party has designated by written notice to the other party.

17. CERTAIN ACTS PROHIBITED. SDCLT shall not make any sale, encumbrance (except for a first Deed of Trust associated with construction financing, the Ground Leases and any associated leasehold financing), assignment or conveyance, or transfer in any other form, of the PROJECT Property or of its entire interest therein other than in accordance with the terms of this REGULATORY AGREEMENT.

18. GOVERNING LAW. This REGULATORY AGREEMENT shall be construed in accordance with and governed by the laws of the State of California.

19. ENFORCEMENT. SDCLT expressly agrees and declares that the AGENCY or any successor public agency is a proper party and shall have standing to initiate and pursue any and all actions or proceedings, at law or in equity to enforce the provisions

Attachment B

hereof and/or to recover damages for any default hereunder and/or to enforce the terms of this REGULATORY AGREEMENT. Further, the AGENCY or any successor public agency shall be the proper party to waive, relinquish, release or modify the rights, covenants, obligations or restrictions contained in or arising under this REGULATORY AGREEMENT.

20. COVENANTS TO RUN WITH THE LAND. The covenants contained herein shall constitute "covenants running with the land" pursuant to Civil Code Sections 1460, 1462, 1463, 1464, 1465, 1467 and 1468, to the extent applicable, and shall bind the PROJECT Property and every person having an interest therein during the term of this REGULATORY AGREEMENT, including SDCLT and its successors, heirs and assigns. SDCLT agrees for itself and its successors that, in the event that, for any reason whatsoever, a court of competent jurisdiction determines that the foregoing covenants do not run with the land, such covenants shall be enforced as an equitable servitude against the PROJECT Property.

21. RECORDATION. This REGULATORY AGREEMENT shall be recorded in the Office of County Recorder of San Diego, California.

22. HEADINGS. The headings used in this REGULATORY AGREEMENT are for convenience only and are not to be used to interpret the meaning of any of the provisions of this REGULATORY AGREEMENT.

23. LIBERAL CONSTRUCTION. The provisions of this REGULATORY AGREEMENT shall be liberally construed to effectuate its purpose. Failure to enforce any provision of this REGULATORY AGREEMENT shall not constitute a waiver of the right to enforce the provision later.

24. NUMBER; GENDER. The singular shall include the plural and the plural the singular, unless the context requires the contrary; and the masculine, feminine and neuter shall include the masculine, feminine or neuter, as the context requires.

25. EXHIBITS. Any exhibits referenced herein and attached to this REGULATORY AGREEMENT are hereby incorporated by reference.

26. NOTICES TO MORTGAGEES OF RECORD. On any loss to the PROJECT Property, if such loss exceeds Ten Thousand Dollars (\$10,000.00), notice in writing of such loss shall be given to each mortgagee of record.

27. FIRE AND EXTENDED COVERAGE INSURANCE. SDCLT shall obtain and maintain general liability and property damage insurance for the common areas of the PROJECT in amount adequate for the cost of any potential repair and replacement to the satisfaction of the AGENCY. The Homeowners will maintain general liability and property damage insurance for the Affordable Housing Units, said insurance premiums to be included in the determination of Affordable Purchase Price.

28. CERTIFICATIONS BY SDCLT. As and when required by the AGENCY, SDCLT shall certify to the AGENCY that SDCLT:

- (a) Complies with all the terms and conditions of this REGULATORY AGREEMENT; and,
- (b) Has obtained and does maintain general liability insurance on the common areas of the PROJECT as required in this REGULATORY AGREEMENT.

Said certifications shall be made in writing in a form acceptable to the City of Lemon Grove Development Services Director.

Attachment B

29. FORCE MAJEURE. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by that party for a period equal to the prevention, delay or stoppage.

Attachment B

IN WITNESS WHERE OF, the parties have executed this Affordable Housing Agreement and REGULATORY AGREEMENT on or as of the date first written above.

“AGENCY”

CITY OF LEMON GROVE, a public body, corporate and politic

By: Lydia Romero
City Manager

Attest:

Susan Garcia, City Clerk

Approved as to Form and Legal Content

James Lough, City Attorney

“SDCLT”

San Diego County Community Land Trust

By: _____

**EXHIBIT 1
PROJECT LEGAL DESCRIPTION**

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 2
Mtg. Date October 17, 2017
Dept. Development Services Department

Item Title: **Public Hearing to Consider Planned Development Permit PDP-170-0001 and Tentative Map TM0-000-0188 to authorize the Construction of 18 Condominium Units at 3485 Olive Street Consolidated with the Adjacent 84 Existing Condominium Units at 100 Citronica Lane**

Staff Contact: Michael Viglione, Assistant Planner

Recommendation:

- 1) Conduct the public hearing; and
- 2) Adopt a resolution (**Attachment B**) conditionally approving Tentative Map TM0-000-0188 and certifying Mitigated Negative Declaration ND17-03; and
- 3) Adopt a resolution (**Attachment C**) conditionally approving Planned Development Permit PDP170-0001.

Item Summary:

The project is a request for a Tentative Subdivision Map and a Planned Development Permit to authorize the construction of 18 condominium units on 0.34 acres at 3485 Olive Street (Celsius II) consolidated with the adjacent 84 existing condominium units at 100 Citronica Lane (Celsius I). The proposed project site is located in the Transit Mixed Use 5 Zoning District of the Downtown Village Specific Plan. The new 18 unit site complies with landscape requirements and will utilize common open space facilities at Celsius I. The attached staff report (**Attachment A**) describes the project in detail. The project, as proposed and conditioned in the resolutions (**Attachment B & C**), complies with the Downtown Village Specific Plan and Municipal Code.

Fiscal Impact:

No fiscal impact.

Environmental Review:

- | | |
|--|--|
| <input type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorically Exempt | <input checked="" type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|--|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input checked="" type="checkbox"/> Notice to property owners within 500 ft. |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- | | |
|--------------------------------------|---|
| A. Staff Report | D. Exhibit A – Project Plans |
| B. Resolution (TM0-000-0188/ND17-03) | E. Vicinity Map |
| C. Resolution (PDP-170-0001) | F. Mitigated Negative Declaration ND17-03 |

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. _____

Mtg. Date October 17, 2017

Item Title: Public Hearing to Consider Planned Development Permit PDP-170-0001 and Tentative Map TM0-000-0188 to Authorize the Construction of 18 Condominium Units at 3485 Olive Street Consolidated with the Adjacent 84 Existing Condominium Units at 100 Citronica Lane

Staff Contact: Michael Viglione, Assistant Planner

Application Summary:

APPLICANT/OWNER:	CityMark LG, LLC, 3818 Park Blvd, San Diego, CA 92103
PROPERTY LOCATION:	The site is located at 3485 Olive Street north of Broadway (APN: 480-043-16-00).
PROJECT AREA:	.34 acres (14,647 square feet) - Celsius II only
EXISTING ZONE:	Transit Mixed Use 5 (TMU 5) within the Downtown Village Specific Plan area
GENERAL PLAN LAND USE DESIGNATION:	Transit Mixed Use 5 (TMU 5) within the Downtown Village Specific Plan area
SURROUNDING PROPERTIES:	North: Multifamily residential South: General Commercial East: Multifamily residential West: Heavy Commercial
ENVIRONMENTAL IMPACT:	The Initial Environmental Study prepared for this project identified potential impacts with appropriate mitigations associated with: Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Noise, and Mandatory Findings of Significance. A draft Mitigated Negative Declaration of Environmental Impact (MND) was filed with the County Clerk prior to the City Council public hearing. A MND will be filed subsequent to the adoption and final approval of the proposed project by the City Council.

Attachment A

Background:

The DVSP requires all demolition and new build construction projects to obtain a Planned Development Permit which requires City Council approval.

The property to be developed at 3485 Olive Street (Celsius II by CityMark) is a vacant, 14,647 square foot (.34 gross acre) rectangular parcel previously developed with heavy commercial uses (Ostrowski Painting, Inc. and Coast Interior Specialties, Inc. – both contractor offices) immediately north of Harbor Freight tool supply on the corner of Broadway and Olive Street. The existing contractor's offices, three accessory sheds and surface improvements were demolished and removed in June of 2017. The property fronts on Olive Street and is proposed to be lot consolidated with Celsius I, an 84 condominium unit project, that was recently developed by CityMark and abuts the east and north boundaries of Celsius II.

Discussion:

This discussion provides a description of the proposed project and the conformance to the regulatory framework.

Site and Project Description

The proposed Planned Development Permit proposes the construction of 18 condominium units comprised of 15 one bedroom and 3 two bedroom units in a four story building at 3485 Olive Street. All proposed 18 units are provided with a 50 square foot private balcony. Twenty-four (24) parking spaces, three bicycle racks and two motorcycle spaces all reserved for residents are proposed. Two biofiltration basins are proposed to accommodate stormwater flows from the project site. The 18 proposed units would take access from Olive Street south of its intersection with Lemon Avenue.

The proposed Tentative Map includes a subdivision map to provide for the creation of 18 proposed condominium unit lots and a common lot (Celsius II) to be consolidated with the existing 84 condominium unit lots and a common lot (Celsius I). The combination of the two projects allows the facilities to share common usable open space, fire protection systems and water meters. As such, residents at Celsius II would have access to the Celsius I rooftop terrace and fitness room (common usable open space). Access to these facilities would be through the Celsius I parking lot via a small foot bridge over the stormwater basins at the western boundary of the 100 Citronica property.

Physical improvements for the Celsius I include excavation and grading, public street dedication and improvements, construction of the residential structure and vehicle parking areas, hardscape, landscape and irrigation, and lighting. Curb, gutter, sidewalk and landscape parkway with street trees are proposed along the 3485 Olive Street frontage. All project landscaping, including the landscape parkway with street trees in the public right-of-way, and all common areas on the property will be maintained by the Home Owners Association (HOA) for Celsius I and II. The existing water and fire infrastructure, including the backflow prevention device and hydrant, are proposed to be shared between the existing and proposed condominiums.

The minimum density for this Transit Mixed Use 5 (TMU 5) zoned site is thirty-five (35) dwelling units per net acre. After subtracting the area of the proposed 15 foot street dedication along the entire Olive Street frontage, the net area would be .30 acres (.34 gross acres). Based on the minimum allowable density of the TMU 5 designation, a minimum of 11 units would be required, and therefore the site meets minimum density requirements. The project proposes 18 dwelling units at a density of 60 dwelling units per acre. Zoning Development Standard Modifications are required for the project to allow an increased building setback, provision of uncovered resident parking spaces, provision of tandem parking spaces for two bedroom units, and shared use of

Attachment A

the Celsius 1 loading space as allowed in accordance with Sections 16.12.280 and 17.28.030(D) of the Lemon Grove Municipal Code. Equivalent benefits required and proposed are a pedestrian and bicycle friendly multi-family residential infill development that includes a bike storage area, surplus motorcycle parking and pedestrian path access to active and passive areas like the Celsius I rooftop terrace and fitness and the Main Street Promenade Park.

The following briefly table describes the deviations from the development standards of the Transit Mixed Use 5 Zone.

Criteria	Transit Mixed Use 5 (TMU 5) Zone	Proposed Development Condition
Setbacks	Buildings fronting on Olive Street shall be located no farther than five (5) feet from the ultimate right-of-way.	The building setback from Olive Street ranges between 13 feet 11 inches to 15 feet 5 inches
Loading Space Requirements	Residential developments with 12 or more dwelling units shall provide a designated service or loading area capable of accommodating moving vans and appliance delivery vehicles.	Shared use of existing service loading area at Celsius I.
Parking Space Dimensions	Tandem parking spaces could only be considered for parking lots with assigned employee or valet parking.	Three (3) tandem parking spaces are proposed for the two bedroom units.
Parking Space Standards	One parking space per dwelling unit shall be within a garage, carport or other suitable covered structure in multi-family dwellings.	Only ten (10) of twenty-four (24) spaces are uncovered.

Building Design

The proposed building is four stories tall, reaching to a maximum height of 51 feet 1 inches. The first floor is largely dedicated to gated, covered and uncovered parking and also features a lobby, an electrical room, a mechanical room, a recycling and trash room, and a bicycle storage room. Two interior stair wells and an elevator provide access to the condominium units in the upper stories. The upper three stories are comprised of 15 one-bedroom units and three (3) two-bedroom units, all of which feature private balconies. There are three separate one bedroom and one bathroom floor plans. Unit type 1A, of which there are six (6), is 682 square feet. Unit type 1B, of which there are also six (6), is 778 square feet. Unit type 1C, of which there are three (3), is 967 square feet. The other three (3) units are all type 2A, a two bedroom and two bathroom 1,107 square foot floor plan. The proposed structure also includes one elevator.

The proposed building is a contemporary design and repeats the colors and materials used in the adjacent 84 Celsius I condominium units. A note on the elevation plans explicitly states that the proposed building will match the approved color and materials board from the Celsius I building permit. The proposed design is also consistent with the surrounding Citronica I and

Attachment A

Citronica II buildings, both of which are contemporary designs. While many of the properties in the vicinity are developed with utilitarian heavy commercial structures and streamline retail spaces and non-conforming single family dwellings of various styles, the proposed development is generally consistent in scale and appearance with anticipated development in the downtown Lemon Grove area.

The Downtown Village Specific Plan development standards are designed to create a strong street edge by establishing a maximum setback, often conceptualized as a "build-to" line. Though the proposed building is not built to this line, the proposed condominium building does align with the existing condominium building creating a consistent street edge.

Grading

As a previously developed lot, the proposed project site is largely flat. Preliminary Civil Engineering drawings submitted as part of the Tentative Map and Planned Development Permit indicate that the entirety of the project site sits approximately between 440 feet and 441 feet above Mean Sea Level (MSL). Similarly, the elevation of the finished first floor of the proposed building is shown as 440.85 feet above MSL. Preliminary estimates for earthwork require only 100 yards of cut and 100 yards of fill to achieve the finished floor elevation.

The Geotechnical Report indicates that low to medium expansive soils are present on site in the undocumented fill soil. Expansive soil is subject to changes in volume due to water content and often causes damage to structural elements as a result. To minimize the effect of any expansive soils on site, the project Geotechnical Report recommends the removal of the underlying undocumented fill soil to a depth of approximately 4.5 feet and replacement with non-expansive engineered replacement fill soil.

It should also be noted here that the limited Phase II Environmental Investigation completed for the project detected elevated levels of arsenic, likely naturally occurring, in the site soil. The engineers recommend that any exposed areas accessible to future residents should be tested for constituents of concern and remediated appropriately if samples exceed risk criteria. The Resolution of Approval will require the developer to abide by the recommendations of the limited Phase II Environmental Investigation.

