



CONCURRENT MEETING
CITY COUNCIL/SUCCESSOR AGENCY TO
THE CRA/RCFC

Monday, July 01, 2013

5:30 PM – Regular Meeting

AGENDA

Linda Budge, Mayor

Dan Skoglund, Vice Mayor

Robert J. McGarvey, Council Member

David Sander, Council Member

Donald Terry, Council Member

Regular City Council meeting dates are scheduled on the 1st and 3rd Monday's of each month, unless when Monday is a holiday.
If Monday is a holiday, the meeting will be scheduled for the following Tuesday. Dates are subject to change.

City Council Regular Mtg

CANCELLED MTG

City Council Special Mtg

CANCELLED MTG

CITY HALL CLOSED

2013

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CITY HALL CLOSURE DATES

Tue, Jan 1 - New Year's Day
Mon, Jan 21 - Martin Luther King Jr. Day
Mon, Feb 18 - President's Day
Mon, May 27 - Memorial Day
Thu, Jul 4 - Independence Day
Mon, Sep 2 - Labor Day
Mon, Nov 11 - Veterans Day
Thu, Nov 28 - Thanksgiving Day
Fri, Nov 29 - Day After Thanksgiving Day
Tue, Dec 24 - Christmas Eve
Wed, Dec 25 - Christmas Day
Thurs, Dec 26 - Tues, Dec 31 Winter Break

2014 - Proposed

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Thu, Nov 27 - Thanksgiving Day
Fri, Nov 28 - Day After Thanksgiving Day
Wed, Dec 24 - Christmas Eve
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Fri, Dec 26 - Day After Christmas Day
Tue, Dec 31 - New Year's Eve

2015 - Proposed

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**CONCURRENT MEETING
CITY COUNCIL/SUCCESSOR AGENCY TO THE COMMUNITY REDEVELOPMENT
AGENCY/RANCHO CORDOVA FINANCING CORPORATION (RCFC)**

**City Hall
2729 Prospect Park Drive, Rancho Cordova**

Monday, July 01, 2013

**5:30 PM – Regular Meeting
David B. Roberts Council Chambers**

AGENDA

1. REGULAR MEETING - CALL TO ORDER / ROLL CALL

Council Members McGarvey, Sander, Skoglund, Terry and Mayor Budge.

2. METRO CABLE TV TELEVISION ANNOUNCEMENT

The Clerk will announce the meetings video recording and playback schedules.

3. NATIONAL ANTHEM

Erin McGarvey will sing the National Anthem.

4. PLEDGE OF ALLEGIANCE

The Mayor will call on 10 Year Old Ambassadors to lead the Pledge.

5. INVOCATION

Pastor Larry Stafford, Cordova Church of Christ Community Outreach Director, will give the invocation.

6. PRESENTATIONS

- 6.1 Presentations and Acknowledgement of Special Guests.
- 6.2 Incorporation Memories and Committee Acknowledgments.
- 6.3 Premiere Showing Remarkable Rancho Cordovan Video.
- 6.4 Unveil the 10th Anniversary Mosaic.
- 6.5 Lip Dub Video and Time Capsule Contents.

7. PUBLIC COMMENT

Citizens wishing to address the Council for any matter on the Consent Calendar or not on the agenda may do so at this time by completing and submitting a Speaker Card to the City Clerk. For items on the agenda, speakers will be called up to the podium by the Mayor at the point on the agenda when the item will be heard. Speakers are encouraged to keep comments to three minutes or less and to state name and community of residence.

Note, under the provisions of the California Government Code, the City Council is prohibited from discussing or taking immediate action on any unagendized item unless it can be demonstrated to be of an emergency nature or the need to take immediate action arose after the posting of the agenda.

8. COUNCIL REPORTS

9. CONSENT CALENDAR ITEMS - ROLL CALL VOTE

- 9.1 **Subject:** An Ordinance Amending Section 23.325.020 (Convention Overlay District) of Title 23 (Zoning Code) of the Municipal Code to add an Exceptions Section.
Recommendation: Waive the second reading and adopt Ordinance No. 18-2013.
Result of Recommended Action: Adopting this Ordinance would amend the Convention Overlay District regulations within Title 23 (Zoning Code) of the City's Municipal Code to introduce an exceptions process within the Convention Overlay section of the Zoning Code. The exceptions process would allow the City Council to consider, and possibly approve, projects that provide specified community benefits, but may not meet the specific development standards identified in the Code.
Staff Report: Paul Junker, Planning Director.
Advances Goals: 1, 2.
- 9.2 **Subject:** An Ordinance Amending Section 23.325.020 (Convention Overlay District) of Title 23 (Zoning Code) of the Municipal Code and Section IV (Page IV-6, Page IV-27, Table IV-4) of the Folsom Boulevard Specific Plan.
Recommendation: Waive the second reading and adopt Ordinance 19-2013.
Result of Recommended Action: Adopting this Ordinance would amend the Convention Overlay District regulations within Title 23 (Zoning Code) of the City's Municipal Code and Section IV of the Folsom Boulevard Specific Plan to reduce the permit requirements for certain specific uses from a Conditional Use Permit to an Administrative Use Permit. These uses include Business Support Services, Auto and Vehicle Sales and Rental, Vehicle Services – Minor, Manufacturing – Small Scale, Printing and Publishing, and Research and Development. By requiring an Administrative Use Permit, the review process would become easier and less time

consuming and hopefully allow for more businesses to occupy the existing buildings within the Convention Overlay area.

Staff Report: Jessica Jordan, Senior Planner.

Advances Goals: 1, 2.

