RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF IRVINE
One Civic Center Plaza
P.O. Box 19575
Irvine, CA 92623-9575
Attn: City Clerk

(Space Above this Line is for Recorder's Use Only)

This Development Agreement is recorded at the request and for the benefit of the City of Irvine and is exempt from the payment of a recording fee pursuant to Government Code § 27383.

GREAT PARK

DEVELOPMENT AGREEMENT

by and among

CITY OF IRVINE,

and _____,

and

_____

DEVELOPMENT AGREEMENT

This GREAT PARK DEVELOPMENT AGREEMENT ("Agreement") is entered into this ___ day of _____, 2004, by and among the CITY OF IRVINE, a California charter city ("City"), _____, a _____ ("Developer __", and _____, a _____ ("Developer __"). Developer __ and Developer __ are collectively referred herein as the "Developer Parties" and each such signing party is individually referred to as a "Developer Party"). City and the Developer Parties are collectively referred to herein as the "Parties" and individually as a "Party."

R E C I T A L S

A. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted the "Development Agreement Statute," Sections 65864, *et seq.*, of the Government Code. The Development Agreement Statute authorizes City to enter into an agreement with any person having a legal or equitable interest in real property and to provide for the development of such property and to establish certain development rights therein. Pursuant to the authorization set forth in the Development Agreement Statute, City adopted its Resolution No. 82-68 on July 13, 1982, establishing procedures for the consideration and approval of development agreements.

B. The Developer Parties each own a portion of that certain real property consisting of approximately Three Thousand Six Hundred Seventy-One (3,671) acres of land area located in the City of Irvine, County of Orange, State of California, more particularly described in the legal description attached hereto as Exhibit "A" and depicted on the Conceptual Overlay Plan attached hereto as Exhibit "B" (the "Base). The Developer Parties desire to develop the "Property" (as that term is defined hereinafter) with residential, commercial, educational, recreational, agriculture, park and open space uses, transit oriented development, research and development, and institutional uses as depicted on the Conceptual Overlay Plan ("Project").

C. This Agreement is intended to be, and shall be construed as, a development agreement within the meaning of the Development Agreement Statute. This Agreement will eliminate uncertainty in planning for and secure the orderly development of the Project, ensure a desirable and functional community environment, provide effective and efficient development of public facilities, infrastructure, and services appropriate for the development of the Project, assure attainment of the maximum effective utilization of resources within the City, and provide other significant public benefits to City and its residents by otherwise achieving the goals and purposes of the Development Agreement Statute. In exchange for these benefits to City, the Developer Parties desire to receive the assurance that they may proceed with development of the Project in accordance with the terms and conditions of this Agreement, the "Existing Land Use Regulations" and the "Overlay Plan," all as more particularly set forth herein.

D. The City has determined that the Project is consistent with the goals and policies of the City's General Plan and imposes appropriate standards and requirements with respect to the

development of the Property in order to maintain the overall quality of life and of the environment within the City. Prior to its approval of this Agreement, City considered the environmental impacts of the Project and completed its environmental review of the Project.

E. In accordance with the Development Agreement Statute, the City Development Agreement Regulations, and applicable law, on July 8, 2003, the City Council of City adopted Ordinance No. 03-19, approving an earlier version of this Agreement. Subsequently, the City determined to revise that earlier version to address, among other things, changes in the scheduled acquisition of the Parcels by the Developer Parties.

F. On July 1, 2004, the Planning Commission of City held a public hearing on this Agreement, made certain findings and determinations with respect thereto, and recommended to the City Council of City that this Agreement be approved. On August 24, 2004, the City Council also held a public hearing on this Agreement, considered the recommendations of the Planning Commission, and found that this Agreement is consistent with City's General Plan.

G. In accordance with the Development Agreement Statute, the City Development Agreement Regulations, and applicable law, on _____, 2004, the City Council of City adopted Ordinance No. ___ approving this Agreement.

AGREEMENT

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and the Developer Parties hereby agree as follows:

1. DEFINITIONS.

The following terms when used in this Agreement shall have the meanings set forth below:

The term "Adjusted Development Agreement Fee" shall have the meaning set forth in 4.3.2 of the Agreement.

The term "Adjustment CCI" shall have the meaning set forth in Section 4.3.1 of the Agreement.

The term "Agreement" shall mean this Development Agreement by and among City, and any one or more of Developer I, Developer II, Developer III, and Developer IV.

The term "Annual Review" shall have the meaning ascribed in Section 14 of this Agreement.

The term "Applicable Percentage" shall have the meaning set forth in Section 4.3.2 of the Agreement.

The term "Association" shall mean the entity formed to govern and administer the CC&Rs.

The term "Base CCI" shall have the meaning set forth in Section 4.3.1 of the Agreement.

The term "Base Plan" shall mean the Great Park Plan land use development entitlements for the former military Base as set forth in the column entitled "Base Plan" in Exhibit "C" attached hereto. If the owner of any Parcel does not execute and perform under this Agreement, the development of that owner's Parcel shall be governed by the Base Plan, rather than the Overlay Plan.

The term "BCI" shall have the meaning set forth in Section 4.3.1 of the Agreement.

The term "CCI" shall have the meaning set forth in Section 4.3 of the Agreement.

The term "CC&Rs" shall mean the Declaration of Covenants, Conditions and Restrictions and Grant of Easements for the Orange County Great Park in the form attached hereto as Exhibit "K".

The term "CFD" shall mean a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, Government Code Section 53311, *et seq.*, in accordance with Section 6.1 of this Agreement.

The term "City" shall mean the City of Irvine, a California charter city.

The term "City Council" shall mean the governing body of City.

The term "City Conveyance Parcels" collectively refers to the Corridor Sites, the Exposition Center South Site, the Institutional Site, the Marshburn Basin/Channel Site, the Musick/Alton Sites, the Park Site, the Sports Park Site, the Police Substation Site, and the Transit Site.

The term "City Development Agreement Regulations" shall mean the regulations establishing procedures and requirements for the consideration of development agreements set forth in City's Resolution No. 82-68 adopted by the City Council on July 13, 1982, as the same may be amended from time to time.

The term "City's Designee" shall mean: (i) the Orange County Great Park Corporation, a California non-profit corporation; or (ii) the governmental or non-profit entity(ies) that City in its sole and absolute discretion designates to receive one or more City Conveyance Parcels in lieu of City, or that City in its sole and absolute discretion assigns to perform any one or more of the responsibilities, obligations, or undertakings of City under this Agreement.

The term "Commencement Date" shall mean the date on which the last Developer Party has or could have timely executed this Agreement or a substantially similar agreement in accordance with Section 2.1 below.

The term "Conceptual Overlay Plan" shall mean the conceptual plan attached hereto as Exhibit "B" for the development of the Base in accordance with the Overlay Plan.

The term "Corridor Site Parcel I" refers to that portion of Parcel I and Parcel III consisting of approximately 114 acres of land area described in the legal description attached hereto as Exhibit "G-1" and depicted as PAZ 20 and designated as the drainage/riparian corridor on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Corridor Sites Parcel II" collectively refers to (i) the portion of Parcel II consisting of approximately 115 acres of land area depicted as PAZ 21 and designated as the drainage/riparian corridor on the Conceptual Overlay Plan, and (ii) the portion of Parcel II consisting of approximately 118 acres of land area depicted as PAZ 22a and designated as the drainage/wildlife corridor on the Conceptual Overlay Plan. The Corridor Sites Parcel II are more particularly described in the legal description attached hereto as Exhibit "G-1".

The term "Corridor Site Parcel IV" refers to those portions of Parcel III and Parcel IV consisting of approximately 61 acres of land area described in the legal description attached hereto as Exhibit "G-1" and depicted as PAZ 22b and designated as the drainage/wildlife corridor on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Corridor Sites" collectively refers to the Corridor Site Parcel I, the Corridor Sites Parcel II, and the Corridor Site Parcel IV.

The term "County" shall mean the County of Orange, a political subdivision of the State of California.

The term "Developer I" shall mean the individual or entity which owns fee title to Parcel 1, and any permissible successor or assignee to the rights, powers, and responsibilities of said individual or entity hereunder, in accordance with Section 16 of this Agreement.

The term "Developer II" shall mean the individual or entity which owns fee title to Parcel II, and any permissible successor or assignee to the rights, powers, and responsibilities of said individual or entity hereunder, in accordance with Section 16 of this Agreement.

The term "Developer III" shall mean the individual or entity which owns fee title to Parcel III, and any permissible successor or assignee to the rights, powers, and responsibilities of said individual or entity hereunder, in accordance with Section 16 of this Agreement.

The term "Developer IV" shall mean the individual or entity which owns fee title to Parcel IV, and any permissible successor or assignee to the rights, powers, and responsibilities of said individual or entity hereunder, in accordance with Section 16 of this Agreement.

The term "Development Agreement Fee" shall mean the fee to be paid to City by each of the Developer Parties in one lump sum concurrently with the execution and delivery of the Agreement by such Developer Party, as more fully described in Section 4.2 of this Agreement.

The term "Development Agreement Statute" refers to Sections 65864 through 65869.5 of the California Government Code, as the same may be amended from time to time.

The term "Development Fees" shall mean the monetary consideration charged by City in connection with a development project for the purpose of defraying all or a portion of the cost of mitigating the impacts of the project and development of the public facilities related to development of the project. Development Fees shall not include (i) City's normal fees for processing, environmental assessment/review, tentative tracts/parcel map review, plan checking, site review, site approval, administrative review, building permit (plumbing, mechanical, electrical, building), inspection, and similar fees imposed to recover City's costs associated with processing, review, and inspection of applications, plans, specifications, etc., (ii) fees and charges levied by any other public agency, utility, district, or joint powers authority, whether or not such fees are collected by City, or (iii) the Development Agreement Fee and Supplemental Development Agreement Fee described in Sections 4.2 and 4.3 of this Agreement.

The term "Educational Site" refers to that portion of Parcel I consisting of approximately 275 acres of land area depicted as PAZs 7, 8, 9, and 10 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Effective Date" shall mean the date that is the later of (i) the date that is thirty (30) days after the date the City Council adopts the ordinance approving this Agreement, or (ii) for each Developer Party, the date this Agreement is executed by City and that Developer Party and recorded in the Official Records of Orange County, California.

The term "Existing Golf Course Site" refers to the portion of Parcel II consisting of approximately 211 acres of land area depicted as PAZ 19 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Existing Land Use Regulations" shall mean City's General Plan, Zoning Code, and all other ordinances, resolutions, rules, and regulations of City governing development and use of the Property in effect as of the Effective Date, including without limitation the permitted uses of the Property, the density and intensity of use, maximum height and size of proposed buildings, provisions for the reservation and dedication of land for public purposes, and, subject to the following sentence, construction standards and specifications. The term "Existing Land Use Regulations" does not include the Uniform Codes pertaining to construction adopted for general application in City.

The term "Exposition Center South Site" refers to that portion of Parcel III consisting of approximately 156 acres of land area described in the legal description attached hereto as Exhibit "G-2" and depicted as PAZ 13 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "General Plan" shall mean the City of Irvine General Plan, as said General Plan exists as of the Effective Date of this Agreement (including, but not limited to, Amendment No. 47782-GA adopted by City on May 27, 2003 pursuant to Resolution No. 03-60), and as it may further be amended by City from time to time pursuant to Section 3.8 of this Agreement.

The term "Golf Course Fee" shall have the meaning ascribed in Section 9 of this Agreement.