Landscaping and Screening

The Lemon Grove Municipal Code requires residential projects to landscape a minimum of 15 percent of the total lot area. The project proposes a total of 2,050 square feet of landscaping or approximately 15.7 percent of the net lot area. Five (5) street trees, shrubs and ground cover are proposed in the landscape parkway in the proposed public right-of-way dedication and eight (8) trees with a variety of shrubs and ground cover are proposed on the remaining private property. Of the eight (8) trees on private property, six (6) are fruit and nut trees thereby exceeding the edible plant requirements. To meet landscaping requirements for parking areas of five or more spaces, the project proposes landscaping across eighteen percent of the parking area and locates four (4) of the eight site trees within it. All proposed landscaping, including the street trees in the public right-of-way, will be maintained by the HOA.

Parking areas in the Transit Mixed Use zone are required to be separated from the public sidewalk by landscaping and screening elements. The proposed project includes landscaping for the entire depth of the Olive Street setback across its entire frontage, exclusive of required building access ways and driveways, thus exceeding the required the four (4) feet of landscaping. The parking area is also screened by ventilated artistic garage panels that match the panels used in the original 84 unit condominium building. The parking area is also further screened from the property to the south via an architectural screening wall.

Attachment A

Noise Attenuation

The proposed project site is within a General Plan area identified as conditionally acceptable for residential development due to elevated noise from the State Route 94 and San Diego Orange Trolley Line. The General Plan further requires all projects in these areas exceeding 60 decibels Community Noise Equivalent Level (CNEL) to prepare an acoustical analysis to demonstrate that interior building noise levels will not exceed the state required interior noise limit of 45 decibels CNEL. In observance of these requirements, the applicant prepared an addendum to the noise study submitted for the original 84 condominium units. While the City of Lemon Grove General Plan and the original Acoustical Analysis prepared for Celsius I note that the site is located within an area that may be affected by the traffic noise generated by vehicles on SR94 and trolley alignment, the addendum recognizes that the proposed condominium building is behind the existing Celsius I building and further from the trolley, the primary noise source. The result of the proposed building's relative position to the trolley is distance attenuation of, and shielding from, that noise source.

Nonetheless the noise study does require specific construction assemblies to ensure that the interior noise to levels that General Plan and California Building Code standards. Specifically the noise study recommends the use of Sound Transmission Class (STC) 28 Doors and Windows and STC 44 exterior stucco walls to accomplish the needed noise reduction.

A letter from the acoustical consultant verifying that the wall, window and door assemblies shown on the construction plans meet the specifications of the Acoustical Analysis will be required prior to building permit issuance.

Traffic

The project is estimated to generate an additional 108 vehicle trips per day based on a trip generation rates for multi-family units with densities exceeding 20 dwelling units per acre. According to the San Diego Traffic Engineers' Council (SANTEC) and the Institute of Transportation Engineers (ITE) document SANTEC/ITE Guidelines for Traffic Impact Studies in the San Diego Region, a Traffic Impact Study is not required because the project's trip generation is calculated to be less than 1,000 average daily trips (ADT) and less than 100 peak hour trips. Additionally, the trip generation analysis determined that the ADT and number of peak hour trips generated by the proposed project does not trigger Caltrans' threshold for a requirement to analyze State highway facilities. The addition of approximately 108 vehicle trips is found to not have a significant impact on adjacent roadway segments and intersections.

The project proposes taking access from Olive Street just south of its intersection with Lemon Ave. A two-way left turn lane along Olive Street between the left-turn pockets at Broadway and North Avenue will be provided in accordance with the California Manual on Uniform Traffic Control Devices options for minor intersections to address the resulting misalignment between Lemon Ave and the proposed project driveway.

A condition requiring a proportional fair share fee towards the future signalization of Broadway and Olive Street is included in the Draft Resolution of Approval.

Attachment A

Off-Street Parking

The required off-street parking in Transit Mixed Use zones and the parking proposed by the project are as follows:

Transit Mixed Use 5 Zone Residential Parking Requirements			
Dwelling Type	Parking Ratio	Units in Project	Project Requirement
Studio	1.0/unit	0	0 spaces
One Bedroom	1.25/unit	15	18.75 spaces
Two Bedroom	1.75/unit	3	5.25 spaces
Three Bedroom	2.0/unit	0	0 spaces
Total Required			24 spaces
Provided Spaces			24 spaces
Net Deficit/Surplus			0

The project seeks a modification of parking space design standards to allow three (3) tandem spaces where six (6) separate spaces would normally be required.

The project also provides two (2) spaces for motorcycle parking where none are required. Three (3) bicycle racks with space for 10 bicycles in a secure storage room is proposed which exceeds the three (3) required bicycle spaces for the project. Two (2) of the 24 spaces are ADA accessible. Guest parking for the residential units is not required in the TMU zone and none is provided with the project. Olive Street would have sufficient space for approximately five (5) on-street vehicle parking stalls across the entire frontage of both the Celsius I and II combined project frontages.

Usable Open Space

The Transit Mixed Use zone does not have open space requirements however it does encourage common usable open space. The proposed Celsius II project provides a 51 square feet balcony with each unit and allows residents to access the fitness room and roof deck at Celsius I.

Undergrounding of Overhead Utility Lines

The City requires existing overhead utility lines located within the boundaries of the property or within the one-half right-of-way abutting the subject property to be placed underground. The inspection of the subject property revealed that there are power poles located on the frontage of the property and that the service on these poles is to be placed underground as a part of the Lemon Grove Avenue Realignment project and therefore the developer will not be responsible for the undergrounding. Any new services to the project shall be placed underground.

Sanitation District

The project site is within, and will be connected to, the Lemon Grove Sanitation District. The proposed project would connect to the sanitary sewer line just east of the existing boundary line between the proposed project and the existing condominiums via a 6 inch lateral. Conditions in the Resolution require that the subdivider obtain sewer permits prior to the issuance of a building permit for the new residences.

Attachment A

Water Quality/Drainage

According to the Drainage Study prepared for the project, the two (2) proposed biofiltration basins will be sufficient to address all project stormwater concerns with the incorporation of minor corrections during final design and engineering. The project Resolution of Approval requires the applicant to fully comply with the City's Jurisdictional Runoff Management Program.

Community Facilities District

In 2013 a special election in the City of Lemon Grove established City of Lemon Grove Community Facilities District No. 2013-1 for the ongoing maintenance and servicing of landscaping, lighting and facilities appurtenant to the Main Street Promenade. Both Celsius Phase I and Phase II are within the boundaries of this Community Facilities District (CFD) and are thus subject to this special tax. Levies within the CFD vary depending on whether a property is improved or unimproved, and if it is put to a non-residential, residential or mixed use. In accordance with these provisions, the property will be designated a Developed Residential Use in the fiscal year following project completion and be subject to a levy of at least eight cents (\$.08) per square foot of residential space. Staff anticipates that the completion of the project would result in an additional yearly revenue of at least \$1415.76.

Regional Housing Needs Allocation (RHNA)

The State has established Regional Housing Needs Allocation (RHNA) targets for each city in order to ensure adequate housing stock. This project will provide 18 housing units affordable to above-moderate income levels and will be rented or sold at market rate. The City has already met all of its RHNA requirements at all income levels through 2020. The RHNA targets create a threshold for cities in order to obtain grant and transportation funding. The project also meets housing policies of the Housing Element as it relates to promoting a mix of housing types and encouraging a balanced mix of housing. Also, Keyser Marston, a subcontracted consultant firm who provided recommendations for economic development within the Downtown Specific Plan Update area, stated that providing more market rate housing within the downtown is a critical component to attracting retailers to the downtown.

Expiration Date of the Planned Development Permit

The Tentative Map and Planned Development Permits will expire within two (2) years if the final map is not recorded. A one year extension may be approved by the Development Services Director and subsequent extensions are required to be approved by the City Council. The State can also provide mandatory extensions.

Public Information:

The Notice of Public Hearing was published in the September 21, 2017 edition of the East County Californian and mailed to all property owners within 500 feet of the subject property.

An AB52 Native American Tribal Government Consultation was conducted pursuant to Government Code Sections 6540.2, 65092, 65351, 65352.3, 65352.4, 65562.5 et. seq. Two tribes requested consultations and grading may be monitored by a Kumeyaay Cultural Monitor as a result.

Additionally, the applicant posted a non-commercial sign at the project site on September 15, 2017 which provided a conceptual drawing of the project and the contact information for the assigned city staff.

Attachment A

The City of Lemon Grove received no comments in response to the Notice of Public Hearing and Environmental Analysis at the time this staff report was prepared. Staff will provide the City Council at the time of the public hearing with any comments.

Conclusion:

Staff recommends that the City Council conduct the public hearing and approve the resolutions (**Attachments B & C**).

Attachment B

RESOLUTION NO.

RESOLUTION OF THE LEMON GROVE CITY COUNCIL APPROVING TENTATIVE (CONDOMINIUM) MAP TM0-000-0188 AUTHORIZING THE SUBDIVISION OF TWO (2) PARCELS INTO ONE (1) LOT OF 102 CONDOMINIUM UNITS AT 100 CITRONICA LANE AND 3485 OLIVE STREET, LEMON GROVE, CALIFORNIA.

WHEREAS, CityMark Development, filed a complete application for a Planned Development Permit PDP17-0001 and a Tentative Map TM0188 on September 18, 2017 to authorize a subdivision of 2 parcels into one lot containing one hundred two (102) residential condominium units; and

WHEREAS, a Mitigated Negative Declaration (MND) of Environmental Impact (ND17-03) will be filed subsequent to its adoption and the approval of the proposed project. The Initial Environmental Study prepared for this project found that the project would have no significant effect on the environment because identified potentially significant impacts associated with Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Noise, and Mandatory Findings of Significance will be mitigated to below a level of significance. A notice of intent to adopt a mitigated negative declaration was filed with the County Clerk prior to the City Council public hearing; and

WHEREAS, a public hearing was duly noticed and held by the Lemon Grove City Council on October 17, 2017; and

WHEREAS, the City Council finds that the tentative map is consistent with the Lemon Grove General Plan because it proposes a total of 102 dwelling units on a single lot, at a density of 70.83 dwelling units per acre, on a 1.44 net acre parcel of land in the Transit Mixed Use 5 land use designation of the Downtown Village Specific Plan which requires a minimum of thirty-five dwelling units per net acre; and

WHEREAS, the City Council finds that the tentative map complies with the findings of fact required to approve this project pursuant to Municipal Code Section 16.16.400 because the project complies with the time limitations of the State Subdivision Map Act; the existing lots are legal lots; the proposed subdivision creates more than five lots; the proposed subdivision complies with the requirements of the Subdivision Ordinance; the map and design or improvements are consistent with applicable general and specific plans; the site is physically suitable for the type of development; and the site is physically suitable for the proposed density of development; and

WHEREAS, the City Council has considered said Tentative Map and recommendations of the Planning, Building, Engineering, and Fire Departments with respect thereto and has determined that the conditions hereinafter enumerated are necessary to insure that the subdivision and the improvements thereof will conform to all ordinances, plans, rules, and improvement and design standards of the City of Lemon Grove; and

WHEREAS, the City Council has considered Planned Development Permit PDP-170-001 including site, architectural, and landscape plans revised August 30, 2017 associated with Tentative Map TM0-000-0188; and

WHEREAS, the City Council hereby makes the following findings:

1. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife

Attachment B

or their habitat because the property has no environmentally protected resources as discussed in the Initial Study Environmental Assessment ND17-03; and

2. The proposed Tentative Subdivision Map (TM0-000-0188) is consistent with the Transit Mixed Use land use designation density (minimum thirty five (35) dwelling units per net acre) of the Downtown Village Specific Plan; and
3. The site is physically suitable for the proposed density of development because public utilities will be available to serve the proposed density; and
4. The design of the subdivision or the type of improvements will not cause serious public health problems because public services (e.g., sewer, water, gas, and electricity) will be provided to the subdivision; and
5. The design of the subdivision or type of improvements do not conflict with easements, acquired by the public at large, for access through, or use of property within the proposed subdivision as defined under Section 66474 of the Government Code, State of California; and
6. The City Council finds that it is impractical in this particular case for the subdivider to conform fully to the requirements of the Subdivision Ordinance and certain provisions therein shall be modified as deemed reasonably necessary in accordance with Section 16.12.280 of the Municipal Code and that the subdivision is consistent with the purpose and spirit of the Subdivision Map Act and Subdivision Ordinance; and
7. The design and improvements of the proposed subdivision map complies with the requirements of the State Subdivision Map Act and the Subdivision Ordinance except as specifically waived or modified for the requested deviations in accordance with Section 16.12.280 and pursuant to the Planned Development Permit process; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California:

SECTION 1. Finds and determines that the facts set forth in the recitals of this Resolution are declared to be true; and

SECTION 2. Certifies the adequacy of the Negative Declaration of Environmental Impact ND17-03; and

SECTION 3. Waives or modifies the following Design Standards in accordance with Section 16.12.280:

1. Section 16.12.223(G) (Prohibition on through lots) to allow the property to front on two public streets.

SECTION 4. Conditionally approves Tentative Map TM0-000-0188 in association with Planned Development Permit PDP-170-0001 and the grading, site, landscape, and architectural plans revised plans August 30, 2017 (incorporated herein by reference as Exhibit A), except as noted herein and as noted in conditions of approval associated with PDP-170-0001. This tentative subdivision map is conditionally approved pursuant to the Subdivision Ordinance (Title 16 of the Municipal Code). Prior to the recordation of a final map, the subdivider shall comply with all applicable provisions of the Subdivision Map Act, the City of Lemon Grove Subdivision Ordinance except as amended herein, and the following conditions of approval (all conditions apply to the combined project, Celsius I and II, a total of 102 dwelling units):

NO PARCEL SHOWN ON THIS APPROVED TENTATIVE SUBDIVISION MAP SHALL BE LEASED, SOLD, CONVEYED, OR TRANSFERRED, UNLESS AND UNTIL A SUBDIVISION

Attachment B

MAP APPROVED BY THE CITY ENGINEER HAS BEEN FILED IN THE OFFICE OF THE COUNTY RECORDER.

- A. WITHIN FIVE DAYS OF APPROVAL, THE SUBDIVIDER/APPLICANT SHALL COMPLY WITH THE FOLLOWING:
1. Submit the appropriate payment for the CEQA filing fee (Department of Fish and Game Mitigated Negative Declaration fee) and County Clerk Processing Fee.
 2. Pay all outstanding fees for City permits related to this project.
- B. PRIOR TO RECORDATION OF A FINAL MAP, THE SUBDIVIDER/APPLICANT SHALL COMPLY WITH THE FOLLOWING:
1. Excepting improvements for buildings, all physical elements of the project, including public street improvements, shown on the approved landscape, grading, improvement and related plans shall have obtained final approval or appropriate securities and grading and improvement permits issued associated with such improvements shall be provided for in accordance with appropriate City Codes.
 2. Execute and record an agreement not to oppose a utility underground district.
 3. Execute and record an agreement not to oppose a street improvement and/or parks improvement district.
 4. Execute and record an agreement not to oppose a property based business improvement district.
 5. Each parcel shall be subject to inclusion into the Lemon Grove Roadway Lighting District which includes an annual assessment. A formal written request to add street lights to the Lemon Grove Lighting District shall be submitted to the City of Lemon Grove Lighting District prior to permanently energizing. If required, a deposit for the initial operation costs expended by the Lighting District for the subject property shall be submitted until the units are placed on the Tax Assessor's yearly statement.
 6. Pay \$85 for the preparation and recordation of each document as required for the subject permit.
 7. Submit a copy of the Preliminary Title Report, Subdivision Guarantee and Tax Clearance Certificate no more than 60 days in advance of the recordation of the Final Map to the City Engineer for review.
 8. The subdivider shall provide the City Engineer with one reproducible Mylar copy of the final map for recordation.
 9. Provide proof of the utility easement vacation.
 10. Backflow prevention devices for private building sewers shall be required pursuant to Section 710.0 of the CBC (2000 UPC).
 11. The subdivider shall comply with Section 66436 of the Government Code by furnishing to the City Engineer a certification from each public utility and each public entity owning easements within the proposed subdivision stating that: a) they have received from the developer a copy of the proposed final map; b) they object to/do not object to the filing of the map without their signature. In addition, the subdivider shall furnish proof to the satisfaction of the City Engineer that no new encumbrances have been created that would subordinate the City's interest over areas to be dedicated for public road purposes since submittal of the tentative map.