- 9.3 **Subject:** First Amendment to Disposition and Development Agreement with Urban Housing Communities.

Recommendation: It is recommended that the City Council adopt Resolution 82-2013 (Attachment 1) authorizing the City Manager to execute a First Amendment (Attachment 2) to the existing Disposition and Development Agreement (DDA) (Attachment 3) with UHC 00575 Rancho Cordova, L.P., a California limited partnership ("Developer").

Result of Recommended Action: Adoption of this resolution will provide the City Manager authorization to execute a First Amendment to the Disposition and Development (DDA) with Developer for the Horizons @ New Rancho, a senior affordable housing development.

Staff Report: Reed Flory, Housing Services Administrator and Jessica Hayes, Housing Services Assistant.

Advances Goal: 5.

- 9.4 **Subject:** Approval of Final Map of Sunridge Park Phase II Village 5B.

Recommendation: Approval of Final Map of Sunridge Park Phase II Village No. 5B Subdivision No. RC-04-096.05B being all of lot 3 and 5 of Sunridge Park Phase II recorded in Book 348 of Maps, at Page 1; located on the east side of Timberland Drive between Borderlands Drive and Canyonlands Drive.

Result of Recommended Action: Approval of this recommendation will result in the recording of the final map creating 24 new residential lots.

Staff Report: Cyrus Abhar, Public Works Director.

Advances Goals: 2.

10. CONSENT PUBLIC HEARING ITEMS - ROLL CALL VOTE

- 10.1 **Subject:** American Family Entertainment Center Design Review, an Exception to the Minimum Floor Area Ratio Requirement and Finance Plan; Project No. DD0038-179 – Located on the eastside of Kilgore Road between Trade Center Drive and Sun Center Drive.

Recommendation: Adopt Resolution No. 59-2013.

Result of Recommended Action: Adoption of the resolution would provide the approval to construct a 72,682 square foot entertainment center building on the eastern side of the 13.2 acre development site. Conditions of Approval have been prepared that would address the final review of the constructions plans, prior to the issuance of building permits.

Staff Report: William Campbell, Principal Planner and Micah Runner, Economic Development Manager.

Advances Goals: 1, 2, and 6.

11. PUBLIC HEARING ITEMS

NONE.

12. REGULAR CALENDAR ITEMS

NONE.

13. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

14. CITY MANAGER'S REPORT

15. ADJOURNMENT

ADDITIONAL INFORMATION

UNLESS THE COUNCIL ADOPTS A MOTION TO EXTEND THE MEETING, ANY ITEM THAT IS NOT INITIATED BEFORE 11:00 PM WILL BE CONTINUED TO THE NEXT DAY AT 5:30 PM OR SCHEDULED ON THE NEXT REGULAR MEETING AGENDA OF THE COUNCIL.

Public documents related to items on the open session portion of this agenda, which are distributed to the City Council less than 72 hours prior to the meeting, shall be available for public inspection at the time the documents are distributed to the Council. Documents are available for inspection at the City Clerk's office located in Rancho Cordova City Hall.

The agenda items are accessible on the City's website at www.cityofranchocordova.org on Thursdays or Fridays prior to the Regular City Council Meeting.

CITYWIDE GOALS - (Adopted March 27, 2012)	
1.	Promote the Positive Image of Rancho Cordova
2.	Ensure a Safe, Inviting and Livable Community
3.	Empower Responsible Citizenship
4.	Establish Logical City Boundaries that Provide Regional Leadership and Address Financial Challenges
5.	Ensure the Availability of the Best Public Services in the Region while Practicing Sound Fiscal Management
6.	Drive Diverse Economic Opportunities

UPCOMING MEETINGS	
Tuesday, June 25, 2013	City Council Special Meeting – Work Session CANCELLED
Monday, July 1, 2013	City Council Regular Meeting (5:30 PM) followed by 10 th Anniversary Celebration
Tuesday, July 9, 2013	City Council Special Meeting – Work Session (5:30 PM)
Monday, July 15, 2013	City Council Regular Meeting (5:30 PM)
Tuesday, July 23, 2013	City Council Special Meeting – Work Session (5:30 PM)

If you have any technical questions related to the agenda items, please contact the appropriate department as follows:

DEPARTMENTAL GENERAL TELEPHONE NUMBERS	
Building and Safety Division	(916) 851-8760
City Attorney's Office	(916) 556-1531
City Clerk's Department	(916) 851-8720
City Manager's Office	(916) 851-8800
Communications Department	(916) 851-8791
Economic Development Department	(916) 851-8780
Finance Department	(916) 851-8730
Housing Department	(916) 851-8784
Human Resources Department	(916) 851-8740
IT Department	(916) 851-8700
Neighborhood Services – Animal Services	(916) 851-8770
Parks & Recreation (Cordova Recreation & Park District)	(916) 362-1841
Planning Department	(916) 851-8750
Public Works Department	(916) 851-8710
Rancho Cordova Police Department	(916) 875-9600
Redevelopment Department	(916) 851-8780
Sac Metro Fire District	(916) 859-4300

The Rancho Cordova City Council/Successor Agency to the CRA/RCFC will be videotaped in its entirety and will be cablecast without interruption on Metro Cable 14, the Government Affairs Channel on the Comcast and SureWest Cable Systems. Closed Captioning will be available on the playback cablecast. Tune to Metro Cable Channel 14, for playback times. A VHS copy is available for check out from any library branch, a DVD copy is available from the City Clerk's Department, and a webcast of this meeting will be available for viewing via video streaming from the City's website within 48 hours of adjournment of this meeting. The City does not control scheduling of this telecast and persons interested in watching the televised meeting should confirm this schedule with Metro Cable TV, Channel 14.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation, including auxiliary aids or services, to participate in this meeting, please contact the City Clerk's Office at (916) 851-8720 at least 48 hours prior to the meeting.