The term "Great Park Plan" collectively refers to the Base Plan and the Overlay Plan established by the adoption of Resolution No. 03-60, adopted by the City on May 27, 2003, amending the General Plan, and Ordinance No. 03-18, adopted by the City on June 10, 2003, rezoning a portion of the former military Base within the City boundaries and prezoning the portion of the former military Base formerly located in unincorporated territory of the County of Orange and now within the jurisdictional boundaries of the City, and any amendments to the General Plan and Zoning Code relative to the Base that the City approves prior to the Effective Date. The Great Park Plan sets forth two alternative sets of development entitlements for the Base: The "Base Plan" authorizes principally park, open space and similar uses, and applies in the absence of this Agreement. The "Overlay Plan" authorizes a mix of residential, commercial, industrial, recreational, institutional, park and open space uses, and governs the development of each Parcel that is owned by a Developer Party upon the Effective Date of this Agreement and continuing thereafter, provided that this Agreement remains in effect and is not terminated as to any portion of the Property as a result of a default of a Developer Party as more fully described in Sections 3.2 and 13.4.

The term "Institutional Site" refers to that portion of Parcel III consisting of approximately 135 acres of land area described in the legal description attached hereto as Exhibit "G-3" and depicted as PAZ 23 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "LIFOC" refers to an instrument entitled "Lease in Furtherance of Conveyance" executed by the United States Department of Navy and delivered to one or more of the Developer Parties provisionally in lieu of a deed for any portion of the Property impacted by hazardous materials, which expires and is supplanted by a conveyance deed upon the United States Department of Navy determining that the hazardous materials impact on the portion of the Property has been appropriately remediated.

The term "Marshburn Basin/Channel Site" refers to that portion of Parcel I consisting of approximately 46 acres of land area described in the legal description attached hereto as Exhibit "G-8".

The term "Master Subdivision Map" shall mean the first subdivision map creating legal parcels within a Parcel, as set forth in Section 7.1 of this Agreement.

The term "Mortgage" shall mean a mortgage, deed of trust, sale and leaseback arrangement, or any other form of conveyance in which the Property, or a portion thereof or interest therein, is pledged as security, and contracted for in good faith and for fair value.

The term "Mortgagee" shall mean the holder of a beneficial interest under a Mortgage, or any successor or assignee of any such Mortgagee.

The term "Municipal Code" shall refer to the City of Irvine Municipal Code, as the same now exists or may be further amended from time to time consistent with this Agreement.

The term "Musick/Alton Sites" refers to that portion of Parcel II comprising an aggregate of approximately 100 acres of land area more particularly described in the legal description attached hereto as Exhibit "G-4" and depicted as PAZ 4 and a portion of PAZ 3 adjacent to Irvine Boulevard on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Net CFD Amount" shall have the meaning set forth in Section 4.5 of the Agreement.

The term "New Golf Course Site" refers to that portion of Parcel II consisting of approximately 365 acres of land area depicted as PAZ 18 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "NITM Ordinance" shall mean City of Irvine Ordinance No. 03-20, as adopted by the City on June 10, 2003 and attached hereto as "Exhibit "D," and vested by its terms as part of the Existing Land Use Regulations.

The term "NITM Program" shall have the meaning ascribed in Section 5 of this Agreement.

The term "North Irvine Adjacent Lands" shall mean the lands included within City Planning Areas 1, 2, 5, 6, 8, 9 and 40, and subject to the NITM Program.

The term "Overlay Plan" shall mean the Great Park Plan land use development entitlements for the former military Base as set forth in the column entitled "Overlay Plan" in the Great Park Plan attached hereto as Exhibit "C" and depicted on the Conceptual Overlay Plan attached hereto as Exhibit "B". As to each Parcel, the Overlay Plan, rather than the Base Plan, shall govern development of the Parcel from and after the Effective Date, provided that this Agreement, or a substantially similar agreement, is executed by the owner of the Parcel, and this Agreement, or a substantially similar agreement, remains in effect and is not terminated as to the Parcel as a result of a default of a Developer Party as more fully described in Sections 3.2 and 13.4 of this Agreement.

The term "Parcel" shall refer to Parcel I, Parcel II, Parcel III, or Parcel IV.

The term "Parcel I" shall mean that portion of the former military Base consisting of approximately 902 acres of land area more particularly described in the legal description attached hereto as Exhibit "A" and depicted as PAZs 1, 5, 6, 7, 8, 9, 10, 11 and 14 and a portion of PAZ 20, on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Parcel II" shall mean that portion of the former military Base consisting of approximately 1,706 acres of land area more particularly described in the legal description attached hereto as Exhibit "A" and depicted as PAZs 2, 4, a portion of PAZ 15, and PAZs 16, 17a, 17b, 18, 19, 21, 22a and 26 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Parcel III" shall mean that portion of the former military Base consisting of approximately 863 acres of land area more particularly described in the legal description attached hereto as Exhibit "A" and depicted as a portion of PAZs 15, 20, and 22B, and PAZs 12, 13, 23, 24, 25, 27, 28, 29 and 32 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Parcel IV" shall mean that portion of the former military Base consisting of approximately 202 acres of land area more particularly described in the legal description attached hereto as Exhibit "A" and depicted as a portion of PAZ 22b, and PAZs 30, 31, 33, 34, 35 and 36 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Park Site" refers to that portion of the former military Base located within Parcels I, II, and III consisting of approximately 367 acres of land area described in the legal description attached hereto as Exhibit "G-5" and depicted as PAZs 14, 15, and 16 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "PAZ" shall mean a planning analysis zone within the former military Base as depicted on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Police Substation Site" shall mean a site within Parcel I comprising one or more structures and approximately five acres of adjacent hardscaped land for associated parking, storage and expansion, the precise boundaries of which will be developed by the City in consultation with Developer I.The term "Project" shall mean the development of the Property pursuant to this Agreement, the Existing Land Use Regulations, and the Overlay Plan. The conceptual plan for development of the Property pursuant to the Overlay Plan is depicted on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Property" shall mean each of Parcel I, Parcel II, Parcel III, and Parcel IV to the extent that the owner of each said parcel has timely executed and performed this Agreement or a substantively similar agreement, and certain roadways within and around the Parcels that will be dedicated to City on the Master Subdivision Map.

The term "Proposed Public Benefit Facilities and Services" shall mean the facilities, services, and other items listed in Exhibit "E" that the Parties contemplate may be financed by a CFD, as more fully explained in Section 6.1 of this Agreement.

The term "School Site" refers to a portion of Parcel II consisting of approximately 13 acres of land area, the precise location and boundaries of which shall be determined in accordance with Section 8.4 of this Agreement.

The term "Sports Park Site" refers to that portion of Parcel III consisting of approximately 165 acres of land area described in the legal description attached hereto as Exhibit "G-6" and depicted as PAZ 12 on the Conceptual Overlay Plan attached hereto as Exhibit "B".

The term "Term" shall mean the period of time during which this Agreement shall be in effect and bind the Parties and their respective successors and assigns, as set forth in Section 2 of this Agreement.

The term "Transit Site" refers to the portion of Parcel III comprising an aggregate of approximately 35 acres of land area described in the legal description attached hereto as Exhibit "G-7" and depicted as 8 acres in PAZ 24, 7 acres in PAZ 25, and 20 acres in PAZ 32 on the Conceptual Overlay Plan attached hereto as Exhibit "B", or otherwise within Parcel III at a precise location jointly approved by Developer III and the City.

2. TERM.

2.1 Execution of Agreement. Each of Developer I, Developer II, Developer III and Developer IV shall have until the date that is thirty (30) days after the date on which that

individual or entity acquires an ownership interest in its Parcel ("Deadline Date") to provide to City that individual or entity's original executed counterpart of this Agreement, together with the Development Agreement Fee owed by that individual or entity and all instruments and other items required of that individual or entity under this Agreement. If the owner of any Parcel does not provide to City its original executed counterpart of this Agreement and all of the documents and fees referred to in the preceding sentence by the Deadline Date, then: (i) this Agreement shall not be recorded against that owner's Parcel, (ii) all of the terms, provisions, rights, obligations, benefits, and burdens that relate to that owner and its Parcel under this Agreement shall be deemed null and void and have no force or effect, and (iii) such owner's Parcel may be developed only pursuant to the Base Plan and not the Overlay Plan.

2.2 Term. The term of this Agreement ("Term") shall commence on the Effective Date and, except as set forth in Sections 2.3 and 2.4, shall continue thereafter for a period of twenty-five (25) years from and after the Commencement Date, unless this Agreement is terminated, modified, or extended by circumstances set forth in this Agreement or by mutual written consent of the Parties.

2.3 Termination Upon Sale of Individual Lots to Public and Completion of Construction. Notwithstanding Section 2.2, and except as set forth in Section 2.4, the provisions of this Agreement shall terminate with respect to any individual lot and such lot shall be released from and shall no longer be subject to this Agreement (without the execution or recordation of any further document or the taking of any further action) upon the satisfaction of both of the following conditions: (i) the lot has been finally subdivided and sold or leased (for a period longer than one (1) year) to a member of the public or any other ultimate user; and (ii) a certificate of occupancy has been issued for the building or buildings on the lot or a final inspection of the building(s) has been approved by City authorizing occupancy. City shall cooperate with the Developer Parties, at no cost to City, in executing in recordable form any document that a Developer Party (including any successor to the title of a Developer Party in and to any of the aforedescribed lots) may submit to confirm the termination of this Agreement as to any such lot.

2.4 Term of Golf Course Covenants. Notwithstanding Sections 2.2 and 2.3, the respective rights and obligations of Developer II and City set forth in Section 9 of this Agreement with regard to the operation of public golf courses on the Existing Golf Course Site and the New Golf Course Site and the establishment and enforcement of the Golf Course Fee on play at the golf courses shall survive the termination of this Agreement and remain in effect in perpetuity as to the Existing Golf Course Site and the New Golf Course Site (excluding any portion of the New Golf Course Site developed with residential units, which portion shall be released from this Agreement in accordance with Section 2.3).

3. DEVELOPMENT OF THE PROPERTY.

3.1 Applicable Regulations; Vested Right to Develop. Other than as expressly set forth herein, during the Term of this Agreement, the terms and conditions of development applicable to the Property, including but not limited to the permitted uses of the Property, the density and intensity of use, maximum height and size of proposed buildings, and provisions for the reservation and dedication of land for public purposes, shall be those set forth in the Existing

Land Use Regulations and the Overlay Plan. In connection therewith, subject to the terms and conditions of this Agreement, the Developer Parties shall have the vested right to carry out and develop the Project on the Property in accordance with the Existing Land Use Regulations and the Overlay Plan.

3.2 Overlay Plan Conditional Upon Compliance with Agreement. Each Developer Party acknowledges that the application of the Overlay Plan to such Developer Party's Parcel, is contingent and conditional upon that Developer Party entering into this Agreement, and that no Developer Party has any right or entitlement to develop its Parcel under the Overlay Plan in the absence of this Agreement and such Developer Party's diligent performance of its obligations under this Agreement. In connection therewith, in the event this Agreement is terminated as to any Parcel in accordance with Section 13 as a result of a default of a Developer Party, the Overlay Plan shall immediately cease to apply and govern the development of such Parcel, and the development of such Parcel shall instead be governed by and subject to the Base Plan.

3.3 Tentative Subdivision Maps. Subject to Section 7.1 of this Agreement (regarding the Master Subdivision Map), with respect to applications by a Developer Party for tentative subdivision maps for portions of the Developer Party's Parcel, City agrees that the Developer Party may file and process vesting tentative maps in accordance with Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the California Government Code and the applicable provisions of City's subdivision ordinance, as the same may be amended from time to time. If final maps are not recorded for the entire Parcel before such tentative map(s) would otherwise expire, the term of such tentative map(s) automatically shall be extended for the Term of this Agreement.