Attachment B

12. The protection of the public interest requires that the subdivider, contractors, builders, lot or parcel owners, and other persons, firms, and corporations concerned with the development of said subdivision conform to the following standards, and all permits required by the City of Lemon Grove will be issued pursuant to such standards:
 - a. All domestic water supplied for this subdivision shall come from Helix Water District.
 - b. All buildings constructed for this subdivision shall be connected to the public sewer system of the Lemon Grove Sanitation District. Appropriate sewer permits shall be obtained with payment of capacity and related fees.
 - c. Sewer and water lines shall not be laid in the same trench in any part of this subdivision.
 - d. The project shall comply with applicable provisions of Title 15 (Buildings and Construction).
 - e. Proper drainage shall be maintained throughout this subdivision as to prevent ponding and/or storage of surface water and shall be in compliance with the NPDES permit to the satisfaction of the Water Quality Coordinator and the City Engineer.
13. The final map shall show or provide for the following:
 - a. The design and area of all lots and the design of the final map shall be in substantial conformance to that shown on the approved tentative map to the satisfaction of the Development Services Director.
 - b. The final map shall indicate that this project is a planned development for one hundred two (102) condominium units.
 - c. The final map shall include the signature of the Development Services Director prior to recording and other items required in Title 16.
 - d. The final map shall identify any easements indicated within the Title Report, proposed on the approved Tentative Map, and as required by the Lemon Grove Fire Department or City Engineer.
 - e. The Final Map shall include all easements as shown on Tentative Subdivision Map TMO-000-0188, including but not limited to private sewer, drainage, utility and open space, and public access and emergency access easements.
 - f. A note shall be placed on the final map indicating that domestic water supplied for this project shall come from Helix Water District.
14. The Final Map shall conform to Section 16.12 of the Lemon Grove Municipal Code for a Major Subdivision.
15. Covenants, Conditions and Restrictions (CC&Rs) shall be submitted to the City for review and shall be written to the satisfaction of the Development Services Director and the City Engineer. The CC&Rs shall include the conditions herein to the satisfaction of the Fire Marshal, Water Quality Program Coordinator, City Engineer, and Development Services Director and shall be recorded prior to or concurrent with the final map and shall include but not be limited to the following:
 - a. The Developer, Current and Future Property Owners shall adhere to the CC&Rs approved for this project.

Attachment B

- b. The formation of a home owner's association or property owner's association (HOA or POA) with maintenance responsibilities is required.
- c. A Stormwater Facility and Best Management Practice maintenance agreement to the satisfaction of the City Engineer. The maintenance and the preservation of drainage and BMP facilities shall be included.
- d. The CC&Rs shall identify and implement the BMP's identified in the SWQMP prepared for this project and state that the Developer, Current and Future Property Owners shall comply with the recommendations of the SWQMP prepared for this project to the satisfaction of the Water Quality Program Coordinator and the City Engineer. Funding of the long term maintenance of all facilities required by the SWQMP shall be included in the annual HOA or POA budget.
- e. A long-term operation and maintenance program (OMP) will be a requirement and the responsibility of HOA or POA to maintain. Funding for the program is required to be accounted for in the annual budget of the HOA or POA.
- f. The CC&Rs shall include on-going maintenance of landscaping and irrigation (private and within public right-of-way) of slopes, parkways, common areas, open space and park areas as illustrated on approved landscape and irrigation plans (Exhibit A). This Exhibit A shall be included in the CC&Rs. All landscaping shall be well maintained in a healthy growing condition at all times in substantially the same condition as approved in accordance with the approved landscape and irrigation plans. Over-irrigation shall be prohibited.
- g. Immediate removal of graffiti and any other type of offensive debris is required.
- h. Maintain the drainage facilities and any access easements (where they occur) on the property.
- i. All light fixtures shall be designed, shielded and adjusted to reflect light downward, away from any road or street, and away from any adjoining premises.
- j. The property shall comply with all performance standards relating to the generation of noise, glare, dust, and odor.
- k. All trash and recycling receptacles are required to be within the individual residences or in designated storage areas of the proposed planned development at all times and must be covered and contained.
- l. Rooftop mechanical equipment, including but not limited to heating, air conditioning and ventilating equipment, shall be screened so that it may not be seen from the level of adjacent streets and sidewalks.
- m. The use of barbed wire or razor ribbon on any fences, gates, or walls is prohibited.
- n. The CC&Rs shall clearly establish the responsibilities of the individual home owners and the HOA or POA with regard to the continuing maintenance and preservation of the project.
- o. The CC&Rs shall give the City the right but not the duty to enter the premises to do maintenance and levy assessments if the home owners fail or refuse to maintain said facilities, and shall forbid amendments to the CC&Rs without express written consent of the City.

Attachment B

- p. Street trees along the roadway shall not obstruct the ability of fire apparatus access and fire department aerial operations. Tree height and type should be considered in the ultimate landscape design.
 - q. The maintenance of: stormwater facilities, site landscaping, the street trees and landscaping in the public right-of-way along the Olive Street frontage.
 - r. The assignment of tandem spaces to the two (2) bedroom units.
 - s. Other items as determined by the Development Services Director and City Engineer.
- C. PRIOR TO ISSUANCE OF A GRADING OR IMPROVEMENT PERMIT AND/OR DURING GRADING ACTIVITY, THE SUBDIVIDER/APPLICANT SHALL COMPLY WITH THE FOLLOWING:
- 1. All physical element of the proposed project shown on the approved plans dated August 30, 2017, except as noted herein, shall be located substantially where they are shown and shall be constructed in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director and the City Engineer.
 - 2. Obtain a grading permit from the City prior to any grading activities. The grading permit shall constitute an authorization to do only that work which is described on illustrated on the application for the permit, or in the plans and specification approved by the City Engineer.
 - 3. The erosion control plan must comply with the city's Stormwater BMP manual prior to issuance of grading permit.
 - 4. All grading permit fees and deposits shall be paid and all actions necessary preceding the issuance of the grading permit shall be completed.
 - 5. Coordinate with Helix Water District for the installation of water facilities and/or for grading work in/or adjacent to the public right-of-way.
 - 6. Building permits shall be submitted with the grading plans for the retaining and free standing walls where required, except as noted in this condition, building permits shall be termed Building Permits for Post-Grading Activities in the resolutions approving the project.
 - 7. A minimum five foot separation shall be provided between buildings and building posts and proposed retaining walls, freestanding walls, and fences unless otherwise approved by the Development Services Director.
 - 8. A private Storm Water Facilities and Best Management Practice Maintenance Agreement shall be recorded for the future repair, maintenance and rehabilitation of the proposed private drainage and storm water facilities. The City will provide a template for the agreement.
 - 9. As part of the grading permit submittal, a private improvement, grading, and drainage plan shall be submitted showing all of the proposed and existing on-site improvements. The plan shall be prepared in accordance with the City's standard requirements by a Registered Civil Engineer. All necessary measures for prevention of storm water pollution and hazardous material run-off to the public storm drain system for the proposed development shall be implemented with all design of the grading and shall comply with the city's stormwater best Management Practices Manual.

Attachment B

10. A public improvement plan as part of an improvement plan check shall be submitted with applicable deposit showing all of the proposed and existing improvements within the public right-of-way. The plan shall be prepared in accordance with the City's standard requirements by a Registered Civil Engineer.
11. Submit the street improvement and grading plans to Helix Water District for review and signature.
12. All wet and dry utilities shall be shown on the grading plans and improvement plans.
13. Prior to issuance of a grading permit, a deposit shall be placed to cover the City's expenses, costs, and overhead for the field inspection, office engineering, and administration of the work performed , including landscape and irrigation work. The amount of the deposit shall be as determined by the City Engineer.
14. All existing survey monuments shall be shown on the grading plans.
15. Evidence indicating that arrangements have been made for the preservation and/or relocation of existing monuments shall be submitted to the City Engineer prior to the issuance of a grading permit.
16. Grading plans shall be prepared and submitted with the grading permit application in accordance with the city engineering standards, Lemon Grove Municipal Code 18.08, and the requirements of the City Engineer.
17. All grading plans shall be signed by a Registered Civil Engineer, the Soils Engineer, and the Engineering Geologist (if applicable).
18. The grading plans shall reference the approved final landscape plans.
19. Conditions imposed by the City shall be shown on the grading plans under the heading "General Notes".
20. The subdivider shall execute a Subdivision Improvement Agreement and a Subdivision Improvement Security in accordance with Section 16.12.200. Separate agreements and securities shall be provided for private and public improvements. An Engineer's Estimate for all of the proposed grading, drainage, street improvements, landscaping, and retaining and freestanding walls work proposed shall be submitted for the work proposed within the public right-of-way. Templates for these agreements are available from the City. The applicant shall pose a security with the City comprised of a cash deposit or a combination of cash deposit and corporate surety bond of a surety authorized to do business in the state. An instrument of credit or other security pledging the performance of the work may be submitted in lieu of the surety bond to insure installation of the required structures, drains, landscaping, irrigation, and other improvements shown on the grading plan. Such funds are trust funds for the purpose of satisfying the cost correcting any deficiency, hazard or injury created by the work or lack of maintenance thereof. An irrevocable standby letter of credit issued by a financial institution subject to the regulation by the state or federal government may be posted in lieu of surety bond, instrument of credit or other security. The estimated cost of the work shall be determined by the City Engineer after reviewing the Civil Engineer's Estimate. The total amount of the surety shall be equal to one hundred and fifty percent of the estimated cost of the grading and street improvement work authorized by the permit plus an additional sum equal to one hundred percent of the cost for the construction of drainage structures or facilities and landscape and irrigation, including standard terrace drains, slope planting, irrigation system, erosion control devices, retaining walls and similar facilities

Attachment B

authorized by the permit plus estimated costs including staff time and City Attorney fees for the City to acquire security funds in the event the security must be used by the City.

21. Three copies of a preliminary soils engineering report shall be submitted with the application of a grading permit. Each report shall be prepared by a soil engineer and contain all information applicable to the project in accordance with generally accepted geotechnical engineering practice. The preliminary soil engineering report shall include, but not be limited to, the requirements outlined within 18.08.120(A). All recommendations outlined in the soils report shall be imbedded into the grading plans. The grading plans shall include site monitoring and inspections to ensure recommendations of the Geotechnical Evaluation are adhered to. Properly designed site drainage is required to reduce erosion damage to the planned improvements. Typical erosion control measures will be required during site grading.
22. The developer shall submit a letter from the Geotechnical Engineer stating that the proposed pavement section is capable of fire engine loading of up to 75,000 lbs.
23. The Soils Engineer and Geologist shall refer to the geologic conditions element of the Lemon Grove General Plan in preparing the reports required in 18.08.120.
24. Recommendations contained within approved reports and technical analyses, including the drainage and biological resources reports and the storm water quality management plan shall be incorporated into the grading plan and specifications and shall become conditions of the grading permit.
25. Submit a truck hauling route with a diagram showing street to be traveled. This should include the source of borrow and/or disposal and any BMPs tied to the imported material.
26. Submit a Final Hydrology Report and Storm Water Quality Management Plan (SWQMP) to determine and analyze the increased volume of storm water run-off as a result of the proposed design. The SWQMP shall be completed and approved prior to the issuance of any other permits. Grading and site improvements shall be in accordance with the SWQMP for the proposed project. The SWQMP shall specify implementation of BMPs required in 8.48 and 18.08 of the Lemon Grove Municipal Code and the BMP Design Manual. Provide evidence the treatment Best Management Practices (BMPs) are adequately sized for the increase in impervious surfaces.
27. Plans for an erosion control system shall be prepared and submitted for the review and approval of the City Engineer and Storm Water Quality Coordinator as a part of any application for a construction permit. The erosion control system shall comply with the requirements of the latest state general construction storm water permit and any amendments thereto, the MS4 permit, and Municipal Code Chapter 8.48, and 18.08.170, and the Lemon Grove BMP Manual.
28. The developer shall submit erosion and sediment control plans with construction Best Management Practices (BMPs) and an irrigation plan for the review and approval by the Water Quality Coordinator, which will be required to be abided by during grading activities.
29. The application shall submit sewer lateral plans with the improvement plans. These sewer lateral plans shall be submitted to the satisfaction of the City Engineer.

Attachment B

30. The structural pavement section shall be based on the soils report prepared by a Geotechnical Engineer to the satisfaction to the City Engineer.
31. The subdivider shall provide proof that there exists an adequate potable water supply available to each lot or parcel, and that the subdivider install or agree to install water supply pipes of a minimum six inches in diameter, provided that the City Engineer may require such other diameter of water supply pipe as may be recommended by Helix Water District.
32. Sight distance requirements along Olive Street shall conform to the intersectional sight distance criteria as provide by the Caltrans Highway Design Manual.
33. The subdivider shall provide the City Engineer with letter from the serving utility companies stating that arrangements satisfactory to the utility have been made to serve the development.
34. The storm water facilities for this project shall be designated as private, not public.
35. Provide the City with a Final Hydrology Report indicating that the site design is in accordance with the report and the National Pollutant Discharge Elimination System (NPDES) permit. On-site drainage shall be in compliance with NPDES permit.
36. All plans and technical studies required to be submitted to the Engineering Department for review and approval shall be prepared by a California Registered Professional Engineer or applicable utility provider.
37. After grading permit issuance, but prior to any land development work involving, grading brushing or clearing, there shall be a pre-grading meeting. Representatives from the Campo Band of Mission Indians, Jamul Indian Village of California, and Viejas Band of Kumeyaay Indians, shall also be part of the meeting unless the meeting invitation is specifically denied by that representative. Prior to pouring curbs and gutters or placement of base materials, there shall be a pre-paving meeting held on the site. The permittee, or his/her agent, shall notify the City Engineer at least two working days prior to the meeting and shall be responsible for notifying all principals responsible for grading and paving related operations. The Stormwater Coordinator shall be part of the meeting. All land development work shall be performed by a contractor licensed by the State of California to perform the types of work required by the permit.
38. The property owner shall pay the City for all costs of placing, repairing, replacing or maintaining a City-owned facility within the public right-of-way when the City facility has been damaged or has failed as a result of the construction or existence of the owner's land development work during the progress of such work. The costs of placing, replacing or maintaining the City-owned facility shall include the cost of obtaining an alternate easement if necessary. The City may withhold certification of the completion of a building or other work where a notice has been issued.
39. The Storm Water Quality Management Plan must comply with the requirements of the City's BMP Design Manual. All comments presented in the August 22, 2017 DMAX Engineering, Inc. letter must be adequately addressed.
40. Record a maintenance agreement for the on-going maintenance of the private access improvements, parking and other proposed paved areas, fencing, private and public (street frontages) landscape and irrigation , drainage and water quality facilities required by the SWQMP, and recreational and other facilities as specified to be reviewed and approved by the City Engineer and Director of Development

Attachment B

Services. This maintenance agreement shall be adhered to by the HOA or POA and incorporated into the CC&Rs to the satisfaction of the Director of Development Services and the City Engineer.