CERTIFICATION OF POSTING OF AGENDA

I, Mindy Cuppy, CMC, City Clerk for the City of Rancho Cordova, declare that the foregoing agenda for the Monday, July 01, 2013 Special and Regular Meeting of the Rancho Cordova City Council/Successor Agency to the CRA/RCFC was posted and available for review on Thursday, June 27, 2013 at City Hall of the City of Rancho Cordova, 2729 Prospect Park Drive, Rancho Cordova, California, 95670. The agenda is also available on the city website at www.cityofranchocordova.org.

Signed Thursday, June 27, 2013 at Rancho Cordova, California.


Mindy Cuppy, CMC, City Clerk

CITY OF RANCHO CORDOVA

ORDINANCE NO. 18-2013

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA
AMENDING SECTION 23.325.020 (CONVENTION OVERLAY DISTRICT) OF TITLE 23 OF
THE MUNICIPAL CODE TO ADD AN EXCEPTIONS SECTION**

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Purpose and Declarations.

WHEREAS, the City's General Plan established a Convention Overlay District around the intersection of Sunrise and Folsom Boulevards, in an area of the City that was substantially developed at incorporation; and

WHEREAS, the City adopted the City-wide Zoning Code to reflect the General Plan desire for a Convention Overlay District; and

WHEREAS, the Zoning Code establishes specific regulations for allowed uses and development standards for the Convention Overlay District; and

WHEREAS, the development standards that apply specifically within the Convention Overlay District are stringent to ensure the transformation of the mostly built out Convention Overlay area; and

WHEREAS, in order to facilitate development in the Convention Overlay District, the City wants to provide an Exceptions process to allow the City Council to consider projects that may not strictly adhere to the development standards but do provide benefits to the community such as jobs, increased property tax revenue, and increased sales tax revenue; and

WHEREAS, the certified Environmental Impact Report (EIR) prepared for the previously adopted General Plan was found to adequately address all potential environmental impacts associated with the adoption of the proposed Zoning Code amendments; and

WHEREAS, these amendments were analyzed and determined to be within the scope of the General Plan EIR and require no further environmental review under State CEQA Guidelines Section 15162; and

WHEREAS, on June 17, 2013, the City Council held a properly noticed public hearing for this Ordinance.

Section 2: Findings. The City Council hereby finds:

A. **CEQA Compliance.** The Rancho Cordova General Plan FEIR (SCH #2005022137) was certified in June 2006 by the Rancho Cordova City Council. The General Plan EIR is a Program EIR. (CEQA Guidelines section 15168.) This Zoning Code Amendment is an activity within the scope of the General Plan EIR and requires no further environmental review. Further environmental review is not required because the proposed amendments do not meet the criteria for preparing a subsequent EIR or Negative Declaration under State CEQA Guidelines section 15162. Furthermore, this is a procedural change in the Zoning Code that will

not result in a direct, or reasonably foreseeable indirect, physical change in the environment. Therefore, adoption of the Ordinance is not subject to CEQA pursuant to Guidelines Section 15060(c)(2). All applications for entitlements under this provision will be required to comply with the requirements of CEQA prior to the approval of the permit.

B. The proposed amendment is consistent with the General Plan. The attached Zoning Code Amendment ("Amendment" or "proposed Amendment") is consistent with the General Plan as required by Government Code Section 65454. The Amendment is consistent with and implements the following provisions of the City's adopted General Plan:

General Plan Goals, Policies, and Actions:

- Economic Development Action ED.1.7.3 – Institute a zoning incentive program that may include flexible development standards, fast track processing, etc. for target uses and infill development.

Finding: The Amendments will allow for development projects to apply for an exception when they cannot comply with the specific development standards established in the Convention Overlay District. By adding this process, the City is providing opportunities for development within the area that may not otherwise occur and will provide for other community benefits such as jobs, increased property tax revenue, and increased sales tax.

C. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City. The Amendment is in the public interest by facilitating development projects within the City's core area. There are no adverse impacts to health, safety, convenience, or welfare of the City and its residents.

D. The proposed amendment is internally consistent with other applicable provisions of the zoning code. The Amendments have been reviewed and determined to be consistent with all applicable provisions of the zoning code.

Section 3. Amendments to Section 23.325.020 of Title 23

The City Council hereby adopts amended Section 23.325.020 including the new Exceptions section (Convention Overlay District) of Title 23 (Zoning Code) of the Municipal Code in **Exhibit A**, attached and incorporated herein.

Section 4. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid or unenforceable.

Section 5. Effective Date

Within fifteen (15) days after adoption, a Summary of this Ordinance shall be published once in the Grapevine Independent, or the Sacramento Bee, a newspaper of general circulation printed and published in Sacramento County and circulated in the City of Rancho Cordova, in accordance with Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its inception.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the ____ day of _____ 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Linda Budge, Mayor

ATTEST:

Mindy Cuppy, CMC, City Clerk

Chapter 23.325 OVERLAY ZONING DISTRICTS

Sections:

23.325.010	Purpose.
23.325.020	Convention (CO) overlay zoning district.
23.325.030	Transit oriented development (TOD) overlay zoning district.
23.325.040	Flood (F) overlay zoning district.
23.325.050	Planned development (PD) overlay zoning district.
23.325.060	Planned development – County/city initiated (PDC) overlay zoning district.
23.325.070	Parkway corridor (PC) overlay zoning district.
23.325.080	Surface mining (SM) overlay zoning district.