3.4 Processing of Applications and Permits. Upon satisfactory completion by a Developer Party of all required preliminary actions and payment of appropriate processing fees, if any, City shall proceed to process and check all applications for Project development and building approvals within the times set forth in the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the California Government Code), the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the California Government Code), and other applicable provisions of law, as the same may be amended from time to time.

3.5 Other Governmental Permits. Provided that the Developer Parties pay the reasonable cost of such cooperation, after City has approved the development of any portion of the Property, City shall cooperate with the Developer Parties in their efforts to obtain such additional permits and approvals as may be required by any other governmental or quasi-governmental agencies having jurisdiction over such portion of the Property, which permits and approvals are consistent with City's approval and which are consistent with applicable regulatory requirements. City does not warrant or represent that any other governmental or quasi-governmental permits or approvals will be granted.

3.6 Subsequent General Plan Amendments and Zone Changes. In consideration for the benefits provided to the Developer Parties under this Agreement, including without limitation the vesting of the right to develop the Property in accordance with the Existing Land Use Regulations and the Overlay Plan, the Developer Parties agree that during the Term of this

Agreement, any amendments to the General Plan and changes to the zone designations for the Property may be initiated only by City and not the Developer Parties, with the understanding that any such General Plan amendments and zone changes will not become effective unless consented to by the Developer Parties signing this Agreement or a substantially similar agreement (or their successors-in –interest to their respective Parcels).

3.7 Assurances to Developer Parties. The Parties acknowledge that the public benefits to be provided by the Developer Parties to City pursuant to this Agreement are in consideration for and reliance upon assurances that City will permit development of the Property in accordance with the terms of this Agreement. Accordingly, City agrees that it will not attempt to restrict or limit the development of the Property in conflict with the provisions of this Agreement. City acknowledges that the Developer Parties cannot at this time predict the timing or rate at which the Property will be developed. The timing and rate of development depend on numerous factors such as market demand, interest rates, absorption, completion schedules, and other factors which are not within the control of the Developer Parties or City. In *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465, the California Supreme Court held that a construction company was not exempt from a city's growth control ordinance notwithstanding that the construction company and the city had entered into a consent judgment (tantamount to a contract under California law) establishing the company's vested rights to develop its property in accordance with the zoning. The California Supreme Court reached this result on the basis that the consent judgment failed to address the timing of development. It is the intent of the Parties to avoid the result of the *Pardee* case by acknowledging and providing in this Agreement that the Developer Parties shall have the vested right to develop the Property in such order and at such rate and at such time as the Developer Parties deem appropriate within the exercise of the Developer Parties' sole subjective business judgment, notwithstanding the adoption of an initiative after the Effective Date by City's electorate to the contrary. In addition to and not in limitation of the foregoing, but except as set forth in the following sentence, it is the intent of the Parties that no City moratorium or other similar limitation relating to the rate or timing of the development of the Project or any portion thereof, whether adopted by initiative or otherwise, shall apply to the Property to the extent such moratorium or other similar limitation is in conflict with the express provisions of this Agreement. Notwithstanding the foregoing, the Developer Parties acknowledge and agree that nothing herein is intended or shall be construed as (i) overriding any provision set forth in this Agreement relating to the rate or timing of development of the Project, including without limitation the obligation of Developer II to construct the golf course on the New Golf Course Property within the time set forth in Section 9, (ii) overriding any provision of the Existing Land Use Regulations or the Overlay Plan relating to the rate or timing of development of the Project, or, (iii) restricting City from exercising the powers described in Section 3.8 of this Agreement to regulate development of the Property. Nothing in this Section 3.7 is intended to excuse or release a Developer Party from any obligation set forth in this Agreement which is required to be performed on or before a specified calendar date or event without regard to whether or not the Developer Parties proceed with the Project.

3.8 Reservations of Authority. Notwithstanding any provision set forth in this Agreement to the contrary, the laws, rules, regulations, and official policies set forth in this Section 3.8 shall apply to and govern development of the Property:

3.8.1 Consistent Future City Regulations. City ordinances, resolutions, regulations, and official policies adopted or approved after the Effective Date pursuant to procedures provided by law which do not conflict with the Existing Land Use Regulations and the Overlay Plan shall apply to and govern development of the Property.

3.8.2 Overriding State and Federal Laws and Regulations. State and federal laws and regulations which override the Developer Parties' vested rights set forth in this Agreement shall apply to the Property, together with any City ordinances, resolutions, regulations, and official policies which are necessary to enable City to comply with such overriding State and federal laws and regulations; provided, however, that (i) the Developer Parties do not waive their right to challenge or contest the validity of any such State, federal, or local laws, regulations or official policies; and (ii) in the event that any such State or federal law or regulation (or City ordinance, resolution, regulation, or official policy undertaken pursuant thereto) prevents or precludes compliance with one or more provisions of this Agreement, the Parties agree to consider in good faith amending or suspending such provisions of this Agreement as may be necessary to comply with such State or federal laws, provided that no Party shall be bound to approve any amendment to this Agreement unless this Agreement is amended in accordance with the procedures applicable to the adoption of development agreements as set forth in the Development Agreement Statute and each Party retains full discretion with respect thereto.

3.8.3 Public Health and Safety. Any City ordinance, resolution, regulation, or official policy, which is necessary to protect persons on the Property or in the immediate community, or both, from conditions dangerous to their health or safety, or both, notwithstanding that the application of such ordinance, resolution, regulation, or official policy or other similar limitation would result in the impairment of the Developer Parties' vested rights under this Agreement.

3.8.4 Uniform Construction Codes. Provisions of the building standards set forth in the Uniform Construction Codes shall apply to the Property. As used herein, the term "Uniform Construction Codes" collectively refers to the 1998 California Building Codes (Vols. 1, 2, and 3), the 1998 California Electric Code, the 1998 California Plumbing Code, the 1998 California Mechanical Code, the 1997 Uniform Solar Energy Code, the 1997 Uniform Swimming Pool, Spa and Hot Tub Code, the 1997 Uniform Housing Code, the Uniform Administrative Code, 1997 Edition, and the 1998 California Fire Code (including amendments thereto by the Orange County Fire Authority), as modified and amended by official action of the City, and any modifications or amendments to any such Code adopted in the future by City.

3.8.5 Police Power. In all respects not provided for in this Agreement, City shall retain full rights to exercise its police power to regulate the development of the Property. Any uses or developments requiring a site plan, tentative tract map, conditional use permit, variance, or other discretionary permit or approval in accordance with the Existing Land Use Regulations shall require a permit or approval pursuant to this Agreement, and, notwithstanding any other provision set forth herein, this Agreement is not intended to vest the Developer Parties' right to the issuance of such permit or approval nor to restrict City's exercise of discretion with respect thereto.

3.9 Vesting of Park and Institutional Land Uses. By this Agreement, the regulatory entitlements and restrictions of the Existing Land Use Regulations and the Overlay Plan are vested as to the Corridor Sites, the Institutional Site, the Marshburn Basin/Channel Site, the Musick/Alton Sites, the Park Site and the Sports Park Site. The uses and development allowed on the Corridor Sites, the Institutional Site, the Marshburn Basin/Channel Site, the Musick/Alton Sites, the Park Site and the Sports Park Site are, by this instrument, entitlements and restrictions that run with the land for the benefit of the remainder of the Property, and limit the Developer Parties and their successors and assigns to developing and using the Corridor Sites, the Institutional Site, the Marshburn Basin/Channel Site, the Musick/Alton Sites, the Park Site and the Sports Park Site only in accordance with the Overlay Plan and the Existing Land Use Regulations for the Term of this Agreement.

4. FEES.

4.1 Development Fees. During the Term of this Agreement, City shall not levy or require with respect to development of the Property any site-specific Development Fees (i.e., Development Fees that are not of general application and are imposed only on the Property) except those set forth in this Agreement (including but not limited to the NITM Program fees described in Section 5, and a concrete and hardscape removal/recycling fee as described in Section 12, of this Agreement) and those in effect on the Effective Date of this Agreement. It is understood that the preceding limitation on City's imposition of Development Fees shall not limit City from levying against the Property additional Development Fees to the extent such Development Fees are imposed by City on a city-wide basis.ee payable by each Developer Party shall be as follows:

4.2 Development Agreement Fee. Provided that all of the Developer Parties both enter into this Development Agreement or a substantially similar agreement and convey at no cost to the City or the City's designee fee title to the City Conveyance Parcels located with each Developer Party's Parcel in accordance with Section 8.1 below on or before August 31, 2005, the Developer Parties shall pay or cause to be paid to City the aggregate sum of Two Hundred Million Dollars ($200,000,000) ("Development Agreement Fee") to reimburse City its costs in developing and processing the Great Park Plan, as payment for processing the Master Subdivision Map, and as partial payment for the development of the Park Site, the Sports Park Site, and other Project infrastructure, and such other uses and purposes as may be determined by City in its sole and absolute discretion. The portion of the Development Agreement Fee payable by each Developer Party shall be as follows:

Developer I	$48,000,000	(24% of $200,000,000)
Developer II	$54,000,000	(27% of $200,000,000)
Developer III	$68,000,000	(34% of $200,000,000)
Developer IV	$30,000,000	(15% of $200,000,000)

The Development Agreement Fee shall be paid in installments with the first installment paid concurrently with the execution and delivery of this Agreement, the second installment paid thirty (30) days after the Effective Date, the third installment paid upon each Developer Party's recordation of its first final subdivision map following the recordation of the Master Subdivision Map or the date that is one (1) year after the Effective Date, whichever occurs first, and the

fourth installment paid upon the issuance of each Developer Party's first building permit or the date that is two (2) years after the Effective Date, whichever occurs first. Payments of the Development Agreement Fee shall be made by wire transfer of funds, or by a cashier's or certified check issued by a California institution.

4.2.1 First Installment of Development Agreement Fee. The first installment of the Development Agreement Fee in the aggregate amount of Thirty Three Million Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($33,333,333) shall be paid to City by the Developer Parties' concurrent with the Developer Parties execution and delivery of this Agreement. The amount payable by each Developer Party as the first installment of the Development Agreement Fee upon that Developer Party's execution and delivery of this Agreement shall be as follows:

Developer I	$ 8,000,000	(24% of $33,333,333)
Developer II	$ 9,000,000	(27% of $33,333,333)
Developer III	$11,333,333	(34% of $33,333,333)
Developer IV	$ 5,000,000	(15% of $33,333,333)

4.2.2 Second Installment of Development Agreement Fee. The second installment of the Development Agreement Fee in the aggregate amount of Thirty-Three Million Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($33,333,333) shall be paid to City by the Developer Parties within thirty (30) days after the Effective Date of this Agreement. The amount payable by each Developer Party as the second installment of the Development Agreement Fee shall be as follows:

Developer I	$ 8,000,000	(24% of $33,333,333)
Developer II	$ 9,000,000	(27% of $33,333,333)
Developer III	$11,333,333	(34% of $33,333,333)
Developer IV	$ 5,000,000	(15% of $33,333,333)

4.2.3 Third Installment of Development Agreement Fee. The third installment of the Development Agreement Fee in the aggregate amount of Sixty-Six Million Six Hundred Sixty-Six Thousand Six Hundred Sixty-Seven Dollars ($66,666,667) shall be paid to City by the Developer Parties no later than the first to occur of the following: (i) the date that is one (1) year after the Effective Date of this Agreement, or (ii) the date the first final tract map for the Developer Party's Parcel is recorded following the recordation of the Master Subdivision Map for the entirety of the Property as set forth in Section 7.1. The amount payable by each Developer Party as the third installment of the Development Agreement Fee shall be as follows:

Developer I	$ 16,000,000	(24% of $66,666,667)
Developer II	$ 18,000,000	(27% of $66,666,667)
Developer III	$ 22,666,667	(34% of $66,666,667)
Developer IV	$ 10,000,000	(15% of $66,666,667)

4.2.4 Fourth Installment of Development Agreement Fee. The fourth installment of the Development Agreement Fee in the aggregate amount of Sixty-Six Million Six Hundred Sixty-Six Thousand Six Hundred Sixty-Seven Dollars ($66,666,667) shall be paid to

City by the Developer Parties prior to and as a condition to the issuance of the first building permit for a building within that Developer Party's Parcel, but in no event later than the date that is two (2) years after the Effective Date of this Agreement. The amount payable by each Developer Party as the fourth installment of the Development Agreement Fee shall be as follows:

Developer I	$16,000,000	(24% of $66,666,667)
Developer II	$18,000,000	(27% of $66,666,667)
Developer III	$22,666,667	(34% of $66,666,667)
Developer IV	$10,000,000	(15% of $66,666,667)

4.3 Inflationary Adjustment for Development Agreements Signed Concurrently By Developer Parcels After September 1, 2005. In the event that, on or after September 1, 2005, and within thirty (30) days of each other, all of the Developer Parties enter into the Development Agreement and convey at no cost to the City or the City's Designee fee title to the City Conveyance Parcels located within each Developer Party's Parcel, each Developer Party shall pay to the City the Development Fee amounts set forth in Sections 4.2.1, 4.2.2, 4.2.3 and 4.2.4 above, as adjusted for inflation on a calendar monthly basis from and after September 1, 2005, based upon the 20-City Construction Cost Index ("CCI") published by the Engineering News-Record (McGraw Hill Companies), as follows:

4.3.1 The CCI as of August 1, 2005 shall be the "Base CCI" and the CCI as of the first date of each subsequent calendar month commencing on September 1, 2005 shall be the "Adjustment CCI."

4.3.2 The Adjustment CCI for the calendar month in which the Developer Parties enter into the Development Agreement and convey at no cost to the City or the City's Designee fee title to the City Conveyance Parcels located within each Developer Party's Parcel shall be divided by the Base CCI to determine the percentage of adjustment applicable to the Development Agreement Fee ("Applicable Percentage"). The Applicable Percentage shall be multiplied by the each installment of the Development Agreement Fee for each Developer Parcel, as set forth in Sections 4.2.1, 4.2.2, 4.2.3 and 4.2.4, to determine the adjusted Development Agreement Fee to be paid by each Developer Party to the City (the "Adjusted Development Agreement Fee"). The Applicable Percentage

4.3.3 If the CCI is no longer published, then the Building Cost Index ("BCI") of the Engineering News-Record shall be the inflationary adjustment index to be used pursuant to this Section 4.3; if both the CCI and the BCI are no longer published, then the index to be used shall be a published index that most closely reflects the components used by the CCI.

4.4 Surcharge for Late, Non-Concurrent Execution of Development Agreement: In the event that one or more of the Developer Parties enters into the Development Agreement or a substantially similar agreement and conveys to the City or the City's Designee fee title to the City Conveyance Parcels located within each such Developer Party's Parcel on or before August 31, 2005, any Developer Party entering into the Development Agreement or a substantially similar agreement after September 1, 2005 shall pay a revised Development Agreement Fee as follows:

4.4.1 In the event that such Developer Party enters into the Development Agreement or a substantially similar agreement and conveys to the City or the City's Designee fee title to the City Conveyance Parcels located within such Developer Party's Parcel following September 1, 2005 but on or before December 31, 2005, such Developer Party shall pay an amount equal to the Adjusted Development Agreement Fee multiplied by one hundred five percent (105%).

4.4.2 In the event that such Developer Party enters into the Development Agreement or a substantially similar agreement and conveys to the City or the City's Designee fee title to the City Conveyance Parcels located within such Developer Party's Parcel following December 31, 2005, such Developer Party shall pay an amount equal to the Adjusted Development Agreement Fee multiplied by one hundred ten percent (110%).

4.5 Supplemental Development Agreement Fee. Subject to Sections 4.5.1 and 4.5.2 below, in the event the City is unable to form the CFD referred to in Section 6.1 of this Agreement and generate funds from the CFD of up to $201,000,000 for the construction of public improvements (i.e. net funds available for construction, referred to herein as the "Net CFD Amount"), the Developer Parties shall pay or cause to be paid to City the aggregate sum of Sixty Million Dollars ($60,000,000) ("Supplemental Development Agreement Fee") to reimburse City as partial payment for the development of the Park Site, the Sports Park Site and other Project infrastructure. The portion of the Supplemental Development Agreement Fee payable by each Developer Party shall be as follows:

Developer I	$14,400,000	(24% of $60,000,000)
Developer II	$16,200,000	(27% of $60,000,000)
Developer III	$20,400,000	(34% of $60,000,000)
Developer IV	$ 9,000,000	(15% of $60,000,000)

The Supplemental Development Agreement Fee shall be due on the date that is four (4) years after the Effective Date. Payment of the Supplemental Development Agreement Fee shall be made by wire transfer of funds or by a cashier's or certified check issued by a California institution. In the event the CFD referred to in Section 6.1 of this Agreement is formed and City determines in its sole and absolute discretion that the CFD will generate sufficient revenue to pay the costs of the infrastructure and other items for which the Supplemental Development Agreement Fee otherwise would be used to pay, City will consider waiving the Supplemental Development Agreement Fee.

4.5.1 Inflationary Adjustments for Development Agreements Signed Concurrently by Developer Parcels After September 1, 2005. In the event that, on or after September 1, 2005, and within thirty (30) days of each other, all of the Developer Parties enter into the Development Agreement and convey at no cost to the City or the City's Designee fee title to the City Conveyance Parcels located within each Developer Party's Parcel, the Net CFD Amount and the Supplemental Development Agreement Fee shall each be increased by the Applicable Percentage, as calculated in accordance with Section 4.3 above.

4.5.2 Surcharge for Late, Non-Concurrent Execution of Development Agreement: In the event that one or more of the Developer Parties enters into the Development

Agreement or a substantially similar agreement and conveys to the City or the City's Designee fee title to the City Conveyance Parcels located within each such Developer Party's Parcel on or before August 31, 2005, the Net CFD Amount and the Supplemental Development Agreement Fee applicable to any Developer Party entering into the Development Agreement or a substantially similar agreement after September 1, 2005 shall be as follows:

4.5.2.1 In the event that such Developer Party enters into the Development Agreement or a substantially similar agreement and conveys to the City or the City's Designee fee title to the City Conveyance Parcels located within such Developer Party's Parcel following September 1, 2005 but on or before December 31, 2005, the Net CFD Amount and the Supplemental Development Agreement Fee applicable to such Developer Party shall each be multiplied by one hundred five percent (105%), and such amount increased by the Applicable Percentage calculated in accordance with Section 4.3 above.

4.5.2.2 In the event that such Developer Party enters into the Development Agreement or a substantially similar agreement and conveys to the City or the City's Designee fee title to the City Conveyance Parcels located within such Developer Party's Parcel following December 31, 2005, the Net CFD Amount and the Supplemental Development Agreement Fee applicable to such Developer Party shall each be multiplied by one hundred five percent (110%), and such amount increased by the Applicable Percentage calculated in accordance with Section 4.3 above.

4.6 Other Fees and Charges. Except as specifically set forth in Sections 4.1 through 4.3, nothing set forth in this Agreement is intended or shall be construed to limit or restrict City's authority to impose new fees, charges, assessments, or taxes for the development of the Property or to increase any existing fees, charges, assessments, or taxes, and nothing set forth herein is intended or shall be construed to limit or restrict whatever right the Developer Parties might otherwise have to challenge any fee, charge, assessment, or tax either not set forth in this Agreement or not in effect as of the Effective Date. In connection therewith, the Developer Parties shall timely pay all applicable fees, charges, assessments, and special and general taxes validly imposed in accordance with the Constitution and laws of the State of California, including without limitation school impact fees in accordance with Government Code §§ 65995, *et seq*.

5. NORTH IRVINE TRANSPORTATION INFRASTRUCTURE.

5.1 NITM Ordinance. On or about June 10, 2003, the City adopted the NITM Ordinance establishing a fee program to be paid on all construction within the northern portion of the City (including the Property and the North Irvine Adjacent Lands) for the coordinated and phased installation of required traffic and transportation improvements (the "NITM Program"). The NITM Program is incorporated by reference and shall be considered part of this Agreement. The NITM Ordinance and NITM Program as adopted by the City are included in the Existing Land Use Regulations and the Development Plan under the terms of this Agreement. The City and the Developer Parties shall implement the NITM Program.

5.2 Concurrent Agreement(s) With North Irvine Adjacent Lands Owner. On or about June 10, 2003, the City adopted its Ordinance No. 03-20, approving the "NITM Program

Implementing Agreement" by and between the City and the owner of the North Irvine Adjacent Lands. The "NITM Program Implementing Agreement" is an agreement governed by the Development Agreement Statute, and provides that the owners and developers of the North Irvine Adjacent Lands will participate in the NITM Program.

5.3 Waiver of Objections Due To Allocation And Apportionment of NITM Fees. The Developer Parties acknowledge that the Property is subject to the terms and conditions of the NITM Program and that the Developer Parties shall participate in the NITM Program and perform the obligations required of each of them thereunder. The Developer Parties acknowledge that no NITM Program fees or costs are assessed or imposed upon the Exposition Center South Site, the Corridor Sites, the Park Site, the Sports Park Site, the Transit Site and the Police Substation Site, and that the fees associated with each of these areas under the NITM Program will be paid by the Parcel in which the exempted area is located. By the execution of this Agreement, the Developer Parties waive any objection to, and covenant not to sue the City with respect to, any issue in any way relating to the adopted allocation of costs, expenses and fees contained in the NITM Program as of the date of this Agreement to, by and among the various areas, including any and all portions of the Property. The Developer Parties do not waive any objection or make any covenant not to sue as to any future allocations by the City that are inconsistent with the NITM Program.

5.4 Commitment Regarding Payment Of NITM Fee Established For Each Future Development Area. The NITM Ordinance establishes a fee assigned to each "Future Development Area" (as that term is defined by the NITM Ordinance) covered by the NITM Program. Certain of those Future Development Areas are located within the Property. Each of the Developer Parties agree that it shall pay the NITM fees as provided in the NITM Ordinance, including without limitation the fees required to be paid for each Future Development Area within the Parcel(s) owned by each of the Developer Parties under the terms and conditions of the NITM Ordinance. Pursuant to the NITM Ordinance, the Parties agree that each of the Developer Parties shall be regarded by the City as having remaining "developable land" within its Future Development Area so long as there is vacant land remaining (for which no building permit has been applied for and issued to that Developer Party) which has been subdivided or which is reasonably likely to be subdivided and used for the construction of new buildings under the provisions of the Conceptual Overlay Plan and the Existing Land Use Regulations, regardless of whether or not the Developer Party has applied for or the City has permitted such development.

5.5 Notice of NITM Program to Developers and Purchasers of the Property. Each of the Developer Parties shall include notice of the NITM Program obligations pursuant to this Agreement in each instrument conveying any portion of the Property to a developer, merchant builder or corporate or institutional purchaser of a portion of the Property.