41. In order to mitigate any impacts that grading may cause to paleontological, archaeological or tribal cultural resources the following conditions shall be complied with:
 - a. The subdivider/applicant shall conduct a cultural resources records search through the California Historical Resources Information System (CHRIS) for the area of project effect to determine if there is likelihood for on-site Native American cultural resources. A copy of a letter regarding the records search shall be provided to the Development Services Department prior to issuance of grading or improvement permits. The report shall provide recommendations for further analysis and those recommendations shall be implemented as a part of the mitigation measures.
 - b. Representatives from the Campo Band of Mission Indians, Jamul Indian Village of California, and Viejas Band of Kumeyaay Indians, shall be present at the pre-grading meeting to consult with the grading and excavation contractors.
 - c. A Kumeyaay cultural monitor shall be present during all grading activities.
 - d. The Kumeyaay cultural monitor shall be allowed to temporarily direct, divert or halt grading to allow recovery of fossil and artifact remains. If cultural resources are discovered during site preparation and/or grading, then any further work shall cease and programs and procedures shall be initiated as outlined in CEQA guidelines 15064.5.
 - e. Prior to final inspection, a report summarizing the results of the mitigation program and the coordination efforts with the representatives of the tribal governments shall be prepared and submitted to the Development Services Director. This report will include a discussion of methods employed, fossils and artifacts recovered, geologic context of fossil and artifact remains and the significance of the mitigation program.
 42. A lighting plan with adequate detail to determine compliance with Downtown Village Specific Plan and Lemon Grove Municipal Code lighting requirements must be submitted and approved prior to the issuance of Grading and Improvement Plans.
 43. Incorporate all applicable recommendations of the Limited Phase II Environmental Investigation prepared by SCS Engineers dated March 28, 2017 into the grading permit and approved plans including, but not limited to: sampling to determine if constituents of concern in soil would exceed either risk-based screening criteria and/or waste criteria; remediation for soils that exceed risk-based screening criteria; disposal of export as a regulated waste; limiting worker exposure via dust suppression and control measures; and education of construction and grading contractors.
- D. PRIOR TO ISSUANCE OF A BUILDING PERMIT, THE SUBDIVIDER/APPLICANT SHALL COMPLY WITH THE FOLLOWING:
1. All physical elements of the proposed project shown on the approved plans dated August 30, 2017 except as noted herein, shall be located substantially where they

Attachment B

are shown and shall be constructed in accordance with applicable City Codes to the satisfaction of the Development Services Director.

2. Pay all outstanding fees prior to issuance of a building permit(s) for new dwelling units authorized by this tentative map.
3. Per Ordinance 372 a Uniform Transportation Mitigation Fee for each unit must be paid at the time of building permit issuance. The fee is subject to annual increases and the actual fee will be calculated at the time of payment.
4. Submit a written statement signed by the Civil Engineer reporting that the site is rough graded in conformance with the approved grading plan, as modified or amended by any construction changes approved by the City Engineer, and which specifically states the items which were performed under his/her supervision, and are shown correctly on the as-graded drawings.
5. Prior to issuance of building permits, incorporate best management practices including site design/Low Impact Development, source control and treatment control, construction and on-going maintenance identified in the SWQMP and Drainage Report into the building plans.
6. Submit for Development Services Director approval, a detailed landscape and irrigation plan for the parcel to be developed. Provide reference sheets for the grading and landscape erosion control plans. The plan shall indicate all surface improvements including, but not limited to, the design and locations of all walls, fences, driveways, walkways, botanical and common names of all plant materials, number, size and location of all plantings; all irrigation lines including valves and back-flow devices; and soil amendments. Said landscape plan shall fully comply with the requirements of Section 17.24.050(B) and Chapter 18.44 of the Municipal Code. The landscape plan shall be in substantial conformance to the approved landscape concept plan. Tree installations shall be a minimum of 2 inch calipers, 15 gallons, and 8 feet in height. Show the location, height, and materials of all fencing. The landscape permit shall be referenced on the approved grading plans.
7. A soils management that analyzes the soil and makes recommendations for the long term maintenance of the landscaping on site must be submitted as part of the landscape plan.
8. Street trees on Olive Street shall be a minimum of 24-inch box, 2 inch caliper and 10 feet in height and shall be installed as provided in the approved landscape concept plan and appropriate landscaping shall be installed within the public and private parkways. Maintenance of the street trees and parkway landscape shall be the responsibility of the HOA or POA. Over-irrigation is prohibited.
9. All construction shall comply with Title 24 requirements which include the California Building Code, California Residential Code and the California Fire Code.
10. Heartland Fire & Rescue at time of plan or permit submission will charge certain fees for plan review and inspections. Fees will be determined at time of plan review and/or inspections.
11. Heartland Fire & Rescue at time of operational permit will charge certain fees for permit issuance which will have, at a minimum, annual fees charged. Failure to pay required annual fees will be cause to issue a "Cease and Desist" order.
12. Gates serving multi-family, assembly, educational, hazardous, institutional, or storage structures must be automatic and meet UL 325 and ASTM F 2200

Attachment B

standards. Knox brand key-operated electric key switch keyed to Heartland Fire & rescue specification are required. The Knox switch shall override all gate functions and open the gate. Other access control systems such as Opticom, siren, etc. shall be permitted with the approval of Heartland Fire & Rescue.

13. The required fire flow shall be 2250 GPM for a 2- hour duration at 20 PSI residual operating pressure. Documentation is required from the Water Purveyor verifying that the system is capable of meeting the required fire flow prior to building permit issuance. If the system is not capable of meeting the required fire flow documentation shall be provided showing financial arrangements have been made and water system improvement plans have been submitted and approved by Heartland Fire & Rescue and the water purveyor to upgrade the existing system prior to release of building permits.
14. Water improvement plans shall be approved by Heartland Fire & Rescue prior to recordation. The Developer shall furnish Heartland Fire & Rescue with three (3) copies of the water improvement plans designed by a Registered Engineer and/or Licensed Contractor. On-site private fire service mains shall have a minimum of eight (8) inch water mains with six (6) inch laterals and risers. Larger pipes maybe required to meet required fire flow requirements. Fire hydrants shall provide one 4" port and 2- 2 ½ ports and must be an approved fire hydrant type.
15. Fire hydrant water mains that supply two (2) or more fire hydrants shall be looped to provide adequate supply.
16. The existing fire hydrant system is insufficient to provide the required fire flow. This system is required to be upgraded to meet the required fire flow as identified above.
17. Prior to combustibles being brought to the site, the developer shall provide written certification from the Water purveyor, dated within the last thirty days, that:
 - a. All public fire hydrants required of the project have been installed, tested, and approved by the water Purveyor, and
 - b. Are permanently connected to the public water main system, and
 - c. Are capable of supplying the required fire flow as required by Heartland Fire & Rescue.
18. Fire hydrants shall be painted per Heartland Fire & Rescue and the local water purveyor standards and be maintained free of obstructions. Blue reflective raised pavement markers shall be installed on the pavement at approved locations marking each fire hydrant.
19. Public and private water utility mains must provide the level of reliability/redundancy determined necessary by Heartland Fire & Rescue and the local Water Purveyor Engineer.
20. The project shall comply with the most recent adopted Title 15 Municipal Code Standards.
21. The design of all structures shall be in substantial conformance with the approved architectural plans dated March 14, 2017 (incorporated herein by reference as Exhibit A) to the satisfaction of the Development Services Director.
22. All pedestrian paths must fully comply with all applicable Title 24 disabled access requirements, including those for slopes, surfacing and widths.

Attachment B

E. DURING GRADING ACTIVITY AND PRIOR TO GRADING PERMIT FINAL APPROVAL, THE SUBDIVIDER/APPLICANT SHALL COMPLY WITH THE FOLLOWING:

1. All physical element of the project shown on the approved grading, improvement and related plans shall be located substantially where they are shown and shall be constructed in accordance with appropriate Lemon Grove City Codes.
2. All trash, debris, and waste materials shall be disposed of off-site in accordance with current local, state, and federal disposal regulations. Any materials containing petroleum residues encountered during property improvements should be evaluated prior to removal and disposal, following proper procedures. Any buried trash/debris encountered should be evaluated by an experienced environmental consultant prior to removal.
3. For any work within the public right-of-way, the subdivider shall secure an Encroachment Permit to work within the City right-of-way and place a special deposit with the City to ensure that any damage to the existing roadway or other public improvements is repaired in a timely manner. The Subdivider shall be responsible for all unforeseen costs related to work performed in the right-of-way.
4. The development and preparation of the site shall conform to all recommendations of the approved geotechnical reports submitted to the City.
5. The drainage structures, bioretention areas, underground storage pipes, and outlet structures identified in the Storm Water Quality Management Plan (SWQMP) shall be installed. Any modifications to the bioretention areas shall require modification to the SWQMP and review and approval by the City Engineer and Storm Water Quality Coordinator.
6. The installation of gas, electric, sewer, and water lines and any other below surface utilities is required to take place before the installation of any concrete curbs, gutters, sidewalks, and surfacing of the streets (including repair or replacement). Sewer and water lines shall not be laid in the same trench in any part of this project.
7. Any new utilities required to serve the project shall be placed underground.
8. Provide the City with a final drainage/hydrology report/letter indicating that the site design is in accordance with the report and the National Pollutant Discharge Elimination System (NPDES) permit.
9. Metallic identification tape shall be placed between the bottom layer of the finished surface and the top or all irrigation lines in the public right-of-way.
10. The contractor/permittee conducting any earth moving operations shall be responsible for controlling dust created by its grading operation or activities at all times.
11. Reporting for earthwork, asphalt, and concrete testing shall be required and prepared in accordance with the latest version of the "Greenback" Standard Specification for Public Works Construction. Reports shall be submitted to the City for review and approval prior to the applicant's request for final inspection on the grading and/or improvement permits. The reports shall be signed and stamped by a California Registered Civil Engineer.
12. Submit a certification letter stating that the grading was done per the approved plan or an as-graded version of the grading plan (as-graded drawings) prepared, signed and dated by the responsible Civil Engineer which shall include original and "as-graded" ground surface elevations, pad elevations, slope ratios, and elevations and sections of all buttress/stabilization and fills, subdrains and general location and depth of all areas or removal of unusable soil.
13. Submit a final soils engineering report prepared by a soils engineer, including type of field testing performed, compaction reports, final pad elevations and certifications,

Attachment B

suitability or utility trench and retaining wall backfill, the maximum allowable soil bearing pressure and the required pavement structural sections, summaries of the field laboratory tests and other substantiating data, and comments on any changes made during grading and their effect on the recommendations made in the preliminary soils engineering report. Each field density test shall be identified, located on a plan or map, the elevation of the test, and the test method of obtaining the in-place density described.

14. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, required irrigation system installed proactive devices, required planting, and all erosion control measures have been completed in accordance with the final approved grading plan and the as-graded drawing, required reports and statements of compliance consistent with section 18.08.030 and Chapter 18.44 of the Lemon Grove Municipal Code have been submitted.
 15. The developer and current and future property owners shall adhere to the recommendation of the requirements of the Storm Water Quality Management Plan (SWQMP) prepared for this project and the recorded Stormwater Facility and BMP Maintenance Agreement to the satisfaction of the Water Quality Coordinator.
 16. The exterior boundary of the subdivision and all lot corner shall be monumented with permanent monuments in accordance with Section 16.12.250 to the satisfaction of the City Engineer.
 17. The permittee shall be responsible to maintain in an obvious and accessible location on the site, a copy of the grading and improvement permit and grading plans bearing the approval of the City Engineer.
 18. The subdivider shall submit record drawings (as-builts) and engineering documentation with applicable fees for all public improvements to the City to the satisfaction of the City Engineer.
- F. PRIOR TO BUILDING FINAL, THE SUBDIVIDER/APPLICANT SHALL COMPLY WITH THE FOLLOWING:
1. All physical elements of the project, including public improvements, survey monumentation, and landscaping, shown on the approved building, landscape, grading, improvement, and related plans shall be located substantially where they are shown and shall be constructed in accordance with appropriate City Codes.
 2. Prior to occupancy, the developer shall pay a Fair Share Contribution to the City of Lemon Grove. The contribution will be calculated as the percent of the project ADT from the Celsius II Project divided by Olive Street total traffic volume as determined by the difference of the buildout ADT minus the existing ADT from the updated Downtown Village Specific Plan (DVSP) traffic study which will be adopted by City Council in the near future.
 3. A report detailing the results of the risk-based screening and verifying the implementation of the Limited Phase II Environmental Assessment recommended measures shall be submitted to the Development Services Department by SCS Engineers.
- G. The terms and conditions of the Tentative Subdivision Map shall be binding upon the permittee and all persons, firms, and corporations having an interest in the property subject to Planned Development Permit PDP-170-0001 and the heirs, executors, administrators, successors, and assigns of each of them, including municipal corporations, public agencies, and districts.

Attachment B

- H. A Final Map must be recorded within **two (2) years** (excluding extensions granted by State Law) from the date of approval unless prior to that date, the Development Services Director, or on appeal, the City Council, has granted a one-year time extension for the filing of said Map. The Map expiration date is automatically extended for 60 days upon receipt of a time extension application regardless if the map is expired.
- I. The subdivider shall indemnify, protect, defend, and hold harmless, the City and any agency thereof, and/or any of its officers, employees, and agents from any and all claims, actions, or proceedings against the City, or any agency or instrumentality thereof, or any of its officers, employees, or agents to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project. City shall promptly notify the applicant/subdivider of any claim, action, or proceeding brought within this time period, and City shall further cooperate fully.

Attachment C

RESOLUTION NO. _____

RESOLUTION OF THE LEMON GROVE CITY COUNCIL APPROVING PLANNED DEVELOPMENT PERMIT PDP-170-0001 AUTHORIZING THE DEVELOPMENT OF AN EIGHTEEN UNIT MULTI-FAMILY CONDOMINIUM RESIDENTIAL AT 3485 OLIVE STREET, LEMON GROVE, CALIFORNIA.