23.325.010 Purpose.

The overlay zoning districts established in this chapter are designed to supplement the use regulations and/or development standards of the applicable underlying base zoning district by recognizing distinctive areas of the city that have special and unique social, architectural, or environmental characteristics which require special considerations not otherwise adequately provided by the underlying base zone applicable to the property. The application of these overlay zoning districts emphasizes the need for special attention in planning projects in the area governed by the overlay. The provisions of this chapter shall apply to all parcels of land located within the designed boundaries of an overlay district as illustrated on maps contained in this chapter and on the city zoning map. On the zoning map, overlay zoning districts shall be designated by their representative symbol along with the base zoning district in a format determined by the planning director. In the event of a conflict with the regulations of the underlying base zoning district and the overlay zoning district, the provisions of the overlay zoning district shall apply. [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.010)].

23.325.020 Convention (CO) overlay zoning district.

A. Purpose and Intent. The purpose of the convention (CO) overlay zoning district is to establish an area in the city specifically for the development of a convention center with related and supporting uses. The convention district is intended to be a special place in the city that is entertaining, vibrant, and inviting to tourists, visitors, and residents alike. This overlay district supplements the provisions of the underlying zoning districts for the special purposes identified herein. Where there is conflict between this overlay district and the underlying base district, the overlay district regulations prevail.

B. Convention Overlay District Area. The convention overlay zoning district is applied to those parcels described in Figure 23.325-1 (Convention Overlay District Area), consistent with the General Plan's convention overlay. The convention overlay district is generally defined as that area south of Highway 50, east of Kilgore Road, north of Sun Center Drive, and west of Citrus Road.

Figure 23.325-1: Convention Overlay District Area



C. Allowed Uses. Specific to the convention overlay zoning district, Table 23.325-1 identifies the allowed use provisions within the convention overlay zoning district. The allowed use provisions of Table 23.325-1 supersede and replace the allowed use provisions of the underlying base zoning district of the applicable property. Similar uses may be determined as identified in this title. The allowed use provisions are listed in compliance with Chapter 23.304 RCMC (Land Use Classification).

Use regulations in the table are shown with representative symbol by use classification listing: “P” symbolizes uses allowed by right, “L” symbolizes uses that require approval of a limited use permit, “C” symbolizes uses that require approval of a conditional use permit, and “N” symbolizes uses that are not permitted.

Table 23.325-1: Allowed Use Provisions in the Convention Overlay Zoning District

Land Use Category	Convention Overlay Zoning District	Special Use Regulations
Residential Uses		
Caretaker Housing	C	
Dwelling, Multifamily	P ¹	
Dwelling, Single-Family	C	
Dwelling, Two-Family	C	
Home Occupations	C	RCMC 23.901.030
Live-Work Facility	C	RCMC 23.901.040
Recreation, Education, and Public Assembly Uses		
Clubs, Lodges, and Private Meeting Halls	P	

Rancho Cordova Municipal Code
Chapter 23.325 OVERLAY ZONING DISTRICTS

Land Use Category	Convention Overlay Zoning District	Special Use Regulations
Convention Center	P	
Indoor Amusement/Entertainment Facility	P	
Indoor Fitness and Sports Facility	C	
Libraries and Museums	P	
Outdoor Commercial Recreation	C	
Parks and Public Plazas	P	
Public Safety Facility	P	
Religious Institutions	C	
Schools, Private and Special/Studios	P	
Schools, Public	P	
Theaters and Auditoriums	P	
Utility, Transportation, and Communication Use Listings		
Heliports	C	
Park and Ride Facility	C	
Telecommunication Facility	C	RCMC 23.907.020
Transit Stations and Terminals	C	
Utility Facilities and Infrastructure	C	RCMC 23.907.030
Retail, Service, and Office Uses		
Alcoholic Beverage Sales	C	
Banks and Financial Services	P	
Bars and Nightclubs	C	
Bed and Breakfast Inns	C	
Building Materials Stores and Yards	C	
Business Support Services	C	
Child Day Care Facility	C	
Drive-In and Drive-Through Sales and Service	N	RCMC 23.910.030
Home Improvement Supplies	C	
Hotels and Motels	P	
Hotels and Motels, Extended Stay	C	
Medical Services, General	C	
Medical Services, Extended Care	C	
Medical Services, Hospitals	C	
Offices, Business and Professional	P	

Land Use Category	Convention Overlay Zoning District	Special Use Regulations
Offices, Accessory	P	
Personal Services	P	
Restaurants	P	
Retail, Accessory	P	
Retail, General	P	
Veterinary Facility	C	
Automobile and Vehicle Uses		
Auto and Vehicle Sales and Rental	C ²	
Car Washing and Detailing	C	
Service Stations	C	
Vehicle Services, Minor	C	
Industrial, Manufacturing, and Processing Uses		
Printing and Publishing	C	
Research and Development	C	

Notes:

1. The use is permitted in conjunction with the predominant use of the underlying base zoning district. In other words, this use is only allowed as part of an integrated development.
2. Rental only.

D. Development Standards. The following development standards are applicable to the convention overlay zoning district. These standards, along with other development standards (e.g., landscaping requirements, parking standards) in this title and citywide design guidelines, are intended to assist property owners and project designers in understanding the city's minimum requirements and expectations for high quality development. Where site development standards listed herein are in conflict with the site development standards in other chapters of this code or the underlying zoning district, these standards shall apply. The designated approving authority will review development applications against these standards to determine compliance with applicable zoning regulations.