5.6 Commitment Regarding Sale Price For Right Of Way Land Owned By a Developer Party Specified In NITM Program. The NITM Program as adopted by the City specifies and refers to certain real property which is contemplated to be acquired by the City to construct the specified NITM traffic improvements. The City has indicated to the Developer Parties that if the City cannot acquire such real property through a voluntary sale from a Developer Party at a price acceptable to the City, the City's management would recommend to

the City Council the adoption of a resolution of necessity for the acquisition of such real property by eminent domain; however the City is willing to enter into a negotiated sale of the land to avoid the necessity for formal condemnation of the land. Under this threat of condemnation by the City, each of the Developer Parties agrees to sell this specified land to the City upon reasonable terms and conditions at a sale price specified in the NITM Program, with the 5% escalation factor in the sale price as defined in the NITM Program.

5.7 NITM Account. The City shall maintain a separate account (the "NITM Account") under its custody and control to hold all fees collected in trust for the benefit of the participants in the NITM Program. All fees collected under the NITM Program, all fees collected as conditions of approval or other fair share fees from "Non-Participating Properties" under Section 5.10 below, and all fair share fees collected from landowners and developers in the North Irvine Adjacent Lands under Section 5.9 below, shall be deposited in the NITM Account. All interest or other income earned by the funds in the NITM Account shall accrue and be deposited in such account. As set forth in the NITM Program, the City shall be reimbursed its reasonable costs for administering and maintaining this NITM Account.

5.8 Independent Nature Of Obligations. The obligations of each of the Developer Parties, the City, and the developers and landowners in the North Irvine Adjacent Lands are independent.

5.9 City Covenant To Obtain NITM Or Fair Share Fees From North Irvine Adjacent Lands. The City intends to enter into the "NITM Program Implementing Agreement" referenced in Section 5.2 above with the owners of the North Irvine Adjacent Lands to obtain from them the fees and improvements contemplated in the NITM Program. The failure of the City to obtain, enforce or otherwise implement such agreement shall not invalidate this Agreement or the NITM Program, which shall remain in effect, and such failure shall not operate to increase or decrease the obligations of each of the Developer Parties under the NITM Program or under this Agreement. The City covenants that to the extent permitted by law it shall make a good faith effort to approve and implement such "NITM Program Implementing Agreement". Should such "NITM Program Implementing Agreement" not be implemented in whole or in part for the North Irvine Adjacent Lands, to the extent permitted by law, the City shall require the landowners and developers of the North Irvine Adjacent Lands to pay fees representing the fair share of such North Irvine Adjacent Lands for the traffic improvements that will be utilized by uses in the North Irvine Adjacent Lands, including any of the "List of NITM Improvements" that will be constructed or fully or partially financed under the NITM Program as specified by the NITM Ordinance, including without limitation the fees established by the NITM Ordinance for such property. The City further covenants that any fees collected from the North Irvine Adjacent Lands for NITM Improvements will be deposited in the NITM Account.

5.10 City Covenant To Obtain NITM Or Fair Share Fees From All Property Owners In The North Irvine Adjacent Lands. Certain properties in the North Irvine Adjacent Lands are not included in the "NITM Program Implementing Agreement" referenced in Section 5.2 above ("Non-Participating Properties"). Should any of these Non-Participating Properties seek to develop in a manner which will increase traffic from those properties, the City covenants that it shall to the extent permitted by law, require the payment of fees representing such Non-Participating Properties' fair share of the traffic improvements which will be used by this traffic,

including any NITM Program traffic improvements. The City further covenants that any fees collected from Non-Participating Properties for NITM Program traffic improvements shall be deposited in the NITM Account referenced in Section 5.7 above.

5.11 City Covenant To Use NITM Fees And NITM Account For NITM Program. The City shall use the funds in the NITM Account, and all fees collected under the NITM Program, solely for the purposes authorized in the NITM Program. As set forth in the NITM Program, no funds may be used by the City for traffic improvements or other purposes which are not NITM Traffic Improvements, without the consent of the Developer Parties and the owner(s) of the North Irvine Adjacent Lands.

5.12 Satisfaction Of Mitigation Obligations Or Other Traffic Conditions. The City has adopted certain mitigation measures and conditions of approval for the transportation and traffic impacts of the development of the Property pursuant to the Overlay Plan. The City has determined based upon a nexus fee study that the costs of the NITM Program are fairly apportioned to the Property included within the NITM Program as set forth in the NITM Ordinance, based upon calculations of average daily trips in a manner which has a nexus to, and is proportional to, the traffic which will be generated by all of the development contemplated in the Overlay Plan for the Property. The City intends to utilize the following mitigation measure and condition of approval for all development within the Property, including any future discretionary approvals adopted for the Property which the City intends to be applicable to the Property under this Agreement: "Applicant (or property owner or developer) shall mitigate its traffic and transportation impacts by participation in the NITM Program established by Ordinance No. 03-20 and the Great Park Development Agreement recorded on _____, against the Property." In addition to this mitigation measure and condition of approval, the City may also add conditions to the approval of a subdivision tentative tract map for development of the Property for site-specific in-tract traffic improvements that provide Project access drives, internal streets and traffic control measures within the area to be subdivided. The Developer Parties acknowledge that the City retains the discretion to judge the adequacy of traffic improvements and mitigation in the future, and that the City may exercise that discretion to update the NITM Program through future "Comprehensive Traffic Studies" as defined in and pursuant to the NITM Ordinance.

5.13 Certificate of NITM Compliance. Upon written request from any Developer Party with respect to an identified legal parcel or parcels, the City shall deliver within twenty (20) days a certificate confirming that this Agreement is in full force and effect and whether or not NITM fees have been paid, or if there are any outstanding or future NITM fee obligations with respect to such parcel or parcels.

6. FINANCING FOR PUBLIC IMPROVEMENTS AND SERVICES.

6.1 Formation of Community Facilities District. The Developer Parties desire that financing for the Proposed Public Benefit Facilities and Services be provided by (i) the formation of a community facilities district for the Property pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code §§ Section 53311 *et seq.*) ("CFD"), (ii) the issuance of bonds by the CFD ("CFD Bonds"), the proceeds of which would be used to construct and/or acquire and maintain the Proposed Public Benefit Facilities and Services upon completion of

their construction, to the extent the Proposed Public Benefit Facilities and Services legally and feasibly may be financed and/or paid utilizing this method of financing, and (iii) an annual levy by the CFD of a special tax sufficient to pay principal and interest on the CFD Bonds, annual administration, engineering, and inspection costs associated with the CFD, and police and fire protection services for any portion of the Property that may be owned by City or City's Designee (specifically excluding the Educational Site) and for roadway and park operation and maintenance costs within the CFD, which CFD special tax shall be secured by recordation in the Official Records of the County of Orange of continuing liens against the Property or portions thereof.

6.1.1 The Developer Parties do hereby irrevocably consent to the formation of a CFD, the issuance of CFD Bonds, the imposition of taxes against the Property with respect thereto, and the apportionment of the costs and expenses of the Proposed Public Benefit Facilities and Services set forth in Exhibit "E", and waive any and all right of protest or objection with respect thereto.

6.1.2 In the event City elects to form a CFD, the Developer Parties agree to cooperate with City and take all necessary actions to accomplish the formation of the CFD and the imposition of taxes with respect thereto, including without limitation, if required by City, the submission of a ballot to City by each Developer Party unconditionally and without qualification in favor of the formation of the CFD and the levying of such taxes. Nothing herein shall be construed as a commitment by City to form a CFD or as a limitation on City's legislative discretion with respect thereto.

6.1.3 In the event that City is unable or elects not to proceed with the formation of a CFD and the issuance of CFD bonds for any reason, City shall not be liable for any resulting costs to the Developer Parties and the Developer Parties shall nonetheless be responsible for paying a proportionate share of the costs incurred by City to construct the Proposed Public Benefit Facilities and Services, as follows:

Developer I	24%
Developer II	27%
Developer III	34%
Developer IV	15%

In addition, in the event the CFD is not formed in the first instance or the CFD is formed but the special tax levied by the CFD is repealed, or otherwise terminated, or is insufficient to pay the costs to maintain the Proposed Public Benefit Facilities and Services (including but not limited to the potential special tax increase for police services in accordance with Section 6.1.4 below), the maintenance costs or the amount of the deficiency shall be included in the Association's budget as an expense and the Association shall levy and collect assessments in an amount sufficient to pay the maintenance costs, all as more fully explained in the CC&Rs. Each Developer Party shall, upon the Developer Party's execution and delivery of this Agreement to City, execute and deliver to City the CFD Petition in the form attached hereto as Exhibit "F". The Developer Parties have agreed to the financing provisions set forth in this Section 6.1 and to perform the obligations hereunder in exchange for the consideration and benefits provided to the Developer

Parties by City under this Agreement, including without limitation the vested right to develop the Property in accordance with Section 3.1.

6.1.4 In the event that a Redevelopment Project Area is established pursuant to the California Redevelopment Law, Health & Safety Code Section 33000, *et seq*., that covers all or a portion of the Property and results in a loss of property tax revenue to the City's general fund, the special tax authorized by this Section 6.1 shall be increased to include the cost of all police and public safety services to the Property (but specifically excluding the Educational Site unless the City in its sole and absolute discretion approves the use of the special tax to cover police costs within the Educational Site). The Developer Parties agree to cooperate with City and take all necessary action to accomplish the increase of the CFD special tax, including without limitation, if required by City, the submission of a ballot to City by each Developer Party unconditionally and without qualification in favor of such tax increase. In this regard, the Developer Parties each irrevocably and unconditionally waive any objection to such special tax increase, and irrevocably and unconditionally covenant to cast their respective votes in favor of such special tax increase.

6.2 Formation of Landscaping and Lighting Maintenance District. City may consider establishing a landscaping and lighting maintenance district for the Property, or portions thereof, to finance the maintenance of certain public improvements, including landscaping, lighting, streets, and park and recreational facilities, pursuant to the procedures set forth in City's Municipal Code and, to the extent applicable, the Landscaping and Lighting Act of 1972 (Streets and Highways Code §§ 22500, *et seq.*). The Developer Parties hereby irrevocably consent to the formation of such a landscaping and lighting maintenance district and waive any and all right of protest or objection with respect thereto. In the event City elects to form a landscaping and lighting maintenance district, the Developer Parties agree to cooperate with City and take all necessary action to accomplish the formation of the district and the imposition of assessments, including without limitation, if required by City, the submission of a ballot to City by each Developer Party unconditionally and without qualification in favor of the formation of the district and the levying of such assessments. Nothing herein shall be construed as a commitment by City to form a landscaping and lighting maintenance district or as a limitation on City's legislative discretion with respect thereto. In the event the landscaping and lighting maintenance district is not formed in the first instance or the landscaping and lighting maintenance district is formed but the assessment levied by the landscaping and lighting maintenance district is repealed, or otherwise terminated, or is insufficient to pay the costs to maintain public improvements designated by City for maintenance, the maintenance costs or the amount of the deficiency shall be included in the Association's budget as an expense and the Association shall levy and collect assessments in an amount sufficient to pay the maintenance costs, all as more fully explained in the CC&Rs. The Developer Parties have agreed to the financing provisions set forth in this Section 6.2 and to perform the obligations hereunder in exchange for the consideration and benefits provided to the Developer Parties by City under this Agreement, including without limitation the vested right to develop the Property in accordance with Section 3.1.

6.3 Police Services. Unless otherwise determined by the City in its sole and absolute discretion, the Irvine City Police Department shall be the only police force serving the Property. The owner(s) and operator(s) of the Educational Site shall pay for the costs incurred by City to

provide police services to the Educational Site. In connection therewith, as a condition to the commencement of operations on the Educational Site, the owner(s) of the Educational Site shall enter into an agreement with City on terms acceptable to City obligating the owner(s) to pay to City the costs of providing police services to the Educational Site. As used herein, the term "commencement of operations" shall mean that activities are being conducted on the Educational Site in connection with the provision of educational services to the public and/or the operation of an educational institution thereon.