WHEREAS, the applicant, CityMark Development, filed a complete application for Planned Development Permit PDP17-0001 on September 18, 2017 to authorize the development of eighteen (18) multi-family condominium units in association with a subdivision combining one vacant lot with an adjacent lot with an existing 84 unit condominium building at 3485 Olive Street (TM0-000-0188); and

WHEREAS, a Mitigated Negative Declaration (MND) of Environmental Impact (ND17-03) will be filed subsequent to its adoption and the approval of the proposed project. The Initial Environmental Study prepared for this project found that the project would have no significant effect on the environment because identified potentially significant impacts associated with Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Noise, and Mandatory Findings of Significance will be mitigated to below a level of significance. A notice of intent to adopt a mitigated negative declaration was filed with the County Clerk prior to the City Council public hearing; and

WHEREAS, a public hearing was duly noticed and held by the Lemon Grove City Council on October 17, 2017; and

WHEREAS, the City Council has determined that the following Planned Development Permit findings of fact, as required by Section 17.28.030(C), can be made as follows:

1. That the development is not detrimental to the public interest, health, safety, or general welfare.
 - a. The City Council finds that the design of the proposed project complies, or will be made to comply with all of the applicable requirements of the City Zoning Ordinance and Downtown Village Specific Plan relating to public safety and no such detriment should occur.
2. That the development complies with applicable provision of the Zoning Ordinance (Title 17) and/or deviations that comply with applicable provisions in subsection D of the Planned Development Permit regulations (Section 17.28.030).
 - a. The City Council finds that the proposed project complies with, or conditions have been included for this project to require it comply with the Zoning Ordinance and Downtown Village Specific Plan requirements relating to off-street parking, screening, and landscaping and waivers or modifications to the maximum front yard setback, parking space standards, and off-street loading requirements are offset by the provision of enhanced parking and recreational amenities and connectivity elements for residents of the subdivision.
3. That the development is consistent with general plan policies and standards and other applicable plans or policies adopted by the City Council.
 - a. The City Council finds that the planned development is consistent with the Lemon Grove General Plan and Downtown Village Specific Plan policies and standards

Attachment C

- because the Specific Plan allows condominium development at the form and scale proposed; and
4. That the development density or intensity does not exceed general plan limitations.
 - a. The City Council finds that the planned development of 18 multi-family condominium dwelling units at a density of 60.0 dwelling units per acre, is consistent with the Lemon Grove General Plan and Downtown Village Specific Plan which requires development with a minimum of 35 dwelling units per acre; and
 5. That the existing infrastructure such as utilities, transportation systems, and communications networks adequately serve the development or will be upgraded to efficiently accommodate the additional burdens imposed.
 - a. The City Council finds that appropriate public services (e.g., sewer, water, gas, and electricity) exist to the subject property and that improvements proposed for the project allow for safe circulation of pedestrian, bicyclists, and motor vehicles and improve the general welfare of the community; and

WHEREAS, the City Council has determined that the following deviations, waivers, or modifications as permitted by the Planned Development Permit regulations (Section 17.28.030(D)) are adequately offset by the provision enhanced parking, recreational and connectivity elements as equivalent benefits:

1. A modification of Downtown Village Specific Plan Chapter III c. Zones, Uses & Development Standards to allow buildings to be located further than five (5) feet from the ultimate right-of-way; and
2. A waiver of Downtown Village Specific Plan Chapter III c. Zones, Uses & Development Standards to forgo the requirement that residential developments with more than 12 units provide a designated loading area; and
3. A modification of Downtown Village Specific Plan Chapter IV D.2 Proposed Parking Standards to allow tandem spaces to count towards the parking requirement; and
4. A waiver of Section 17.24.010(D)(2) (Parking Standards) that requires one parking space per dwelling unit to be within a garage, carport or other covered structure; and

WHEREAS, the City Council has considered Tentative Map TM0-000-0188 revised August 30, 2017 associated with Planned Development Permit PDP-170-0001; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby;

SECTION 1. Finds and determines that the facts set forth in the recitals of this Resolution are declared to be true; and

SECTION 2. Waives or modifies the following Development Standards in accordance with Section 17.28.030(D) (Deviations):

1. A modification of Downtown Village Specific Plan Chapter III c. Zones, Uses & Development Standards to allow buildings to be located further than five (5) feet from the ultimate right-of-way; and
2. A waiver of Downtown Village Specific Plan Chapter III c. Zones, Uses & Development Standards to forgo the requirement that residential developments with more than 12 units provide a designated loading area; and
3. A modification of Downtown Village Specific Plan Chapter IV D.2 Proposed Parking

Attachment C

Standards to allow tandem spaces to count towards the parking requirement; and

4. A waiver of Section 17.24.010(D)(2) (Parking Standards) that requires one parking space per dwelling unit to be within a garage, carport or other covered structure; and

SECTION 3. Conditionally approves Planned Development Permit PDP-170-0001 in conjunction with Tentative Map TM0-000-0188 and the grading, site, landscape, and architectural plans revised August 30, 2017 (incorporated herein by reference as Exhibit A), except as noted herein. This approval authorizes the development of a .34 acre parcel into 18 multi-family condominium residential units with associated common areas and improvements on a vacant site at 3485 Olive Street, Lemon Grove, California. Except as amended, the approval of this project shall be subject to the following conditions:

A. PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE CONSTRUCTION AUTHORIZED BY PLANNED DEVELOPMENT PERMIT PDP-017-0001:

1. All physical elements of the proposed project shown on the approved plans dated August 30, 2017 except as noted herein, shall be located substantially where they are shown and shall be constructed in accordance with applicable Lemon Grove City Codes. The Development Services Director has the authority to allow modifications to the approved plans when the modifications are found to be in substantial conformance (minor deviations in colors, roof and siding material acceptable) and in compliance with the Municipal Code and General Plan.
2. Pay school fees, Helix Water District Capacity fees, Regional Transportation Congestion Improvement Program (RTCIP) fees, sewer connection fees, Park Lands Dedication fees and other applicable development fees.
3. Record the Final Map for TM0-000-0188 unless otherwise determined by the Development Services Director.
4. All proposed color and materials shall substantially conform to the approved Celsius I color and materials board submitted with building permit B15-0173 as revised January 19, 2017.
5. All dwelling units shall comply with the interior noise level requirements of California Code Title 24. All proposed door, window and wall assemblies shall comply with the recommendations of the Addendum to the Acoustical Analysis prepared by EILAR Associates, Inc. dated June 13, 2017. Before permit issuance, a verification letter shall be provided by the acoustical consultant confirming that the assemblies proposed in the construction documents comply with recommendations of the Addendum to the Acoustical Analysis.
6. All light fixtures shall be designed, shielded and adjusted to reflect light downward, away from any road or street, and away from any adjoining premises.
7. Vehicular sight distance of all driveway entrances shall be to the satisfaction of the City Engineer.
8. Install only high efficiency appliances, use only high-efficiency watering technologies, and landscape using low-water-use plants as follows:
 - a. Install the following indoor fixtures:
 - i. High-efficiency toilets (1.28 gallons or less per flush);
 - ii. High-efficiency dishwashers (Energy Star, WaterSense or equivalent);
 - iii. High-efficiency clothes washers (3.7 water factor or lower); and

Attachment C

- iv. Low-flow shower heads (2.0 gallons per minute or less).
 - b. Install dedicated meters for common area outdoor water use. Enroll all new irrigation meters (except those at single-family residences) in the Helix Water Budget Program and provide documentation of irrigated landscape area at the time of meter purchase.
 - c. Install automatic irrigation controllers with a rain sensor that utilize either evapotranspiration (weather-based) or soil moisture data and install high-efficiency, matched-precipitation rate sprinkler nozzles at all residential landscapes and common areas. Irrigation runoff is prohibited and must be prohibited.
- 9. The project shall comply with all applicable provisions of the California Fire Code, California Residential Code and the California Building Code.
 - 10. The applicant shall submit a Notification of Proposed Construction or Alteration to the Federal Aviation Authority (FAA) in accordance with Title 14 Part 77 of the Code of Federal Regulations. The FAA determination shall be submitted to the Development Services Department prior to building issuance. If the project is determined to be a hazard, project review by the Airport Land Use Commission is required.
 - 11. All utility boxes visible from Olive Street shall be painted in an artistic manner. A mockup of the art to be installed on the utility boxes along the Olive Street frontage shall be approved to the satisfaction of the Development Services Director prior to work conducted.
- B. PRIOR TO FINAL APPROVAL OF A BUILDING PERMIT FOR THE CONSTRUCTION AUTHORIZED BY PLANNED DEVELOPMENT PERMIT PDP-170-0001:
- 1. All physical elements of the proposed project shown on the approved plans dated August 30, 2017 except as noted herein, shall be located substantially where they are shown and shall be constructed in accordance with applicable Lemon Grove City Codes.
 - 2. All rooftop mechanical elements shall be screened.
 - 3. The color palette and materials shall match Celsius Phase I to the satisfaction of the Development Services Director.
 - 4. Enroll Celsius Phase II in the San Diego County Sheriff's Crime Free Multi Housing Program.
 - 5. Submit a height certification from a Registered Civil Engineer, Structural Engineer, or Licensed Land Surveyor affirming that the height of the constructed building from finished grade to structure peak conforms to the elevations on the approved plans.
 - 6. Art shall be incorporated onto the utility boxes along the Olive Street frontage.
 - 7. Prior to Fire Department clearance for occupancy, and automatic fire sprinkler system shall be installed. The system shall comply with NFPA #13-R Standard for Automatic Fire Sprinkler Systems-Multi-Family Dwellings. Three sets of plans, hydraulic calculations, and material specification's sheets for all equipment used in the system shall be submitted by a State of California Licensed C-16 Contractor for review, approval, and permits issued prior to commencing work. A class One Standpipe system is required.
 - 8. Prior to final inspection or occupancy, hand portable fire extinguishers are required to be installed as directed by Heartland Fire & Rescue Fire Prevention staff. The size, location, and markings shall be illustrated on the floor plan of the construction documents. Prior to

Attachment C

installation the client is directed to request a fire inspection to confirm the locations of the fire extinguishers due to field changes with business systems that could conflict with the construction documents.

9. Permanent commercial/industrial three-dimensional street numbers, minimum 12 inches in height with a ½ inch stroke, shall be provided on the address side of the building at the highest point and furthest projection of the structure. The address shall be visible from the street and shall not be obstructed in any manner.
 10. Address numbers and suite numbers are required to be installed or painted on the rear of access doors to multiple suite facilities. Numbers or letters shall be a minimum of four (4) inches in height and placed on a contrasting background.
 11. A lighted directory (site map) meeting Heartland Fire & Rescue specifications is required at each entrance to the complex as directed by Heartland Fire & rescue. A site plan with all building locations identified by a number or letter, space numbers, fire protection equipment, etc. and shall be reviewed and approved by Heartland Fire & Rescue prior to installation.
 12. Knox emergency access key box is required at each building, with specific mounting locations approved by Heartland Fire & Rescue. Recessed mount key boxes are required. Premise keys for all buildings and areas shall be marked and placed in the box prior to final inspection to ensure emergency access. The building owner/occupants shall provide replacement keys whenever locks are changed.
 13. Provide plans on AutoCAD (any release) for pre-fire planning use by fire department. Information shall include locations of all exits, stairwells and roof access. Also, gas, electrical, water, fire sprinkler and standpipe valves and shutoffs, and elevator and electrical equipment rooms, fire alarm panels, remote annunciators and RTU/HVAC detectors.
 14. Parking structure gates shall have "Click-to-Enter" and shall be submitted to the Fire Department for review and approval prior to installation.
 15. The project shall comply with the emergency responder radio requirements in the California Fire Code. Plans and specifications shall be submitted to the Fire Department for review and approval prior to installation.
- C. UPON ESTABLISHMENT OF USE IN RELIANCE WITH TENTATIVE MAP:
1. Comply with all of the Conditions of this resolution and the requirements of TM0-000-0188, as applicable.
 2. All physical elements of the project shown on the approved grading, improvement, building, landscape, SWQMP, and related plans shall be maintained and located substantially where they are in accordance with appropriate City Codes.
 3. The City approved CC&Rs shall be abided by at all times.
 4. All landscaping shall be well maintained and adequately watered at all times. The landscaping located on the subject property and within the public right-of-way shall be maintained in a healthy and growing condition at all times. All on-site & off-site landscaped areas shall be planted and irrigated by a permanent irrigation system. Over-irrigation and irrigation runoff is prohibited.
 5. All maintenance presented in the Stormwater Facility and BMP maintenance agreement and SWQMP must be implemented.

Attachment C

6. The proposed facility shall fully comply with the requirements of the California Fire Code to the satisfaction of the Fire Chief.
 7. All fences, screening and walls on the subject property shall be maintained in good condition at all times.
 8. All light fixtures shall be designed, shielded and adjusted to reflect light downward, away from any road or street, and away from any adjoining premises.
 9. All graffiti shall be removed or painted over with a paint that closely matches the color of the exterior of the building within 48 hours of the discovery of the graffiti.
 10. Provide water-use efficiency data upon request to the Helix Water District for six years following installation/development.
 11. If any fire hydrant is taken "OUT OF SERVICE" – Heartland Fire & Rescue shall be notified immediately and the hydrant marked, bagged, or otherwise identified as OUT OF SERVICE as directed by the Fire Marshal.
 12. Any deviations proposed from the approved plans relating to the construction of facilities and maintenance of improvements shall substantially conform to the approved plans dated August 30, 2017 to the satisfaction of the Development Services Director.
 13. The consolidated project is included within Community Facilities District (CFD) No. 2013-01. The properties will be designated as Developed Residential Property upon final occupancy in accordance with the provisions of the CFD.
- D. This approval of this Planned Development Permit will expire two years from the date of approval or such longer period as may be extended in accordance with Section 17.28.020 of the Municipal and/or by State Law (the Planned Development Permit will be extended automatically with any extensions required of Tentative Map TM0-000-0188).
- E. The terms and conditions of the Planned Development Permit shall be binding upon the permittee and all persons, firms, and corporations having an interest in the property subject to this Planned Development Permit and the heirs, executors, administrators, successors, and assigns of each of them, including municipal corporations, public agencies, and districts.

/////
/////

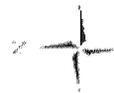
Attachment D

EXHIBIT A – PROJECT PLANS

Not Attached

Enclosed in City Council packet or available at City Hall for Review

Celsius Phase II



Celsius Phases

Phase I - Existing

Phase II - Proposed



**INITIAL STUDY / ENVIRONMENTAL CHECKLIST
ENVIRONMENTAL ASSESSMENT NO. ND17-03
FOR TENTATIVE MAP TM0-000-0188 &
PLANNED DEVELOPMENT PERMIT PDP-170-0001
LOCATED AT 3485 OLIVE STREET & 100 CITRONICA LANE
APN: 480-043-16-00 & 480-043-42-00
LEMON GROVE, CALIFORNIA**

Prepared by:
Lemon Grove Planning Division Staff
3232 Main Street
Lemon Grove, CA 91945
(619) 825-3805

September 21, 2017

Attachment F

City of Lemon Grove Initial Study / Environmental Checklist

This Initial Study / Environmental Checklist has been prepared pursuant to the California Environmental Quality Act (CEQA) [Public Resources Code §21000, et seq.] and the 2016 State CEQA Guidelines [California Code of Regulations §15000, et seq.]. This Initial Study / Environmental Checklist determines that the project will result in no impacts or less than significant impacts (with mitigation) on the environmental resources and issues evaluated herein, and hence would not have a significant impact on the environment.