Table 23.325-2: Development Standards in the Convention Overlay District

Development Standard	Convention Overlay District
Density¹	
Minimum	10 du/ac
Maximum	18.0 du/ac
Floor Area Ratio²	

Development Standard	Convention Overlay District
Minimum	0.4
Maximum	3.0
Setbacks	
Front and Street-Side	0 ft.
Rear	10 ft.
Between Structures	10 ft. ³
Interior	0 ft.
Residential, Stand-Alone Structure ⁴	Refer to setbacks for the MDR zone
Height Limit	
Primary Structures	No maximum ⁵

Notes:

1. The minimum and maximum density standards are only applicable to mixed-use and integrated developments that include residential uses. Residential projects shall include a minimum of four units.
2. Includes residential uses and square footage. See Article 11 of this title for definition of floor area ratio (FAR).
3. The distance between structures may be modified as part of design review; however, any modifications must be consistent with the Uniform Building Code.
4. For residential units developed as part of an integrated development but not in the same building as the primary use(s), refer to the MDR zone for all setbacks. In all other instances, the setbacks shall be the same as the primary structure(s).
5. While there is no height maximum, the regulations of the Federal Aviation Administration (FAA) limit the height of structures to between 150 and 350 feet based on location. See the safety element of the General Plan for more information. FAA approval is required for all structures over 150 feet in height.

E. Parking Standards. Parking standards for uses in the convention overlay zoning district shall be consistent with Chapter 23.719 RCMC (Parking and Loading). Required off-street loading/unloading and passenger loading areas shall also be consistent with applicable provisions of Chapter 23.719 RCMC (Parking and Loading). [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.020)].

F. Exceptions. The City Council desires to provide flexibility for projects within the Convention Overlay District that will benefit the community in specific, identified ways. In conjunction with a Major Design Review, project-level CEQA review, and any other required entitlements, an applicant may request that the City Council approve an exception to allow a development project that does not strictly adhere to the Convention Overlay Development Standards identified in Table 23.325-2. The City Council may grant an exception for any development standard in Table 23.325-2 for projects that are uses that are allowed in Table 23.325-1, and meet at least 4 of the following 6 conditions:

1. Will fulfill a compelling community need, as indicated by an existing City goal, General Plan policy, budget priority, or other Council adopted policy document.
2. Will improve an existing blighted situation by removing 100% of the blight located upon the subject property.
3. Will provide unmet services to a currently underserved community.

4. Will create at least 15 new permanent full time jobs (or new jobs equivalent to at least 15 FTE) or a minimum of 1 job per 500 square feet.

5. Will generate annual sales tax contributions to the City in excess of \$25,000.

6. Investments in the property will increase the property tax revenue for the subject parcel(s) by at least 250%.

To the extent practical, development projects should comply with the development standards in Table 23.325-2. All projects remain subject to design review as established in Section 23.140 and 23.141 of this Zoning Code. An Exception request must be included and will be reviewed in conjunction with the project's Design Review application. It is the Applicant's responsibility to request relief from the development standards in Table 23.325-2 and provide justifications for why standards cannot be met. It is also the Applicant's responsibility to provide evidence of compliance with at least 4 of the conditions listed in this section to support the exception request. The City Council is the approving authority for all exception requests.

Under no circumstance shall an exception result in any of the following:

1. Allow a land use not otherwise permitted or conditionally permitted in the zone;
2. Allow a detrimental environmental impact not adequately analyzed;
3. Waive payment of applicable impact fees;
4. Waive a specific prohibition; or
5. Waive or modify a procedural requirement.

The procedure for granting exceptions allowed under this provision is provided in RCMC Section 23.110.150(D). In granting the exception, the City Council shall make the following findings:

1. The proposed project qualifies for an exception by meeting at least four (4) of the six (6) conditions required for granting an exception as defined in RCMC Section 23.325.020(F).
2. The City Council has determined that the proposed project has adhered to the development standards in Table 23.325-2 to the fullest extent practicable.
3. The applicant has provided substantial evidence that the conditions for the exception will be met following construction and operation of the project. Further, the applicant has agreed to conditions of approval guaranteeing these requirements will be met or exceeded throughout the life of the project.
4. Granting the exception will not adversely affect the interests of the public or the interests of the residents and property owners in the vicinity of the premises in question, and shall not establish a precedence for other project requests.
5. Granting the exception will not endanger the public health and safety.

23.325.030 Transit oriented development (TOD) overlay zoning district.

A. Purpose and Intent. The purpose of the transit oriented development (TOD) overlay zoning district is to promote and provide for higher density and intensity uses as part of or in proximity to transit stations. The objective of locating more intensive uses near transit stations is to promote transit services along major transit corridors of the city. The transit oriented development overlay zoning district implements the local transit

oriented development and regional transit oriented development land use categories of the General Plan.

B. Applicability.

1. TOD Designation. The transit oriented development overlay zoning district shall be applied to properties that are located within one-quarter mile of an existing or planned light rail/streetcar station or bus rapid transit station. In determining the extent of the applicability, a circle of one-quarter mile in radius shall be drawn from a central point at the designated station location (e.g., station platform). See Figure 23.325-2 (Transit Oriented Development Overlay Zoning District) for a prototypical example of a TOD overlay.