7. PROPERTY-WIDE ACTIVITIES TO BE UNDERTAKEN BY CITY.

7.1 Master Subdivision Maps. City or City's Designee shall serve as the agent for all the Developer Parties with regard to processing Master Subdivision Maps. City shall use the legal descriptions the United States Department of the Navy used to convey the Parcels to the Developer Parties as a basis for the Master Subdivision Maps and shall include on the Master Subdivision Maps for public dedication the arterials, major thoroughfares, and parks shown on the Conceptual Overlay Plan, and all necessary utility rights-of-way and all existing utility facilities including pipes, wires, and appurtenant facilities. Property dedicated to City or City's Designee shall not be subject to any future interests, including reversionary, remainder, and executory interests. The Developer Parties shall cooperate with and assist City, as requested by City, in City's efforts to process and record the Master Subdivision Maps. City shall exercise reasonable efforts to submit the Master Subdivision Map for each Parcel to the Planning Commission for consideration within 365 days following the Effective Date of this Agreement relative to such Parcel.

7.2 Property-Wide Permits. The development of the Property will require various permits and entitlements from state and federal agencies including without limitation a Section 404 Permit from the U.S. Army Corps of Engineers, Fish and Game Section 1601/1603 Permits from the California Department of Fish and Game, an Irvine Ranch Water District Subarea Master Plan, a National Pollution Discharge Elimination System Permit, and a master dry utility master plan. Each of the Developer Parties hereby designates City or City's Designee as its agent to process such permits and entitlements. The Developer Parties will cooperate with City and assist City, as requested by City, in City's efforts to obtain the permits and entitlements. City shall exercise reasonable efforts to file applications for the permits and entitlements described herein for each Parcel within 365 days after the Effective Date relative to such Parcel, and shall exercise reasonable efforts to attempt to obtain the permits for such Parcel within 700 days after the Effective Date relative to that Parcel.

7.3 Design and Development Guidelines. In accordance with the provisions of the CC&Rs, the Developer Parties shall cooperate with City or the City's Designee in the establishment of guidelines for the master design and development of the Property. The design and development guidelines shall, at the discretion of the City, include provisions for sustainable development and "green" (*i.e.*, environmentally sensitive) development standards and requirements, covering issues including but not limited to sustainable site planning, safeguarding water quality and water efficiency, optimizing energy performance, conserving and recycling materials and resources, and improving indoor environmental quality.

7.4 Construction of Proposed Public Benefit Facilities. City or City's Designee shall construct or cause to be constructed the Proposed Public Benefit Facilities. The costs of the Proposed Public Benefit Facilities shall be paid for out of the proceeds of the CFD or, if the CFD is not formed, by the Developer Parties, as more fully explained in Section 6.1 of this Agreement.

8. DEDICATIONS AND CONVEYANCES OF PROPERTY INTERESTS.

8.1 Conveyance of City Conveyance Parcels to City or City's Designee.

8.1.1 Application of Section 8.1 to Developer Parties. Each of the Developer Parties is subject to the terms of Section 8.1 of this Agreement with respect to its Parcel only, and each term, condition, and obligation contained in this Section 8.1 is agreed to and made by a Developer Party only to the extent the City Conveyance Parcel is located within that Developer Party's Parcel. A legal description of the City Conveyance Parcels located within each Parcel is set forth in Exhibit "H" attached hereto.

8.1.2 No Purchase Price. The Developer Parties' conveyance and dedication of the City Conveyance Parcels to City or City's Designee shall be in consideration of City's performance of its obligations set forth in this Agreement and neither City nor City's Designee shall be required to pay any fee or purchase price for the City Conveyance Parcels.

8.1.3 Delivery of Grant Deed. Subject to Section 8.8, concurrently with its execution and delivery of this Agreement to City, each Developer Party shall execute, acknowledge, and deliver to City a grant deed in the form attached hereto as Exhibit "I" conveying to City or City's Designee at no cost to City or City's Designee fee title to the City Conveyance Parcels located within the Developer Party's Parcel.

8.1.4 Condition of Title; Title Insurance Policy. The Developer Parties shall cause the City Conveyance Parcels to be conveyed free and clear of all recorded and unrecorded monetary liens and all recorded and unrecorded non-monetary liens, encumbrances, easements, leases, covenants, conditions, restrictions, and other exceptions to or defects in title, excepting only the following exceptions listed in the Preliminary Title Report for the City Conveyance Parcels issued by _____ Title Company ("Title Company") on _____, 200**4**, under Order No. _____:

Corridor Site Parcel I: Exception Nos. _____
Corridor Site Parcel II: Exception Nos. _____
Exposition Center South Site: Exception Nos. _____
Institutional Site: Exception Nos. _____
Marshburn Basin/Channel Site: Exception Nos. _____
Musick/Alton Sites: Exception Nos. _____
Park Site: Exception Nos. _____

Sports Park Site: Exception Nos. _____
Transit Site: Exception Nos. _____

The Developer Parties shall pay all costs required to place title in the condition described in this Section 8.1.4. A condition to City's acceptance of the City Conveyance Parcels shall be the irrevocable commitment of the Title Company to deliver to City or City's Designee upon the transfer of title to the City Conveyance Parcels, an ALTA standard or, at City's election, an extended coverage owner's policy of title insurance showing title vested in City or City's Designee in the condition described in this Section 8.1.4 with insurance coverage in the amount of the fair market value of the City Conveyance Parcel as determined by City.

8.1.5 Modifications to Property Boundaries. The Parties acknowledge that it may be necessary to adjust the boundaries of the City Conveyance Parcels once the final road alignments are determined, the Master Subdivision Map and the master design and development guidelines are completed, and engineering data becomes available. City and the Developer Parties shall cooperate with each other and perform such acts and execute such documents as necessary to effectuate such adjustments.

8.2 Park Dedications.

8.2.1 Dedication of Neighborhood Parks. Each Developer Party shall improve and dedicate to City on the subdivision maps for the Property neighborhood parks, based on the rate of 3 acres/1,000 population.

8.2.2 Satisfaction of Community Park Obligations. The Developer Parties' conveyance of the Park Site and Sports Park Site to City shall be deemed to satisfy any requirement imposed upon the Developer Parties for the dedication or development of community parks pursuant to the City's General Plan and Municipal Code in connection with the development of the Property.

8.3 Dedication of Streets to City. The Developer Parties acknowledge that they will be required to dedicate to City on the Master Subdivision Map, and perhaps on subsequent subdivision maps for portions of the Property, all arterials and major thoroughfares. City reserves the discretion to declare that all other streets shall be privately owned and maintained.

8.4 Dedication of School Site to IUSD. Developer II acknowledges that it will be required to dedicate to the Irvine Unified School District ("IUSD") fee title to the School Site at no cost to IUSD. The precise location and boundaries of the School Site shall be as determined by IUSD. From and after the Effective Date, Developer II shall cooperate with IUSD in an effort to determine the terms for the timing and conveyance of the School Site to IUSD.

8.5 Quitclaim of Water Rights. Concurrently with the execution and delivery of this Agreement to City, each Developer shall execute, acknowledge and deliver to City a quitclaim deed in the form attached hereto as Exhibit "J" quitclaiming to City all of the Developer Party's right, title and interest in and to any water rights in, under, within or associated with such Developer Party's Parcel.

8.6 Quitclaim of Existing Utilities. Concurrently with the execution and delivery of this Agreement to the City, each Developer shall execute, acknowledge and deliver to City a

quitclaim deed in the form attached hereto as Exhibit "L" quitclaiming to the City any and all existing pipelines, conduits, poles, valves, and other facilities, structures and other items located within the boundaries of the Property and used or useful in connection with the delivery or provision of potable water, irrigation and industrial water, wastewater, natural gas, electric, telephone, cable television and data transmission services, and all property interests and rights-of-way incidental thereto.

8.7 Temporary Reciprocal Access Easements. By this Agreement, each of the Developer Parties (a "Grantor Party") hereby grants to the City, the City's Designee, and to each of the other Developer Parties (a "Grantee Party") and their respective employees, agents, contractors, and invitees a temporary non-exclusive easement appurtenant to the Grantee Party's Parcel over and across the surface of that portion of the Grantor Party's Parcel referred to herein as the "Access Easement Areas" for the purpose of vehicular access, ingress, and egress to and from the Grantee Party's Parcel to a public roadway. As to each Parcel, the "Access Easement Areas" refers to the portions of the Parcel designated by the Grantor Party as the location(s) for the access easements described herein. The Access Easement Areas shall be located on existing roadways or other areas within the Parcel that provide the Grantee Parties reasonable access from a public roadway to their Parcel. The Grantor Parties shall have the right from time to time, by delivery of written notice to the Grantee Parties, to change the location of the Access Easement Areas. The Grantee Parties shall cooperate with the Grantor Parties and coordinate their entries on the Access Easement Areas with the Grantor Party in order to minimize interference with the Grantor Party's development activities. Each of the Grantee Parties shall indemnify, defend, and hold harmless the Grantor Parties from and against any claim arising out of the Grantee Party's use of the Access Easement Areas. The easements over the Access Easement Areas in favor of a Grantee Party shall terminate (without the execution or recordation of any further document or the taking of any further action) at such time as there is direct access between the Grantee Party's Parcel and a public roadway. The Grantee Parties shall cooperate with the Grantee Parties in executing in recordable form any document that a Grantor Party (including any successor to the title of a Developer Party) may submit to confirm the termination of the easement.

8.8 Assignment of LIFOCs. Notwithstanding Section 8.1, in the event that any portion of any of the City Conveyance Parcels is transferred to a Developer Party by means of a LIFOC rather than a conveyance deed, that Developer Party shall execute and deliver to the City an assignment in the form attached hereto as Exhibit "M" covering each LIFOC affecting a City Conveyance Parcel within that Developer Party's Parcel. Each Developer Party holding any portion of any of the City Conveyance Parcels pursuant to a LIFOC shall execute and deliver such assignment concurrently with its execution and delivery of this Agreement to the City, and the provisions of Section 8.1 of this Agreement shall apply to such assignment agreement and the Developer Party's execution and delivery of same.

9. GOLF COURSES

Developer II covenants that the golf course to be developed on the New Golf Course Site shall be completed and opened to the general public for play not later than three (3) years after the Commencement Date and that thereafter the golf course shall remain open to the general public (and not restricted as a private or membership course). In addition, Developer II covenants that the golf course on the Existing Golf Course Site shall remain open to the general

public (and not restricted as a private or membership course). Developer II shall pay to City a fee per round for each round of play ("Golf Course Fee") on the golf course on the Existing Golf Course Site and the golf course to be developed on the New Golf Course Site. Commencing on the Commencement Date and continuing until December 31, 2008, the amount of the Golf Course Fee shall be the sum of Five Dollars ($5.00). Commencing on January 1, 2009, and on each five (5) year anniversary thereafter, the Golf Course Fee shall be increased by an amount equal to Twenty Percent (20%) of the then current Golf Course Fee. Developer II hereby consents to and waives any right of protest with regard to the establishment and enforcement of the aforedescribed fee on rounds of play at the golf courses. Developer II further agrees that the Golf Course Fee established by City pursuant to this Agreement does not constitute a tax subject to the voter approval requirements of Article XIIIA of the California Constitution, Article XIIIC of the California Constitution or California Government Code Section 53720, *et seq*., and, in addition, that the Golf Course Fee is not a fee imposed "as an incident of property ownership" within the meaning of Article XIIID of the California Constitution.