This document is being made available for a 20-day public review comment period, beginning September 21, 2017 and ending October 12, 2017. Comments regarding this Initial Study/ Environmental Checklist must be made in writing to: Michael Viglione, Assistant Planner, City of Lemon Grove, 3232 Main Street, Lemon Grove, California 91945. Comments must be received by 5:00 P.M. on the last day of the public review period.

1. **Project Title:** Celsius Phase II
TM0-000-0188; PDP-170-0001, ND17-03
2. **Lead Agency Name and Address:** City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945
3. **Contact Person and Phone Number:** Michael Viglione
Assistant Planner
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945
(619) 825-3807
4. **Project Location and APN:** 3485 Olive Street
Lemon Grove, CA 91945

100 Citronica Lane
Lemon Grove, CA 91945

APN:
480-043-16-00
480-043-42-00
5. **Project Applicant:** Eric Naslund
2258 First Avenue
San Diego CA 92101
6. **General Plan Designation:** Mixed Use (43 dwelling units per acre maximum). The project's proposed density is 60 dwelling units per net acre.
7. **Zoning Designation:** Transit Mixed Use 5 (TMU 5)

8. Project Description:

The project site consists of a vacant rectangular lot at 3485 Olive Street and an irregularly shaped lot developed with 84 condominium units at 100 Citronica Lane in the City of Lemon Grove, California. The proposed project is a request for a Tentative Subdivision Map and a Planned Development Permit to authorize the construction of 18 condominium units on a .34 gross acre lot consolidated with the adjacent 84 existing condominium units at 100 Citronica Lane in the Downtown Village Specific Plan Transit Mixed Use 5 zoning district. The net acreage for the lot at 3485 Olive Street, the site of the 18 proposed units, is .30 acres. The minimum density for the Transit Mixed Use 5 zoning district is 35 dwelling units per acre, for a minimum of 11 dwelling units for this .3 net acre site. The project proposes modifications of the Downtown Village Specific Plan regulations as follows: 1) an increased building setback from Olive Street, 2) uncovered resident parking spaces 3) tandem resident parking spaces and 4) shared use of the Celsius Phase I loading space. Proposed public street improvements include curb, gutter, sidewalk, and parkway with street trees along the 3485 Olive Street frontage. The 18 proposed units would take access from Olive Street south of its intersection with Lemon Avenue. Twenty-four (24) parking spaces, three bicycle racks and two motorcycle spaces all reserved for residents are proposed. Two biofiltration basins are proposed to accommodate storm water flows from the project site. Grading is proposed on site including 100 cubic yards of cut, 100 cubic yards of fill. on site including 14,000 cubic yards of cut, 14,000 cubic yards of fill.

9. Setting and Surrounding Land Uses:

The project site is in a developed urban mixed use area. The rectangular lot is located north of Broadway, west of Citronica Lane, south of North Avenue and east of Olive Street in the City of Lemon Grove, California near State Route 94. The existing surrounding land uses consist of heavy commercial uses, multi-family apartments, senior housing apartments, and retail stores. The Lemon Grove Trolley Depot serving the Orange Line is also within a quarter mile of the project site.

10. Approvals Required:

Tentative Map TM0-000-0188 and Planned Development Permit PDP-170-0001 and related requests for modifications of regulations for Development Standards in Titles 16 and 17 of the Lemon Grove Municipal Code.

11. Other public agencies whose approvals are required (e.g., permits, financing approval, or participation agreement):

Department of Fish and Game.

Attachment F

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

Based upon the initial evaluation presented in the following Initial Study / Environmental Checklist, it is concluded that the Project **would** result in the following potentially significant adverse environmental impacts to the following resource areas:

- | | |
|---|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Land Use and Planning |
| <input type="checkbox"/> Agriculture & Forestry Resources | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Air Quality | <input checked="" type="checkbox"/> Noise |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Population and Housing |
| <input checked="" type="checkbox"/> Cultural Resources | <input type="checkbox"/> Public Services |
| <input checked="" type="checkbox"/> Geology and Soils | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Transportation / Traffic |
| <input checked="" type="checkbox"/> Hazards and Hazardous Materials | <input type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Hydrology and Water Quality | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION:

On the basis of this initial evaluation: (To be completed by the Lead Agency)

- I find that the project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (a) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (b) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT (EIR) is required, but it must analyze only the effects that remain to be addressed.
- I find that although the project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or (MITIGATED) NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or (MITIGATED) NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the project, nothing further is required.

Michael Viglione, Assistant Planner

Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported

Attachment F

if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur then, the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
4. “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level (mitigation measures from “Earlier Analyses”, as described in (5) below, may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or (mitigated) negative declaration pursuant to Section 15063(c)(3)(D) of the CEQA Guidelines. In this case, a brief discussion should identify the following:
 - a. Earlier Analysis Used. Identify and state where they are available for review.
 - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. Mitigation Measures. For effects that are “Less Than Significant With Mitigation Measures Incorporated”, describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

Attachment F

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue should identify:
 - a. The significance criteria or threshold, if any, used to evaluate each question; and
 - b. The mitigation measure identified, if any, to reduce the impact to less than significant.

Impact Terminology

The following terminology is used to describe the potential level of significance of impacts:

- A finding of ***no impact*** is appropriate if the analysis concludes that the project would not affect the particular resource in any way.
- An impact is considered a ***less than significant impact*** if the analysis concludes that it would not cause substantial adverse change to the environment and requires no mitigation.
- An impact is considered ***less than significant with mitigation incorporated*** if the analysis concludes that it would not cause substantial adverse change to the environment with the inclusion of environmental commitments that have been agreed to by the applicant.
- An impact is considered a ***potentially significant impact*** if the analysis concludes that it could have a substantial adverse effect on the environment and requires mitigation.

Attachment F

I. AESTHETICS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of Checklist:

a: No Impact. The project site is not located within or near a designated scenic vista or a State Scenic highway and no scenic resources or historic buildings exist on-site.

b-d: Less than Significant. The site is located in a developed urbanized area and is previously disturbed. The site was originally developed with commercial building in the 1950s though it was demolished in 2017. The site has no vegetation, rocks or other natural features as the removal of the structure and hardscape encompassed the entire property. Public street trees are proposed along Olive Street and trees and landscaping are also proposed on the private property facing the street. Night time lighting of new residences are likely to occur as a result of this project. Glare onto adjacent public rights-of-ways is required to be reduced to a level of no impacts per Title 24 of the California Building Code and City Ordinances. Aesthetic impacts are expected to be less than significant.

Source: 1, 2, 3, 4, 10, 23

Attachment F

II. AGRICULTURAL AND FOREST RESOURCES

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220[g]), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104[g])?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Checklist:

a–e: No Impact. The project site is located in an existing urbanized area with no agricultural or forest resources within the vicinity. The subject parcel is considered Urban and Built-Up Land per the California Department of Conservation’s Farmland Mapping and Monitoring Program. The site was previously developed with a commercial building and no agricultural or forestry uses are located on-site. The project site is not zoned for agricultural or forestry purposes; nor is there a Williamson Act Contract associated with the site or vicinity. Therefore, the project would not convert Important Farmland, conflict

Attachment F

with agricultural zoning, or otherwise cause the conversion of farmland or forest land to non-agricultural/non-forest use. The project would have no agricultural resource impact.

Source: 1, 2, 17

Attachment F

III. AIR QUALITY

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of Checklist:

a-e: Less Than Significant Impact. No significant impact on air resources is likely to occur. While the proposed project may result in a slight increase in vehicular traffic and a slight increase in air quality impacts to the region, the Master Environmental Impact Report (MEIR) for the City of Lemon Grove's General Plan anticipates vehicular air quality impacts associated with the build out of Lemon Grove but not to a level of significance. The cumulative air quality impacts of buildout of the Lemon Grove General Plan will remain significant and unmitigated. A Statement of Overriding Considerations for air quality was adopted with the General Plan EIR to address this unmitigated impact. However, this project is not likely to result in a cumulatively considerable net increase of any criteria pollutant. Furthermore, as a transit oriented development, the proposed project is consistent with General Plan MEIR Air Quality Mitigation Measures 4.9-1 and 4.9-6.

Attachment F

Standard conditions of project approval will require the control of dust during site grading and construction. During construction, diesel equipment may generate some nuisance odors; however, due to best management practice requirements to control dust and odors, odors associated with project construction would not be significant. As a single-family residential use, the project would not generate objectionable odors. Therefore, odor impacts would be less than significant

Section 15125(d) of the CEQA Guidelines contains specific reference to the need to evaluate any inconsistencies between the proposed project and the applicable air quality management plan, i.e., the San Diego Regional Air Quality Strategy (RAQS). Included in the RAQS are transportation control measures (TCMs). The RAQS and TCM set forth the steps needed to accomplish attainment of state and federal ambient air quality standards. The primary concern for assessing impacts on the RAQS is whether the project is consistent with the growth assumptions used to develop the plan.

San Diego Air Pollution Control District (SDAPCD) relies on land use designations contained in local general plan documents and the San Diego Association of Governments (SANDAG) regional transportation plans to prepare air quality plans. SDAPCD refers to approved general plans to forecast, inventory, and allocate regional emissions from land use and development-related sources. These emissions budgets are used in statewide air quality attainment planning efforts. As such, a project is inherently consistent if it proposes development in conformance with a given General Plan land use designation. This project is in conformance with the Transit Mixed Use zoning designation in the Downtown Village Specific Plan which is specifically referenced in the Lemon Grove General Plan as the controlling document in the project vicinity. Projects that propose development that is greater than anticipated in the growth projections warrant further analysis to determine consistency with RAQS and the State Implementation Plan (SIP).

Source: 1, 2, 4, 11, 24

Attachment F

IV. BIOLOGICAL RESOURCES

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Attachment F

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Checklist:

a-f: No Impact. The subject site is located in a developed mixed use area surrounded by heavy commercial, retail, and multi-family land uses. A commercial building on site constructed in 1950 was demolished in 2017 leaving the site vacant. No plant communities or animal habitats are present on the site and no wildlife corridors will be impacted by redevelopment.

The MEIR for the City of Lemon Grove's General Plan also conveys that the subject property is not within one of the Vegetation Communities in the City limit. Furthermore, no Sensitive Biological Resources or Sensitive Botanical Resources as described in the MEIR are present on site. The MEIR additionally states that no biological impacts will occur due to General Plan implementation in the Downtown Village Specific Plan area as no sensitive biological resources occur there.

Source: 1, 2, 4,

Attachment F

V. CULTURAL RESOURCES

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Cause a substantial adverse change in the significance of a Tribal Cultural Resource as defined in Public Resources Code, Section 21074 as either: 1) a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, that is listed or eligible for listing on the California Register of Historical Resources, or on a local register of historical resources as defined in Public Resources Code section 5020.1(k), or 2) a resource determined by a lead agency, in its discretion and supported by substantial evidence, to be significant according to the historical register criteria in Public Resources Code section 5024.1 (c), and considering the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attachment F

Explanation of Checklist:

a-d: No Impact

The .34 acre subject property is disturbed as it was previously developed in 1950 with a commercial building though it was demolished in 2017. Neither the project site nor its contents are listed in any historical register, identified in historical surveys or are determined to be of particular historical import. There are no known cultural resources located on the property. There are no known human remains or those interred outside of formal cemeteries on the subject property or in the surrounding area. According to the Geotechnical Report, the site is mapped as being underlain by the by Pleistocene-aged Very Old Paralic formation (Qvop) and Santiago Peak Volcanics (Jsp). However, test borings documented in the Geotechnical Report show that the site is underlain by 7 to 10 feet undocumented fill, a product of previous commercial development, and Santiago Peak Volcanics to the maximum depth of the boring. Earthwork recommendations in the Geotechnical Report specify excavations will be limited to a depth of about 4 feet or less, with the possible exception of an elevator pit, thus making any cut into the underlying geological formation unlikely.

The General Plan MEIR states that no prehistoric resources have been recorded with the Downtown Village Specific Area and that due to previous development across the entirety of the plan area, impacts to prehistoric resources are unlikely. No unique geologic or physical features occur within the City according to the General Plan MEIR. Furthermore, the Pleistocene-aged Very Old Paralic formation, previously known as the Linda Vista Formation, has

e: Less than Significant Impact with Mitigation.

Tribal consultation requests resulted in requests for tribal consultation by the Jamul Indian Village and Campo Band of Mission Indians, and written comment from the Viejas Band of Kumeyaay Indians. Tribal representatives requested ongoing updates and notifications on the project, cultural monitors provided from their specific tribe during grading activities, respectful treatment of any and all cultural objects, removal and repatriation in accordance with Kumeyaay Cultural Repatriation Committee directives and provision of any progress reports or archeological surveys. As such, in order to mitigate any impacts that grading may cause: 1) The subdivider/applicant shall conduct a cultural resources records search through the California Historical Resources Information System (CHRIS) for the area of project effect to determine if there is likelihood for on-site Native American cultural resources. A copy of a letter regarding the records search shall be provided to the Development Services Department prior to issuance of grading or improvement permits. The report shall provide recommendations for further analysis and those recommendations shall be implemented as a part of the mitigation measures. 2) Representatives from the Campo Band of Mission Indians, Jamul Indian Village of California, and Viejas Band of Kumeyaay Indians, shall be present at the pre-grading meeting to consult with the grading and excavation contractors. 3) A Kumeyaay cultural monitor shall be present during all grading activities. 4) The Kumeyaay cultural monitor shall be allowed to temporarily direct, divert or halt grading to allow recovery of fossil and artifact remains. 5) Prior to final inspection, a report summarizing the results of the mitigation program and the coordination efforts with the representatives of the tribal governments shall be prepared and submitted to the Development Services Director. This report will include a discussion of methods employed, fossils and artifacts recovered, geologic context of fossil and artifact remains and the significance of the mitigation program. With

Attachment F

implementation of the mitigation measures specified above, potential impacts to cultural resources would be less than significant.