Figure 23.325-2: Transit Oriented Development Overlay Zoning District



2. Properties Partially Located Within the TOD Overlay. The provisions of the transit oriented development overlay zoning district shall only apply to those portions of property located within the one-quarter-mile radius circle. Those portions of parcels zoned transit oriented development overlay but not included within the one-quarter-mile radius circle shall have development standards consistent with the underlying base district (see section on integrated development as described later in this chapter) and may only be developed consistent with the development standards of the base district. Qualifying integrated developments as defined in Chapter 23.707 RCMC (Integrated Developments) may locate more intense development outside of the one-quarter-mile radius circle, provided the provisions of this section are observed.

3. Special Standards for Integrated Development. When a portion of an integrated development, as defined in Chapter 23.707 RCMC (Integrated Developments), includes both an area zoned transit oriented development overlay and an area not subject to the development standards of the transit oriented development overlay zone, the development potential for the site shall be determined on an aggregate basis. For example, if half of a 10-acre site is zoned transit oriented development overlay and the other half is zoned commercial mixed-use, then the development potential of the first half is 400 dwelling units (80 du/ac times five acres) and the potential of the second half is 90 dwelling units (18 du/ac times five acres),

resulting in a total potential of 490 dwelling units. Consistent with the provisions for integrated developments, the 490 dwelling units may be located anywhere within the development, except that the majority of the units shall be located within the one-quarter-mile radius. The designated approving authority, as part of design review, may allow the majority of the units to be located outside of the one-quarter-mile radius; provided, that pedestrian uses and gathering spaces are located within the radius and connect the residential area(s) to the transit station.

C. Development Standards. The following development standards are applicable to the transit oriented development overlay zoning district. These standards, along with other development standards (e.g., landscaping requirements, parking standards) in this title and citywide design guidelines, are intended to assist property owners and project designers in understanding the city's minimum requirements and expectations for high quality development. Where site development standards listed herein are in conflict with the site development standards in other chapters of this code or the underlying base zoning district, these standards shall apply. The designated approving authority will review development applications against these standards to determine compliance with applicable zoning regulations.

The table describes development standards for two types of transit oriented developments – TODs generally and TODs as part of regional town centers. For the majority of transit oriented developments, the general development standards of the “TODs Generally” column will apply. In those cases where a transit oriented development overlay is applied to a regional town center base zoning district, the development standards of the “TODs as Part of a Regional Town Center” shall apply. The intent of these two sets of standards is to implement the unique development standards of the local TOD and regional TOD land use categories under the city's General Plan.

Table 23.325-3: Transit Oriented Development Overlay Zoning District Development Standards

Development Standard	TODs Generally	TODs as Part of a Regional Town Center
Density ¹		
Minimum	20.0 du/ac	
Maximum	80.0 du/ac	
Floor Area Ratio ²		
Minimum	0.50	0.65
Maximum	2.5	3.0
Height (maximum)	80 feet	No maximum ³

Notes:

1. The minimum and maximum density standards are only applicable to mixed-use and integrated developments that include residential uses. Residential projects shall include a minimum of four units.

Development Standard	TODs Generally	TODs as Part of a Regional Town Center
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2. Includes residential uses and square footage. See Article 11 of this title for definition of floor area ratio (FAR).

3. While there is no height maximum, the regulations of the Federal Aviation Administration (FAA) limit the height of structures to between 150 and 350 feet based on location. See the safety element of the General Plan for more information. FAA approval is required for all structures over 150 feet in height.

[Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.030)].

23.325.040 Flood (F) overlay zoning district.

A. Purpose and Intent. The flood (F) overlay zoning district as shown on the zoning map is intended to comprise all land covered by rivers, creeks, and streams and land subject to flooding within the city. The city council, in adopting the regulations in this section, recognizes that:

1. The promotion of the orderly development and beneficial use of lands subject to recurrent flooding is necessary if the potential property damage which results from improper development is to be minimized.

2. There is a need to protect current and future occupants of land subject to flooding from the physical damage of flooding.

3. The health, general welfare, and safety of the public of the city as a whole requires that lands subject to flooding be strictly regulated as to the uses permitted on the land and the amount of open space which separates buildings and structures.

4. Inundation frequently causes extensive property damage.

5. Strict regulation of flood lands is necessary to protect prospective buyers of land from deception as to the utility of the land within the flood zones.

B. Prohibition. No building, structure, vehicle, sign, or area in any zone with which the flood overlay zone is applied shall be used, nor shall any building, structure, sign, or vehicle be erected, altered, moved, enlarged, or stored in any zone with which the flood overlay zone is applied, except as hereinafter specifically provided in this section or elsewhere in this title; nor shall any area, building, structure, vehicle, or sign be used in any manner so as to create problems detrimental to the public health, safety, or general welfare, or so as to constitute a public nuisance. Any building, structure, vehicle, sign, or lot, or the use of any building, structure, vehicle, or lot, in any zone with which the flood overlay zone is applied shall be regulated and governed by the provisions of this section, the regulations and provisions applicable to the base zone with which the flood overlay zone is applied, and the general regulations and conditions of this title. If there are any conflicts between the flood overlay zoning district and the base zone to which it is applied, the provisions of the flood overlay zoning district shall apply.

C. Elevations. No building or structure designed for human habitation shall hereafter be erected, altered, moved, or enlarged with a first floor elevation lower than required by the Sacramento County water agency drainage ordinance and regulations adopted pursuant thereto.

D. Area. Each lot or parcel shall have a minimum lot area and/or density as specified in the base zoning district. If neither a public water supply nor a public sewerage facility is in use, the net lot area for each lot or parcel shall be not less than one acre.