The Golf Course Fee imposed by City hereunder shall be collected by Developer II and shall be remitted to City each month on or before the last day of the following month, with each payment accompanied by such information as City may reasonably determine to be necessary to verify the number of rounds played at the Golf Courses during the preceding month. Developer II shall prepare and keep full and accurate records and receipts of the number of rounds played at the Golf Courses. Such receipts and records shall be kept for a period of three (3) years after the close of each calendar year, and shall be available for inspection and audit by City and City's representatives. If it is determined that there has been a deficiency in the payment of the Golf Course Fee, then such deficiency shall become immediately due and payable. In addition, if the amount of the deficiency for any calendar month is more than two percent (2%), then Developer II shall pay to City all costs and expenses incurred by City in conducting the audit plus an amount equal to twenty percent (20%) of the underpayment.

Developer II acknowledges that the provisions of this Section 9 survives the termination of this Agreement.

10. CC&Rs.

Concurrently with the execution and delivery of this Agreement to City, the Developer Parties shall execute, acknowledge, and deliver to City the CC&Rs. City shall cause the CC&Rs to be recorded concurrently with the recordation of this Agreement.

11. UTILITIES.

The Developer Parties acknowledge that the existing utility system for the Property is rudimentary. Pending installation and development of the final utility system serving this Project, the Developer Parties shall cooperate in good faith with each other in an effort to ensure that all of the Developer Parties have access to and use of the available utilities servicing the Property, which efforts may include the installation of submeters or the equitable apportionment of the costs of utilities furnished through a master meter for the Property or portions thereof.

12. RECYCLING HARDSCAPE.

The City or the City's Designee intend to create a mandatory sustainability program to encourage the reuse of hardscape and other materials within the Property. If a Developer Party desires to recycle any of the concrete or other hardscape on its Parcel (including the military aircraft runway), the Developer Party shall participate in the recycling program to be developed by City or City's Designee unless otherwise exempted therefrom in writing by the City or the City's Designee. The amount or rate paid to the recycler by a Developer Party for the recycling under City's recycling program shall be negotiated by the Developer Party and the recycler, unless the City or the City's Designee establishes a fee for the removal and recycling of concrete and other hardscape from the Property, in which case each Developer Party shall pay such fee in consideration of the removal and recycling of concrete and other hardscape materials from such Developer Party's Parcel. The Developer Parties acknowledge that City or City's Designee may receive revenue from the recycling program and that the Developer Parties shall not be entitled to share in that revenue.

13. DEFAULT, REMEDIES, AND TERMINATION.

13.1 Notice and Opportunity to Cure. Before this Agreement may be terminated or action may be taken to obtain judicial relief, the Party seeking relief ("Nondefaulting Party") shall comply with the notice and cure provisions of this Section 13.1. A Nondefaulting Party in its discretion may elect to declare a default under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of any other Party ("Defaulting Party") to perform any material duty or obligation of said Defaulting Party in accordance with the terms of this Agreement. However, the Non-Defaulting Party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by the Nondefaulting Party to cure such breach or failure. The Defaulting Party shall be deemed in "default" of its obligations set forth in this Agreement if the Defaulting Party has failed to take action and cured the default within ten (10) days after the date of such notice (for monetary defaults), within thirty (30) days after the date of such notice (for non-monetary defaults), or within such lesser time as may be specifically provided in this Agreement. If, however, a non-monetary default cannot be cured within such thirty (30) day period, as long as the Defaulting Party does each of the following:

(i) notifies the Non-Defaulting Party in writing with a reasonable explanation as to the reasons the asserted default is not curable within the thirty (30) day period;

(ii) notifies the Non-Defaulting Party of the Defaulting Party's proposed course of action to cure the default;

(iii) promptly commences to cure the default within the thirty (30) day period;

(iv) makes periodic reports to the Non-Defaulting Party as to the progress of the program of cure; and

(v) diligently prosecutes such cure to completion,

then the Defaulting Party shall not be deemed in breach of this Agreement. Notwithstanding the foregoing, the Defaulting Party shall be deemed in default of its obligations set forth in this Agreement if said breach or failure involves the payment of money but the Defaulting Party has failed to completely cure said monetary default within ten (10) days (or such lesser time as may be specifically provided in this Agreement) after the date of such notice.

13.2 Default Remedies. Subject to Section 13.3, in the event of a default, the Non-Defaulting Party, at its option, may institute legal action to cure, correct, or remedy such default, enjoin any threatened or attempted violation, enforce the terms of this Agreement by specific performance, or pursue any other legal or equitable remedy. Furthermore, City, in addition to or as an alternative to exercising the remedies set forth in this Section 13.2, in the event of a material default by Developer, may give notice of its intent to terminate or modify this Agreement pursuant to the City Development Agreement Regulations and/or the Development Agreement Statute, in which event the matter shall be scheduled for consideration and review by the City Council in the manner set forth in the City Development Agreement Regulations and/or the Development Agreement Statute.

13.3 Developer Parties' Exclusive Remedy. The Parties acknowledge that City would not have entered into this Agreement if it were to be liable in damages under or with respect to this Agreement, the Great Park Plan, or the Existing Land Use Regulations, or the application thereof, or any permit or approval sought by a Developer Party in accordance with the Great Park Plan or the Existing Land Use Regulations. Accordingly, each of the Developer Parties covenants on behalf of itself and its successors and assigns, not to sue City for damages or monetary relief for any breach of this Agreement or arising out of or connected with any dispute, controversy or issue regarding the application, interpretation of effect of this Agreement, the Great Park Plan, the Existing Land Use Regulations, or any land use permit or approval sought in connection with the development or use of the Property or any portion thereof, the Parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be the Developer Parties' sole and exclusive judicial remedies.

13.4 Termination of Overlay Plan Upon Termination of Agreement. Each Developer Party acknowledges that the application of the Overlay Plan to its Parcel is contingent and conditional upon the Developer Party's entering into this Agreement and performing hereunder, and that the Developer Party shall have no right or entitlement to develop its Parcel under the Overlay Plan in the absence of this Agreement and the Developer Party's diligent performance of its obligations under this Agreement. In connection therewith, in the event this Agreement is terminated as to any Parcel in accordance with Section 13.2 as a result of a default of a Developer Party, the Overlay Plan shall immediately cease to apply and govern the development of such Parcel, and the development of such Parcel shall instead be governed by and subject to the Base Plan.

13.5 Cross-Defaults. City agrees that a default by a Developer Party hereunder shall constitute a default of the other Developer Parties only in the event the obligation breached is one in which the Developer Parties are jointly and severally liable. In the event that a default exists with respect to one or more but not all of the Developer Parties, City shall not be entitled to any legal or equitable remedies or to terminate this Agreement with respect to those Developer Parties who are not in default.

13.6 Force Majeure. The obligations by any Party hereunder shall not be deemed to be in default where delays or failures to perform are due to any cause without the fault and beyond the reasonable control of such Party, including to the extent applicable, the following: war; insurrection; strikes; walk-outs; the unavailability or shortage of labor, material, or equipment; riots; floods; earthquakes; the discovery and resolution of hazardous waste or significant geologic, hydrologic, archaeological, paleontologic, or endangered species problems on the Property; fires; casualties; acts of God; governmental restrictions imposed or mandated by other governmental entities; with regard to delays of a Developer Party's performance, delays caused by City's failure to act or timely perform its obligations set forth herein; with regard to delays of City's performance, delays caused by a Developer Party's failure to act or timely perform its obligations set forth herein; inability to obtain necessary permits or approvals from other governmental entities; enactment of conflicting state or federal statutes or regulations; judicial decisions; or litigation not commenced by such Party. Notwithstanding the foregoing, any delay caused by the failure of City or any agency, division, or office of City to timely issue a license, permit, or approval required pursuant to this Agreement shall not constitute an event of force majeure extending the time for City's performance hereunder. If written notice of such delay or impossibility of performance is provided to the other Parties within a reasonable time after the commencement of such delay or condition of impossibility, an extension of time for such cause will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon by the Parties in writing, or the performance rendered impossible may be excused in writing by the Party so notified. In no event shall adverse market or financial conditions constitute an event of force majeure extending the time for such Party's performance hereunder. In addition, in no event shall the Term of this Agreement be extended by an event of force majeure.

14. ANNUAL REVIEW.

14.1 Timing of Annual Review. During the Term of this Agreement, at least once during every twelve (12) month period from the Commencement Date, City shall review the good faith compliance of the Developer Parties with the terms of this Agreement ("Annual Review"). The Annual Review shall be conducted by the City Council or its designee in accordance with the City Development Agreement Regulations.

14.2 Standards for Annual Review. During the Annual Review, the Developer Parties shall be required to demonstrate good faith compliance with the terms of this Agreement. If City or its designee finds and determines that a Developer Party has not complied with any of the terms or conditions of this Agreement, then City may declare a default by such Developer Party in accordance with Section 13 herein. City may exercise its rights and remedies relating to any such event of default only after the period for curing a default as set forth in Section 13 has expired without cure of the default. The costs incurred by City in connection with the Annual Review process shall be paid by the Developer Parties.

14.3 Certificate of Compliance. With respect to each year in which City approves a Developer Party's compliance with this Agreement, City shall, upon written request by the Developer Party, provide the Developer Party with a written certificate of good faith compliance within thirty (30) days of City's receipt of the Developer Party's request for same.

15. MORTGAGEE RIGHTS.

15.1 Encumbrances on the Property. The Parties hereto agree that this Agreement shall not prevent or limit any of the Developer Parties, in any manner, from encumbering the Property or any portion thereof or any improvements thereon with any Mortgage securing financing with respect to the construction, development, use, or operation of the Project.

15.2 Mortgagee Protection. This Agreement shall be superior and senior to the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Property or any portion thereof by a Mortgagee (whether pursuant to foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination, or otherwise) shall be subject to all of the terms and conditions of this Agreement and any such Mortgagee who takes title to the Property or any portion thereof shall be entitled to the benefits arising under this Agreement.

15.3 Mortgagee Not Obligated. Notwithstanding the provisions of this Section 15, a Mortgagee will not have any obligation or duty pursuant to the terms set forth in this Agreement to perform the obligations of any of the Developer Parties or other affirmative covenants of the Developer Parties hereunder, or to guarantee such performance, except that (i) the Mortgagee shall have no right to develop the Property under the Overlay Plan without fully complying with the terms of this Agreement and (ii) to the extent that any covenant to be performed by a Developer Party is a condition to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder.

15.4 Notice of Default to Mortgagee; Right of Mortgagee to Cure. Each Mortgagee shall, upon written request to City, be entitled to receive written notice from City of the results of the Annual Review and of any default by a Developer Party of its obligations set forth in this Agreement. Each Mortgagee shall have a further right, but not an obligation, to cure such default within ten (10) days after receipt of such notice (for monetary defaults), within thirty (30) days after receipt of such notice (for non-monetary defaults) or, if such default can only be remedied or cured by such Mortgagee upon obtaining possession of the Property, such Mortgagee shall have the right to seek to obtain possession with diligence and continuity through a receiver or otherwise, and to remedy or cure such default within thirty (30) days after obtaining possession, and, except in case of emergency or to protect the public health or safety, City may not exercise any of its judicial remedies set forth in this Agreement until expiration of such thirty (30) day period; provided, however, that in the case of a default which cannot with diligence be remedied or cured within such thirty (30) day period, the Mortgagee shall have such additional time as is reasonably necessary to remedy or cure such default provided Mortgagee promptly commences to cure the default within the thirty (30) day period and diligently prosecutes such cure to completion.

16. ASSIGNMENT.

16.1 Right to Assign. Subject to City's consent pursuant to Section 16.3, each Developer Party shall have the right to assign its rights and obligations under this Agreement in connection with a transfer of the Developer Party's interest in the Property. In the event of any

such assignment, the assignee shall be liable for the performance of all obligations of the Developer Party with respect to the portion of the Property so transferred.