Source: 1, 2, 4, 5

VI. GEOLOGY AND SOILS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</p> <ul style="list-style-type: none"> i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. ii. Strong seismic ground shaking? iii. Seismic-related ground failure, including liquefaction? iv. Landslides? 	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>b. Result in substantial soil erosion or the loss of topsoil?</p>	<p><input type="checkbox"/></p>	<p><input type="checkbox"/></p>	<p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p>
<p>c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?</p>	<p><input type="checkbox"/></p>	<p><input type="checkbox"/></p>	<p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p>
<p>d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?</p>	<p><input type="checkbox"/></p>	<p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p>	<p><input type="checkbox"/></p>

Attachment F

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Checklist:

a-c: Less than Significant Impact. The project site is located within the seismically active southern California region. The Rose Canyon Fault Zone is the nearest active fault system to the project site and lies approximately 8 miles to the west while the nearest potentially active fault, the La Nacion Fault, is located approximately two miles west of the City. The Geotechnical Report further indicates that there are no known active faults crossing the site. Given the proximity of the Rose Canyon fault system, a strong earthquake on this fault could produce severe ground shaking at the project site, but would be unlikely to produce seismic related ground settlement or destructive seismic phenomena. Despite the potential of the Rose Canyon fault system to produce severe ground shaking at the project site, impacts to the project would be reduced through adherence to requirements specified in the Alquist–Priolo Act, the Uniform Building Code, Title 24 of the California Building Code, and all development regulations of the City. Compliance with these building standards would minimize impacts associated with seismic hazards.

The site is mapped as being underlain by the by Pleistocene-aged Very Old Paralic formation (Qvop) and Santiago Peak Volcanics (Jsp). Geotechnical Report test borings show however that the site is actually underlain by 7 to 10 feet undocumented fill then Santiago Peak Volcanics to the maximum 21.5 foot depth of the borings. The report recommends the removal of undocumented fill to a depth of approximately 4.5 feet, or 2 feet below the base of the foundation, and replacement with Engineered Replacement Fill.

d. Less than Significant Impact with Mitigation. The Geotechnical Report indicates that low to medium expansive soils are present on site. To minimize the effect of any moderately expansive soils onsite, the Geotechnical Report recommends the replacement of approximately 4.5 feet undocumented fill with non-expansive Engineered Replacement Fill. Project conditions will require the incorporation of all Geotechnical Report recommendations into the design and construction specifications of the project, which would reduce the impact to below a level of significance.

e: No Impact. The project would be served by the City's wastewater system and would not require the use of septic systems. No impact related to septic system soil issues would occur.

Source: 1, 2, 4, 5, 13

VII. GREENHOUSE GAS EMISSIONS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of Checklist:

a–b: Less Than Significant Impact.

The proposal to develop the project site with 18 multi-family condominiums is below the threshold of significance established by the Californian Air Pollution Control Officers Association (CAPCOA) for greenhouse gas emissions. According to the CAPCOA White Paper published in January 2008, it is presumed that the construction and operational greenhouse gas emissions for residential projects of less than 50 units would not exceed 900 metric tons of CO₂-equivalent emissions per year, and would therefore have a less-than-cumulatively considerable impact to the environment. Pursuant to California Assembly Bill 32, the State must reduce greenhouse gas emissions by at least 16% in order to roll back the level of emissions for the year 2020 to those levels that existed in 1990. CAPCOA has determined that any project which generates less than 900 metric tons of CO₂-equivalent emissions per year is below the level necessary to achieve the 16% reduction in anticipated state-wide emissions for the year 2020 under the “business as usual” scenario. Therefore, the impact is less than significant.

During grading and project construction, a temporary increase in operational emissions may occur. Operational emissions include mobile source emissions and building emissions. The San Diego Air Pollution Control District Rule 55 requires compliance with standard fugitive dust control best management practices which will be required as a part of normal practices. The impact is expected to be less than significant.

Source: 1, 2, 4, 14

Attachment F

VIII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Attachment F

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Checklist:

a–d: No Impact. The project is an urban infill residential project consisting of 18 residential units and will not create a hazardous environment through the routine use or transport of hazardous materials. There are no known hazardous material sites within the City.

Due to the historical uses of the site, a Phase II Environmental Assessment was prepared to assess the site for the presence of hazardous materials. All recommendations of the Phase II Assessment, including those that address the handling and remediation of the soil with elevated levels of arsenic on site, will be incorporated into project conditions.

e: Less Than Significant with Mitigation Incorporated. The site is located within the Montgomery Field Airport Influence Area as shown on the adopted Montgomery Field Airport Land Use Compatibility Plan (ALUCP). The project site is in Review Area 2 which requires Federal Aviation Authority (FAA) Title 14 Part 77 notification at least 45 days prior to the start of proposed construction. Should the FAA determine that the project is a hazard, the project must be submitted for ALUCP compatibility review by the Airport Land Use Commission. These mitigation measures will be incorporated into project approval conditions.

f-h: No Impact. The proposed project will not impair implementation of or physically interfere with any emergency response plan or evacuation plan because the project design and access has been reviewed and approved by the Fire Department. The project is located within an urbanized area and there are no wildlands located within the vicinity of the subject property.

Source: 1, 2, 4, 15, 21, 22

Attachment F

IX. HYDROLOGY AND WATER QUALITY

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Attachment F

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Checklist:

a-f: Less than Significant Impact. The project does not substantially degrade groundwater supplies or interfere substantially with groundwater recharge. Two biofiltration basins are included in the project design to manage increase in runoff discharge rates and durations due to the proposed development. All stormwater runoff from impervious areas of the proposed development will be routed to either one of the biofiltration basins on the subject site. The design of the project was reviewed by the City of Lemon Grove Engineering Department in order to assess the need for drainage improvements. Their comments are incorporated into the design of the project and further refinements to the drainage systems will be required with final project designs. Drainage patterns will be altered as a result of the project, but not to a level of significance, and the project will be designed and constructed consistent with the conceptual grading plan and drainage study.

g-j: No Impact. The project site is not located within an area prone to flooding. According to Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency, the subject site is located within Zone "X" or outside the 0.2 percent annual chance floodplain. Moreover, the project site is located about 9.3 miles from the nearest shoreline of the Pacific Ocean at an elevation of approximately 440 feet above sea level. As such there is no threat to the site from seiche, tsunami, or mudflow.
Source: 1, 2, 4, 5, 6, 8, 18

Attachment F

X. LAND USE AND PLANNING

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Checklist:

a-c: No Impact. The project will not divide the community. As an 18 unit multi-family residential infill development, the proposed project is consistent with the Mixed-Use Special Treatment Area 1 (Downtown Village Specific Plan) General Plan Land Use designation and the Transit Mixed Use 5 zoning district regulations that apply to the subject property. The project does not conflict with any applicable habitat conservation plan.

Source: 1, 2, 4, 24

XI. MINERAL RESOURCES

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Checklist:

a-b: No Impact. There are no known mineral resources of significance or categorized as locally important on the project site or within the City nor does the Geotechnical Report identify or reference any mineral resources of significance. As a result, there would be no impact to mineral resources associated with implementation of the project.

Source: 1, 2, 5

Attachment F

XII. NOISE

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Expose persons to or generate excessive ground borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of Checklist:

a: Less Than Significant Impact with Mitigation. The proposed multi-family project will not introduce significant noise sources in the vicinity that are inconsistent with the existing commercial, residential or retail development in the area. Conformance with the City's Noise Abatement and Control ordinance (Chapter 9.24 of the Lemon Grove Municipal Code) is required for operation of any single or combination of powered construction equipment at any construction site. However, State Route 94 is a noise source within close proximity of the project. Figure N-2 in the 1996 General Plan indicates that the subject property is located in an area with a Community Equivalent Noise Levels (CNEL) equal to or less than 65 decibels (dB). The MEIR for the General Plan states that projects with existing noise levels below 60 dB CNEL are normally acceptable or satisfactory for residential development without conditions. Projects that exceed 60 dB require a noise study and are only conditionally acceptable if noise reduction requirements identified in the noise study are incorporated into project design. An addendum to the original noise study prepared for Celsius Phase 1 was prepared for, and submitted with, the aforementioned noise study. The noise study shows that the noise impact at the nearest building façade of the existing Celsius Phase 1 project is 66.6 dB CNEL. For those units not directly facing the trolley, the noise study recommends the use of Sound Transmission Class (STC) 28 Doors and Windows and STC 44 exterior stucco wall. The addendum prepared by the acoustical consultant reiterates this conclusion and notes that the proposed Celsius Phase II building is both further from the primary noise source, the trolley, and behind the existing Celsius Phase I building. Thus the relative position of the Celsius II building results in both distance attenuation of the sound and shielding from the noise source. Incorporation of the recommended mitigation, would reduce the impact to below a level of significance and achieve compliance with California Building Code and City of Lemon Grove requirements. Project conditions will require incorporation of all noise study recommendations and additional written confirmation from the Acoustical Engineer that construction documents are consistent with the noise study recommendations prior to building permit issuance.

b: Less than Significant Impact. The proposed project which is multi-family residential in nature will not expose persons to, or generate, excessive ground borne vibration or ground borne noise levels. Construction activities may create minor ground borne vibrations during the construction process, but any such vibrations would be temporary in nature and less than significant.

c-d: Less than Significant Impact. The proposed project which is multi-family residential in nature will not introduce significant noise sources in the vicinity that are inconsistent with the existing commercial and residential development in the area.

e-f: Less than Significant Impact. The project site is not within the vicinity of an airport. The nearest airport, Gillespie Field, is about six and half miles from the project site while the nearest private airstrip is approximately nine miles away. The Compatibility Policy Maps for Noise from the adopted Airport Land Use Compatibility Plans of the nearest four airports show that the proposed project site is not within any airport noise exposure noise contour.

Source: 1, 2, 4, 7, 21

Attachment F

XIII. POPULATION AND HOUSING

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Checklist:

a: Less Than Significant Impact. The proposed development is located in a developed, urbanized mixed use area. The project proposes multi-family transit oriented housing that is consistent with the City of Lemon Grove General Plan's goal of creating a mixed-use area with a variety of transportation options and the Downtown Village Specific Plan implemented to achieve the General Plan vision. The surrounding area is already built out and the project would not induce substantial population growth beyond what is already anticipated in the General Plan and Specific Plan. The project takes access from an existing public street, Olive Street, and does not further extend infrastructure. Thus, the project would not directly or indirectly induce growth and impacts would be considered less than significant.

b-c No Impact. The now vacant project site was previously developed with a heavy commercial use. The demolition of this structure at the project site did not result in the displacement of any housing units or substantial numbers of people as it was not a residential occupancy.

Source: 1, 2, 4, 24

Attachment F

XV. RECREATION

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of Checklist:

a–b: Less Than Significant Impact. The proposed project is unlikely to cause a significant increase in the demand for recreational facilities in the community. Chapter 18.36 of the Lemon Grove Municipal Code requires residential development to pay parkland dedication in lieu fees or dedicate park space for the purpose of providing park or recreational facilities to serve future residents. In accordance with Lemon Grove Municipal Code section 18.36.060.B., the project proposes the payment of fees to address any increased demand. The payment of Parkland Dedication Ordinance Fees will abate any accelerated deterioration of existing parks that would otherwise be caused by the project. Thus, recreation impacts would be less than significant.

The project does not propose the construction of any new recreational facility nor should it result in a need for the construction or expansion of a recreational facility. The Celsius Phase II project provides private balconies for each unit and access to rooftop recreation area and separate exercise facility. Though the City of Lemon Grove does not have an adopted park standard to determine the adequacy of park space, the increased park demand is not anticipated to rise to a level of significance.

Source: 1, 2, 3, 4

Attachment F

XVI. TRANSPORTATION / TRAFFIC

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Attachment F

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of Checklist:

a–f: Less Than Significant Impact.

The project is estimated to generate an additional 108 vehicle trips per day. Based on the San Diego Traffic Engineers' Council (SANTEC) and the Institute of Transportation Engineers (ITE) document *SANTEC/ITE Guidelines for Traffic Impact Studies in the San Diego Region*, a Traffic Impact Study is not required because the project's trip generation is calculated to be less than 1,000 ADT and less than 100 peak hour trips. Additionally, the Trip Generation Analysis determined that the ADT and number of peak hour trips generated by the proposed project does not trigger Caltrans' threshold for a requirement to analyze State highway facilities. The addition of approximately 108 vehicle trips is found to not have a significant impact on adjacent roadway segments and intersections.

The proposed project takes access from Olive Street just south of its intersection with Lemon Ave. A two-way left turn lane will be provided across this minor intersection between the Broadway and North Ave left hand turn pockets in accordance with The California Manual on Uniform Traffic Control Devices options for minor intersections.

The Fire Department and Engineering Department have determined that access is adequate for emergency vehicles. The proposed project provides the number of parking spaces required. The project as designed complies with standard street design requirements. The subject property is not located within the vicinity of a private airstrip or public airport. Transportation and traffic impacts are expected to be less than significant.

Source: 1, 2, 4, 9, 16, 19, 20

Attachment F

XVII. UTILITIES AND SERVICE SYSTEMS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Comply with federal, state, and local statutes and regulation related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Attachment F

Explanation of Checklist:

a–g: Less than Significant Impact.

The subject property is served by the City of Lemon Grove Sanitation District. The proposed project will not result in a substantial increase in the demand for sanitary services. Standard conditions of project approval will require that the project obtain sewer permits, pay sewer service and connection fees, and connect to the Sanitation District.

The Storm Water Quality Management Plan (SWQMP) prepared for this project determined that it is a “priority development project”. The total disturbed project area is 13,089 square feet and the total proposed newly created or replaced impervious area is 11,311 square feet. The project is not within the environmentally sensitive areas as defined on the maps in Appendix A of the *County of San Diego Standard Urban Storm Water Mitigation Plan for Land Development and Public Improvement Projects*.

Temporary construction Best Management Practices (BMPs) will be implemented during construction of the project. Permanent Structural BMPs, specifically biofiltration basins, will also be constructed to serve the site in perpetuity. Flat areas will be landscaped to help reduce runoff from the site. Standard conditions of approval will require that the project constructs improvements consistent with City Engineering requirements.

The proposed project will not result in a significant increase in demand for domestic water supplies. Standard conditions of project approval will require that the project obtain water service permits, pay the water service and connection fees, and connect to the Helix Water District.

The proposed project will not result in a substantial increase in the generation of solid waste. The project will be required to comply with all federal, state, and local statutes and regulations regarding solid waste. Impacts to utilities and service systems are expected to be less than significant.

Source: 1, 2, 4, 8, 12

Attachment F

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

Does the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>c. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Checklist:

a: Less Than Significant Impact with Mitigation. The proposed project will not degrade the quality of the environment because the project site is a redevelopment site located in an area developed with commercial, multi-family residential, and retail land uses, in an urban community. The redevelopment of the site does not support or influence critical habitat or sensitive vegetation or wildlife and there is no evidence of California history or prehistory on-site.

Attachment F

As discussed throughout the previous portions of the Initial Study Checklist, the project would have no impact on biological resources, however, the project may have the potential for significant impacts to tribal cultural resources. Mitigation is required to avoid any such impacts, should such resources be discovered during the grading process. Therefore, conditions of project approval shall include on-site monitoring by a Kumeyaay cultural monitor during the grading process. Additional conditions shall require that if any cultural resources are discovered at the site, grading shall be discontinued until said resources have been documented, collected, and preserved prior to the continuation of construction activities.

b: Less Than Significant Impact. As discussed above and throughout this checklist, the project will result in less than significant impacts to air quality, greenhouse gas emissions, and traffic. Such impacts are not anticipated to be individually or cumulatively significant because the project is consistent with the growth assumptions of local, regional, and statewide air quality plans, gas reduction goals, and traffic management plans.

c: No Impact. The proposed project will not cause a substantial adverse effect on human beings.