E. Lot Width. Each lot or parcel shall have a minimum lot width as required by the base zoning district.

F. Determination of Zoning Boundaries. For purposes of the flood overlay zoning district, the following rules shall apply when determining the boundaries of the zone:

1. Zoning boundaries of the flood overlay zoning district are intended to represent the 100-year floodplain as determined by public works. The 100-year floodplain will be based on the best available information, which may include the National Flood Insurance Program flood insurance rate map, county Drainage Master Plan, historic flooding events, or other available information.

2. When public works revises the 100-year flood elevation based upon detailed engineering data, the zoning boundaries of the flood overlay zoning district may be adjusted by the planning director so as to accurately reflect the 100-year floodplain.

3. Upon development of a property, the designated approving authority shall determine the exact location of the 100-year floodplain based on a topographic survey of the property at one-foot intervals and the 100-year flood elevation as determined by public works. [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.040)].

23.325.050 Planned development (PD) overlay zoning district.

A. Purpose. The purpose of the planned development (PD) overlay zoning district is to encourage a creative and more efficient approach to the use of land, to maximize choice in the type of environment available to the people of the city, and to encourage more efficient allocation and maintenance of privately controlled common open space through the redistribution of overall density where such rearrangement is desirable and feasible. While this overlay district has been established to reflect previous actions of the county of Sacramento prior to incorporation of the city, subsequent development does not require a planned development overlay zoning district to establish development rights consistent with this title and the city's General Plan. Existing planned development overlay zoning districts are hereby incorporated into this title by reference and are considered consistent with the city's General Plan.

B. Intent of the Planned Development Overlay Zoning District. The intent of the planned development overlay zoning district is to carry out the purpose as set forth above by providing the means of greater creativity and flexibility in design than are provided under the strict application of the zoning and subdivision ordinances while at the same time preserving the public interest, health, safety, welfare, and property values. Various land uses may be combined in a planned development zone including combinations of residential, commercial, industrial, utility, institutional, educational, cultural, recreational, and other uses provided the combination of uses results in a balanced and stable environment. A PD zone may be combined with any other zoning classification except permanent agricultural or agricultural hold zones, provided the underlying base zoning district is consistent with the General Plan.

C. Criteria. The criteria for establishing new planned development overlay zoning districts are as follows:

1. Size. A planned development, or unit thereof, shall be of sufficient size, composition, and arrangement that its composition, marketing, and operation are feasible as a complete unit independent of any subsequent unit.

2. Permitted Uses. All uses which are authorized in the base zone(s) with which the planned development overlay zoning district is combined, including uses which are authorized only with a use permit, provided the uses are approved and made part of the development plan as provided in this section. In residential developments, the applicant must show that accessory commercial uses are intended to serve principally the residents of the development.

3. Land Use Intensity. The planned development shall be at a land use intensity which conforms to the city's General Plan and complements existing permitted uses in the neighborhood. If the planned development proposed indicates a greater intensity of land use than is permitted by existing zoning regulations, the applicant shall show that the design of the project merits such a change in zoning and will not:

a. Create traffic congestion in the streets which adjoin or are near the planned development;

b. Create a burden on parks, schools, and other public facilities and utilities which serve or are proposed to serve the planned development;

c. Have an undue and adverse impact on the reasonable enjoyment of neighboring property.

An increase in land use intensity shall be compensated for by additional amenities to be achieved by the amount, location, and proposed use of open space and location, design, and type of development.

4. Design Standards. The city council may permit deviations from the standards in the base zones with which the planned development overlay zoning district is combined provided the developer demonstrates by his design proposal that the objectives of the General Plan, the subdivision ordinance (RCMC Title 22), and this title will be achieved.

5. Common Open Space. The city council may adopt regulations to govern the amount, use, and location of open space. After development, the common open space may be conveyed to a public agency or private association. The city council, prior to any conveyance of common open space, shall approve all agreements and instruments relating to use, maintenance, and ownership thereof. The city council may also require the dedication of development rights or scenic easements to assure that common open space will be maintained. The city council may further require that instruments of conveyance or covenants or deed restrictions of associations provide that, in the event the common open space is not maintained in a condition consistent with the approved development plan, the city may, at its option, cause such maintenance to be performed and assess the costs to the affected property owners or responsible association. If the common open space is dedicated, conveyed, or designed for use by the general public and so used, any assessment of maintenance costs shall be made by benefit areas which are not necessarily restricted to the subject planned development overlay zoning district.

D. Preliminary Plan.

1. Purpose. The purpose of the preliminary plan is to require the developer to demonstrate the feasibility and general design concept of a proposed development to

the planning department. Prior to submitting an application for zone change to the planned development overlay zoning district, the applicant shall submit and receive approval of a preliminary plan for the full area to be covered by the planned development overlay zoning district from the planning director. Approval of the preliminary plan does not grant or vest development rights, but rather ensures that the proposed development will comply with the goals and policies of the city's General Plan and other standards and regulations of the city prior to zone change.

2. Procedure. The initial step to be taken by the developer is to submit a preliminary plan to the planning department. The plan shall include:

- a. Maps or drawings which may be schematic in form;
- b. Proposed land uses, the approximate number of dwelling units, acres and population density for each area of land, existing uses of surrounding property;
- c. Proposed circulation system, indicating both public and private streets;
- d. Public uses including schools, parks, recreation areas, and other open spaces;
- e. The use and general description of each different type of structure;
- f. Nature of the applicant's interest in the land proposed to be developed;
- g. Written explanation of the nature of the proposed development and the deviations from regulations otherwise applicable to the property;
- h. Proposed sequence and schedule of development; and
- i. Other contents as deemed necessary by the planning director and city council.