16.2 Assignee Subject to Terms of Agreement. Following an assignment or transfer of any of the rights and interests of a Developer Party set forth in this Agreement in accordance with Section 16.3, the assignee's exercise, use, and enjoyment of the Property shall be subject to the terms of this Agreement to the same extent as if the assignee or transferee were the Developer Party.

16.3 Release Upon Transfer. Upon the written consent of City to the partial or complete assignment of this Agreement (which consent shall not be unreasonably withheld) and the express written assumption in a form approved by City of such assigned obligations of the Developer Party under this Agreement by the assignee, the Developer Party shall be relieved of its legal duty to perform the assigned obligations set forth in this Agreement, except to the extent the Developer Party is in default hereunder prior to said transfer.

17. INSURANCE AND INDEMNITY.

17.1 Insurance. Each Developer Party shall procure and maintain, commencing as of the Commencement Date and thereafter at all times during the Term of this Agreement when actual work on the Project is being performed by that Developer Party, the following policies of insurance:

(i) Comprehensive General Liability Insurance. A policy of comprehensive general liability insurance written on a per occurrence basis in an amount not less than $5,000,000 combined single limits.

(ii) Automobile Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than either (A) bodily insurance liability limits of $2,000,000 per person and $2,000,000 per occurrence and property damage liability limits of Five Hundred Thousand Dollars $500,000 per occurrence and $500,000 in the aggregate or (B) combined single limit liability of $2,000,000. Said policy shall include coverage for owned, non-owned, leased, and hired cars.

(iii) Workers' Compensation Insurance. A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California.

The policies of insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California and rated "A: VII" or better in the most recent edition of Best's Insurance Guide. All of the aforedescribed policies of insurance shall be primary insurance and shall name City, City's Designee(s), and each of their respective officers, officials and employees as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against City, City's Designee, and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days prior written notice to City. In the event any of said policies of insurance are cancelled, the applicable Developer Party shall, prior to the cancellation date,

submit new evidence of insurance in conformance with this Section 17.1. No work to be performed by a Developer Party pursuant to this Agreement shall commence until the Developer Party has provided City with certificates of insurance or appropriate insurance binders evidencing the above insurance coverage and said certificates or binders are approved by City.

17.2 Indemnity. Each of the Developer Parties agrees to indemnify, defend, and hold harmless City, City's Designee, and their respective elected and appointed councils, boards, commissions, officers, agents, and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorneys' fees and costs) which may arise, directly or indirectly, from the acts, omissions, or operations of such Developer Party or the Developer Party's agents, contractors, subcontractors, agents, or employees pursuant to this Agreement. Notwithstanding the foregoing, City shall have the right to select and retain counsel to defend any such action or actions and the Developer Party shall pay the cost thereof. The indemnity provisions set forth in this Agreement shall survive termination of this Agreement.

18. THIRD PARTY LEGAL CHALLENGE.

In the event of any legal action instituted by any third party challenging the validity or enforceability of any provision of this Agreement, the Existing Land Use Regulations, or the Great Park Plan ("Third Party Legal Challenge"), City shall have the right but not the obligation to defend such Third Party Legal Challenge and the Developer Parties shall be responsible for the legal expenses incurred by City in connection therewith. The Developer Parties also shall have the right but not the obligation to defend any Third Party Legal Challenge. If a Developer Party defends any such Third Party Legal Challenge, so long as the Developer Parties are not in default hereunder, City shall not allow any default or judgment to be taken against it or compromise the defense of the action without the Developer Party's prior written approval. The Developer Party defending the Third Party Legal Challenge shall further have the right to settle such Third Party Legal Challenge, provided that nothing herein shall authorize the Developer Party to settle such Third Party Legal Challenge on terms that would constitute an amendment or modification of this Agreement, the Existing Regulations or the Great Park Plan unless such amendment or modification is approved by City in accordance with applicable legal requirements, and City reserves its full legislative discretion with respect thereto.

In the event City elects to defend the Third Party Legal Challenge, the Developer Parties shall indemnify and hold harmless City and its officials and employees from and against any claims, losses, or liabilities assessed or awarded against City by way of judgment, settlement, or stipulation. If a Developer Party defends any such Third Party Legal Challenge, the Developer Party defending the action shall indemnify and hold harmless City and its officials and employees from and against any claims, losses, or liabilities assessed or awarded against City by way of judgment, settlement, or stipulation.

19. MISCELLANEOUS.

19.1 Covenants. The provisions of this Agreement shall constitute covenants which shall run with the land comprising the Property for the benefit thereof, and the burdens and

benefits hereof shall bind and inure to the benefit of each of the Parties hereto and all successors in interest to the Parties hereto.

19.2 Entire Agreement; Waivers and Amendments. This Agreement constitutes the entire understanding and agreement of the Parties and supersedes all previous negotiations, discussions, and agreements among the Parties with respect to all or part of the subject matter hereof. No parole evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Parties with the terms of this Agreement thereafter. Any amendments or modifications to this Agreement must be in writing, signed by duly authorized representatives of each of the Parties hereto, and recorded in the Official Records of Orange County, California.

19.3 Legal Expenses. In any judicial proceeding, arbitration, or mediation (collectively, "Action") between City and a Developer Party seeking enforcement of any of the terms and provisions of this Agreement, the prevailing Party in such Action shall be awarded all of its actual and reasonable costs and expenses (whether or not the same would be recoverable pursuant to Code of Civil Procedure Section 1033.5 or 1717 in the absence of this Agreement), including expert witness fees, attorney's fees, and costs of investigation and preparation prior to the commencement of the Action. The right to recover such costs and expenses shall accrue upon commencement of the Action, regardless of whether the Action is prosecuted to a final judgment or decision.

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

19.5 No Third Party Beneficiaries. This Agreement and all of its terms, conditions, and provisions are entered into only for the benefit of the Parties executing this Agreement (and any successors in interest), and not for the benefit of any other individual or entity. In this regard, the owner of any portion of any Parcel that does not timely enter into and perform this Agreement or a substantially similar agreement with the City shall have no benefit from, and shall not be a beneficiary of, any of the provisions of this Agreement.

19.6 Relationship of Parties. City and the Developer Parties hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and any Developer Party joint venturers or partners.

19.7 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect, unless and to the extent the rights and obligations of any Party has been materially altered or abridged by such holding.

19.8 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other Parties to the extent necessary to implement this Agreement. Upon the request of a Party at any time, the other Parties shall promptly execute, with acknowledgement or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary to implement this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

19.9 Estoppel Certificate. Any Party hereunder may, at any time, deliver written notice to any other Party requesting such Party to certify in writing that, to the best knowledge of the certifying Party, (i) this Agreement is in full force and effect and a binding obligation of the Party; (ii) this Agreement has not been amended or modified either orally or in writing, or 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 Agreement 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 Mortgagee shall be entitled to rely on the Certificate.

19.10 Applicable Law; Venue. This Agreement shall be construed and enforced in accordance with the internal laws of the State of California. Any action at law or in equity arising under this Agreement or brought by any Party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California or the United States District Court for the Central District of California, Santa Ana Division, and the Parties hereto waive all provisions of law providing for the removal or change of venue to any other court.

19.11 Non-Liability of City Officers and Employees. No official, officer, employee, agent or representative of City shall be personally liable to any of the Developer Parties or their respective successors and assigns for any loss arising out of or connected with this Agreement, the Existing Land Use Regulations or the Great Park Plan.

19.12 Notices. Any notice or communication required hereunder between City and a Developer Party must be in writing and may be given either personally, by registered or certified mail, return receipt requested, or by facsimile transmission. If given by registered or certified mail, the same shall be deemed to have been given and received on the date of actual receipt by the addressee designated hereinbelow as the Party to whom the notice is sent. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Notices delivered by facsimile transmission shall be deemed to have been given on the first business day following the date of transmission to the facsimile number. A Party hereto may at any time, by giving ten (10) days' written notice to the other Parties hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City: City of Irvine
City Hall
One Civic Center Plaza
Irvine, CA 92623-9575
Attn: Director of Community Development
Telephone: (949) 724-6451
Telecopy: (949) 724-6440

With a copy to: Rutan & Tucker, LLP
611 Anton Blvd., Suite 1400
Costa Mesa, CA 92626
Attn: Joel D. Kuperberg, Esq.
Telephone: (714) 641-5100
Telecopy: (714) 546-9035

If to Developer I: _____
_____
_____
Attn: _____
Telephone: _____
Telecopy: _____

With a copy to: _____
_____
_____
Attn: _____
Telephone: _____
Telecopy: _____
Telecopy: _____

If to Developer II: _____
_____
_____
Attn: _____
Telephone: _____
Telecopy: _____

With a copy to: _____
_____
_____
Attn: _____
Telephone: _____
Telecopy: _____

If to Developer III: _____
_____
_____
Attn: _____
Telephone: _____
Telecopy: _____

With a copy to: _____
_____
_____
Attn: _____
Telephone: _____
Telecopy: _____

If to Developer IV: _____
_____
_____
Attn: _____
Telephone: _____
Telecopy: _____

With a copy to: _____
_____
_____
Attn: _____
Telephone: _____
Telecopy: _____

19.13 Representation as to Ownership. Subject to its acceptance of one or more LIFOCs conveying a portion of its Parcel, each Developer Party represents and warrants as follows: Developer I represents and warrants to City that it is the owner in fee of Parcel I. Developer II represents and warrants to City that it is the owner in fee of Parcel II. Developer III represents and warrants to City that it is the owner in fee of Parcel III. Developer IV represents and warrants to City that it is the owner in fee of Parcel IV.

19.14 Authority to Execute. Each Developer Party warrants and represents that (i) it is duly organized and existing, (ii) it is duly authorized to execute and deliver this Agreement, (iii) by so executing this Agreement, the Developer Party is formally bound to the provisions of this Agreement, (iv) the Developer Party's entering into and performance of its obligations set forth in this Agreement does not violate any provision of any other agreement to which the Developer Party is bound, and (v) there is no existing or threatened litigation or legal proceeding of which the Developer Party is aware which could prevent the Developer Party from entering into or performing its obligations set forth in this Agreement.

19.15 Execution of Agreement; Counterparts. This Agreement may be executed by the Parties in any number of counterparts, and in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one

and the same agreement. One or more of the Developer Parties entering into an agreement with the City substantially similar to this Agreement shall be deemed to be a Developer Party under this Agreement to the extent not inconsistent with such Developer Party's(ies') substantially similar agreement. This Agreement shall constitute a valid and enforceable agreement between the City and each of the Developer Parties timely executing this Agreement; and the failure or refusal of one or more owners of Parcels to timely execute this Agreement shall not affect its validity and effectiveness as it relates to the City and the Developer Parties that have timely executed this Agreement.

19.16 Counterparts and Exhibits. This Agreement may be executed in any number of counterparts, each of which shall constitute one original and all of which shall be one and the same instrument. This Agreement contains eleven (11) exhibits, attached hereto and made a part hereof by this reference. Said exhibits are identified as follows:

A	Legal Description of Base real property
B	Conceptual Overlay Plan
C	Great Park Plan
D	North Irvine Transportation Mitigation Ordinance
E	CFD Apportionment and Methodology
F	CFD Petition
G	Legal Descriptions of City Conveyance Parcels
H	Ownership Interests in City Conveyance Parcels
I	Grant Deed Form
J	Water Rights Quitclaim Deed Form
K	CC&Rs
L	Utilities Quitclaim Deed Form
M	Form of Assignment of LIFOCs

[Signatures on next page]