XIX. DETERMINATION AND PREPARERS CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE FEE DETERMINATION (Fish and Game Code Section 711.4, Statutes of 2006 – SB 1535)

- It is hereby found that this project involves no potential for any adverse effect, either individual or cumulatively, on wildlife resources and that a "Certificate of Fee Exemption" shall be prepared for this project.
- It is hereby found that this project could potentially impact wildlife, individually or cumulatively, and therefore, fees in accordance with Section 711.4(d) of the Fish and Game Code shall be paid to the County Clerk.

Attachment F

XX. REFERENCES

Section 15150 of the State CEQA Guidelines permits an environmental document to incorporate by reference other documents that provide relevant data. The documents listed below are hereby incorporated by reference. The pertinent material is summarized throughout this Initial Study / Environmental Checklist where that information is relevant to the analysis of impacts of the Project. The following references were used in the preparation of this Initial Study / Environmental Checklist and are available for review at the City Hall located at 3232 Main Street, in Lemon Grove.

<u>Reference #</u>	<u>Document Title</u>
1.	City of Lemon Grove General Plan
2.	Master Environmental Impact Report for the Lemon Grove General Plan
3.	City of Lemon Grove Municipal Code
4.	TM0-000-00188 Application Packet
5.	Preliminary Geotechnical Investigation and Infiltration Testing, by NOVA Services, Inc. (4/5/2017)
6.	Drainage Study for Celsius 2, by SWS Engineering, Inc. (6/7/17)
7.	Acoustical Analysis Letter for Celsius with Addendum, by EILAR ASSOCIATES, INC. (4/16/2017)
8.	Storm Water Quality Management Plan for Celsius 2, by SWS Engineering, Inc. (8/4/2017)
9.	Driveway Review for Celsius II Project, by Linscott, Law & Greenspan, Engineers (8/23/2017)
10.	Caltrans Scenic Highway website: http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/
11.	San Diego Air Pollution Control District's Regional Air Quality Standards (RAQS) available at: http://www.sdapcd.org/content/sdc/apcd/en/air-quality-planning.html
12.	Standard Urban Stormwater Mitigation Plan, available at: http://www.sandiegocounty.gov/dpw/watersheds/susmp/susmp.html
13.	Department of Conservation's Alquist-Priolo Earthquake Fault Zoning Map available at: http://www.conservation.ca.gov/cgs/rghm/ap
14.	CAPCOA White Paper, published January, 2008.
15.	California Environmental Protection Agency Cortese List Data Resources available at: http://www.calepa.ca.gov/sitecleanup/corteselist/
16.	SANDAG Brief Guide of Vehicular Traffic Generation Rates available at: http://www.sandag.org/uploads/publicationid/publicationid_1140_5044.pdf
17.	Department of Conservation, Farmland Mapping and Monitoring Program website: http://www.conservation.ca.gov/dlrp/fmmp
18.	FEMA Flood Insurance Rate Map Panel No. 06073C1910G May 16, 2012
19.	SANTEC/ITE Guidelines for Traffic Impact Studies in the San Diego Region
20.	Caltrans Guide For The Preparation of Traffic Impact Studies
21.	Montgomery Field Airport Land Use Compatibility Plan
22.	Limited Phase II Environmental Site Assessment, by SCS Engineers, Inc. (3/28/2017)
23.	Caltrans GIS Data California Vista Points, available at: http://www.dot.ca.gov/hq/tsip/gis/datalibrary/Metadata/Vista.html
24.	Lemon Grove Downtown Village Specific Plan

Attachment F

Individuals and Organizations Consulted

David De Vries, Development Services Director, City of Lemon Grove

Tim Gabrielson, City Engineer, City of Lemon Grove

Jeremiah Harrington, Assistant Engineer, City of Lemon Grove

Chris Jensen, Fire Marshal, Heartland Fire and Rescue

Kurt Culver, President and CEO, Esgil

John Draminski, Project Manager, D-MAX Engineering, Inc.

Malik Tamimi, Management Analyst, City of Lemon Grove

**LEMON GROVE SANITATION DISTRICT
AGENDA ITEM SUMMARY**

Item No. 3
Mtg. Date October 17, 2017
Dept. Public Works

Item Title: **Sanitary Sewer Master Plan Update**

Staff Contact: Mike James, Assistant City Manager / Public Works Director, and
Tim Gabrielson, District Engineer

Recommendation:

Adopt a resolution (**Attachment B**) approving the Sanitary Sewer Master Plan Update completed by Dexter Wilson Engineering, Incorporated.

Item Summary:

In August 2016, the Sanitation District Board of Directors identified the need to update the sanitary sewer master plan that was originally created in 2006. The District Board approved an agreement with Dexter Wilson Engineering, Incorporated (Wilson Engineering) to update the sanitary sewer master plan with a final project cost that equaled \$90,285.

The staff report (**Attachment A**) details the background information about the updated sanitary sewer master plan, highlights key pieces of information from the sanitary sewer master plan, and outlines a five-year capital improvement program (Fiscal Year 2017-2018 through Fiscal Year 2021-2022 (**Attachment C**) to be utilized by the District.

Fiscal Impact:

The total project cost of \$90,285 was budgeted in the Fiscal Year 2016-2017 and Fiscal Year 2017-2018 Sanitation District budgets.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution
- C. Five-Year CIP
- D. Sanitary Sewer Master Plan Update

**LEMON GROVE SANITATION DISTRICT
STAFF REPORT**

Item No. 3

Mtg. Date October 17, 2017

Item Title: Sanitary Sewer Master Plan Update

Staff Contact: Mike James, Assistant City Manager / Public Works Director, and
Tim Gabrielson, District Engineer

Background:

On August 2, 2016, the Lemon Grove Sanitation District Board (District Board) approved an agreement with Dexter Wilson Engineering, Incorporated (Wilson Engineering) to update the sanitary sewer mater plan (master plan) for an amount not to exceed \$100,840. As a brief overview, the master plan was and continues to serve as, a planning document that accomplishes the following tasks:

- Evaluates the capacity of the existing collection system during worst conditions, such as peak wet weather flows;
- Evaluates the capacity of the collection system through flow modeling programs and determines improvement needs under future build-out conditions;
- Develops a capital improvement program (CIP) that will provide the District with a reliable and economic sanitary sewer collection system for the future; and
- Aids in developing future program needs such as continuing to inventory system integrity and model performance through on-going inspection, flow monitoring and video inspections.

Discussion:

Since August 2016, staff has been involved in the update process with Wilson Engineering staff members to assess the existing condition of the sewer system, create a usable model to predict flows, and develop a near term (five years) and long term (20 years) capital expenditures plan. As the District is mostly built-out, it is anticipated that many of the capital projects will be driven by replacement of aging infrastructure, rather than be capacity driven.

In preparation for the work requested from Wilson Engineering, District staff provided a large amount of closed-circuit television (CCTV) condition assessment evaluations to ascertain the condition of the sewer system in addition to District staff interviewing with Wilson Engineering staff to provide additional maintenance and operations information.

In August 2017, the master plan update was completed by Wilson Engineering with a final total project cost of \$90,285. During the course of the master plan update, there was one change order that approved additional work that fell within the original optional work items. The total increase equaled \$6,685, which increase the original budget from \$83,600 to \$90,285.

The final report with the added work items were based on the following information:

- Projected land use based upon SANDAG Series 13:2050 Regional Growth Forecast and City Planning staff input;

Attachment A

- Review of the existing sewage drainage basins, City of San Diego Metro Agreement for EDU distribution and review of cross boundary flow agreements with the City of La Mesa and the County of San Diego;
- A review of existing sewer drainage basin flows, and EDU approximations were established for a base line existing conditions model;
- An evaluation of the design criteria to be used for the master plan analysis of the proposed sewer system. This evaluation included flow metering in specific locations to establish base line/design EDU assignment for the District master plan;
- A review of existing CCTV to assess the sewer system conditions based upon the National Association of Sewer Service Companies Pipeline Assessment Condition Program (NASSCO PACP). This review identified and prioritized the CIP pipelines based upon the severity of the PACP identified defect;
- A hydraulic capacity analysis of the existing sewer system based upon the SANDAG Series 13: 2050 regional growth forecast. This analysis identified and prioritized the CIP pipelines that will have capacity issues based upon proposed land use changes entering the system;
- Based upon the existing system hydraulic analysis, the NASSCO PACP pipeline ratings, the proposed capacity analysis and direction from Sanitation District Operations staff, a 5-Year and 20-Year CIP Program (**Attachment C**) was developed based upon the severity, timing and estimated cost of the pipeline system projects; and
- The sanitary sewer master plan update provided recommendations and Best Management Practices for Engineering and Operations staff.

Looking forward, staff will continue to monitor the amount of development that occurs as it relates to the forecasting model, design/build the capital improvement projects as outlined in the five-year CIP, and continue to clean and CCTV the District's sewer system in-house and coordinate that feedback with future maintenance and construction plans. Staff recommends that five years from the approval date, the sanitary sewer master plan update is again performed to ensure that the assumptions hold true with all maintenance/infrastructure project completions.

Conclusion:

Staff recommends that the Lemon Grove Sanitation District Board of Directors adopts a resolution (**Attachment B**) approving the Sanitary Sewer Master Plan Update completed by Dexter Wilson Engineering, Incorporated.

Attachment B

RESOLUTION NO. 2017 -

RESOLUTION OF THE DISTRICT BOARD OF THE LEMON GROVE SANITATION DISTRICT APPROVING THE SANITARY SEWER MASTER PLAN UPDATE COMPLETED BY DEXTER WILSON ENGINEERING, INCORPORATED

WHEREAS, the District may experience population growth which will necessitate the upgrade of several district sewer system assets; and

WHEREAS, the existing sanitary sewer master plan update occurred over 10 years ago and a need remains to evaluate the District's current sewer system, identify existing deficiencies and improvements needed for future growth, and outline a capital improvement program (CIP) to provide adequate sewer services for anticipated economic growth and sustainability; and

WHEREAS, in order to complete the master plan update, staff must rely on the contracted services of Dexter Wilson Engineering, Incorporated (Wilson Engineering) to update the District's sanitary sewer master plan; and

WHEREAS, Wilson Engineering reviewed all available information, studies and closed-circuit television assessment videos (as applicable) to ascertain the condition of the sewer system; and

WHEREAS, Wilson Engineering has completed its update to the sanitary sewer master plan that assessed the existing condition of the sewer system, created a model to predict flows, and created a five-year and 20-year capital expenditure plan to maintain the operational capacity throughout the district.

NOW, THEREFORE, BE IT RESOLVED that the District Board of the Lemon Grove Sanitation District hereby:

1. Reviewed and accepted the sanitary sewer master plan update completed by Dexter Wilson Engineering, Incorporated; and
2. Directs the Executive Director or her designee to manage all close out documentation necessary to complete final billing not to exceed \$90,285 and project close out.

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/////

TABLE ES-1 LEMON GROVE SANITATION DISTRICT 5 YEAR CIP, FY18 - FY22						
CIP PROJECT NUMBER	PROJECT TITLE	FY17/18	FY18/19	FY19/20	FY20/21	FY21/22
		Year 1	Year 2	Year 3	Year 4	Year 5
CONDITION-BASED CIP PROJECTS						
CIP-1	Miscellaneous Pipeline Repairs Project	\$416,000	-	-	-	-
CIP-2	Miscellaneous Manhole Repairs Project	-	-	-	-	\$170,000
CIP-3	Skyline Drive Replacement Project	-	\$434,000	\$434,000	-	-
CIP-4	Bakersfield East Replacement Project	\$69,800	\$628,200	-	-	-
CIP-5	Mt. Vernon to Shirley Lane Lining Project	-	-	-	-	\$97,900
CIP-6	MacArthur Drive Replacement Project	\$141,000	-	-	-	-
CIP-7	San Altos Lining Project	-	-	-	-	-
CIP-8	Broadway South Repair Project	-	-	-	\$482,000	-
CIP-9	Washington Street Repair Project	\$119,000	-	-	-	-
CIP-10	Arcadia Avenue Replacement Project	-	-	\$577,000	-	-
CIP-11	Skyline at Mt. Vernon Repair Project	-	-	-	\$282,000	-
CIP-12	Broadway East Repair Project	\$96,000	-	-	-	-
CIP-13	Baldwin, Roy, Kempf Repair Project	-	-	-	\$434,000	\$434,000
CIP-14	Circle Drive Repair Project	\$50,000	-	-	-	-
CIP-25	Cinderella Place Replacement Project	-	-	-	-	\$134,000
CIP-26	Taft Street Replacement Project	-	-	-	-	\$121,000
CIP-27	Mt. Vernon St. Replacement Project	-	-	-	-	\$56,000
Subtotal Condition-Based CIP Projects		\$891,800	\$1,062,200	\$1,011,000	\$1,198,000	\$1,012,900
CAPACITY-BASED CIP PROJECTS						
CIP-15	I&I Reduction Project	\$200,000	-	-	-	-
CIP-16	Federal Boulevard South Upgrade Project ¹	-	-	-	-	-
CIP-17	Federal Boulevard North Upgrade Project ¹	-	-	-	-	-
CIP-18	Broadway Replacement Project ¹	-	-	-	-	-
CIP-19	Central Main Street Replacement Project ²	-	-	-	-	-
CIP-20	Olive Street Upgrade ³	-	-	-	-	-
CIP-21	DVSP Upgrade Project	-	-	-	-	-
CIP-22	Madera Street Pipeline Replacement Project ⁴	-	-	\$35,000	-	-
CIP-23	Ensenada Street Pipeline Replacement Project	-	-	-	-	-
CIP-24	Permanent Meter Evaluation Project	\$100,000	-	-	-	-
CIP-29	Broadway East Upgrade Project ⁴	-	-	-	-	-
Subtotal Capacity-Based CIP Projects		\$300,000	\$-	\$35,000	\$-	\$-
OTHER CIP PROJECTS						
CIP-28	Central Ave Pump Station Project	-	\$150,000	-	-	-
-	Future Age- & Condition-Based Replacement	-	-	-	-	-
TOTAL ALL PROJECTS		\$1,191,800	\$1,212,200	\$1,046,000	\$1,198,000	\$1,012,900

¹ Project timing to be confirmed by I & I Reduction Project (CIP-15)

² Project timing to be evaluated based on Connect Main Street Project timing

³ Completed prior to FY17-18

⁴ Confirm slope prior to design

Attachment D

The Lemon Grove Sanitary Sewer Master Plan Update is available for review at:

1. The public counter of City Hall located at 3232 Main Street, Lemon Grove, CA 91945.
2. Online at: <https://tinyurl.com/LGSewerMasterPlan>