3. Action by the Planning Department. Review and processing of the preliminary plan application shall be consistent with the provisions of Chapter 23.110 RCMC (Application Processing). The designated approving authority for the preliminary plan shall be the planning director; however, the director shall have the authority to elevate the preliminary plan review to the city council.

E. Proposed Development Plan and Request for Planned Development Overlay Zoning District. Within one year after approval of the preliminary plan, an application may be filed with the planning director for a planned development overlay zoning district. The petitioner shall include with the application for zone change his proposed development plan for all or a portion of the property included within the preliminary plan, which shall include all information required for the preliminary plan and the following:

1. Maps showing existing topography, tree cover, buildings, streets, and other existing physical features;
2. Detailed breakdown of the proposed land use showing lot lines, location of buildings, parking areas, common grounds, recreation improvements and structures, and open space around buildings and structures;
3. Elevation drawings of typical proposed structures and improvements for each proposed use except detached single-family dwellings;
4. At least one perspective drawing or model which will demonstrate the architectural character of the project;
5. Proposed agreements, deed restrictions, bylaws, and articles of incorporation which relate to the preservation or maintenance of open space and associations created to preserve and maintain said open space;

6. A schedule and sequence of development for all of the property included in the preliminary development plan even though the applicant elects to include only a portion of the property in the proposed tentative development plan.

F. Action on the Proposed Development Plan and Request for Planned Development Overlay Zoning District.

1. The process for approving a proposed development plan and request for zone change to the planned development overlay zoning district shall be the same as for zoning amendments as provided for in Chapter 23.146 RCMC (Zoning Amendments).

2. Findings. In addition to the findings for approval of a zoning amendment, the designated approving authority shall also make all of the following findings when approving a zone change to the planned development overlay zoning district:

- a. The proposed development will carry out the intent of the General Plan.
- b. The proposed development is of sufficient size and is designed so as to provide a desirable environment within its own boundaries.
- c. The proposed development is compatible with existing and proposed land uses in the surrounding area.
- d. Any exceptions to the standard requirements of the base zoning district and the provisions of this title are justified by the design of the development. In the case of residential areas, the rearrangement of dwellings and the mixing of dwelling types shall be justified by larger and more usable open spaces.
- e. There is adequate assurance that all public improvements will be installed at the scheduled times as required by the public works department.
- f. There is adequate assurance that the development schedule will be met.
- g. The existing or proposed utility services are adequate for the uses and population densities proposed.

G. Designation of Planned Development Overlay Zoning District. A planned development overlay zoning district shall be delineated on the zoning map in a manner similar to that of any other overlay district by showing a name, number, symbol, or other designation after the base zone for the subject property(ies), as determined by the planning director, which distinguishes it from other overlay zones, base zoning districts, or special purpose zones.

H. Adoption by Reference. The following planned development overlay zoning district(s) has/have been adopted as part of this title by reference and is/are so designated on the zoning map of the city:

1. Briarwood Coloma Planned Development (adopted by Ordinance 71-PD-2, amended by Ordinances 71-PD-2A, 71-PD-2A1, 71-PD-2C, and 71-PD-2D).

I. Subsequent Approvals. No subsequent approvals, including tentative maps, conditional use permits, and other discretionary permits, as well as building permits, grading plans, improvement plans, sign permits, temporary sign permits, and other ministerial permits/actions, shall be approved unless they are substantially compliant with the provisions of the adopted planned development and other regulations of this title. [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.050)].

23.325.060 Planned development – County/city initiated (PDC) overlay zoning district.

A. Purpose. This section establishes the procedure whereby the city council may initiate proceedings to regulate certain property through the process of a county initiated planned development overlay zoning district. The city council recognizes that there are areas throughout the city that have unique environmental, economic, historic, or architectural features and that too little attention has been given through the application of standard zone regulations to these special characteristics. It is the purpose of this section to provide for the city to guide the regulation of such areas so as to preserve such unique characteristics. While this overlay district has been established to reflect previous actions of the county of Sacramento prior to incorporation of the city, subsequent development does not require a planned development – county/city initiated overlay zoning district to establish development rights consistent with this title and the city's General Plan. Existing planned development – county/city initiated overlay zoning district zones are hereby incorporated into this title by reference and are considered consistent with the city's General Plan.

B. Designation. A planned development – county/city initiated overlay zoning district shall be delineated on the zoning map in a manner similar to that of any other overlay district by showing a name, number, symbol, or other designation after the base zoning district for the subject property(ies), as determined by the planning director, which distinguishes it from other overlay zoning districts, base zoning districts, or special purpose zones.

C. Initiation of Zone. The city council may initiate proceedings to place parcels within the planned development – county/city initiated overlay zoning district. The procedure for zoning property to the planned development – county/city initiated overlay zoning district shall be the same as for changing the zone as provided in Chapter 23.146 RCMC (Zoning Amendments).

D. Content of County/City Initiated Planned Development Ordinance.

1. The following provisions are mandatory and shall be included in each county/city initiated planned development overlay zoning district ordinance:

- a. A list of permitted uses.
- b. Performance and development requirements relating to yards, lot area, intensity of development on each lot, parking, landscaping, and signs.
- c. Other design standards appropriate for the specific planned development.
- d. Legal description of property covered by the ordinance.
- e. Reasons for establishment of a planned development – county/city initiated overlay zoning district on the particular property.

2. The following provisions are permissive and are not intended to be an exclusive list of the provisions that could be part of a planned development – county/city initiated overlay zoning district ordinance.

- a. Procedures for Review of Proposed Development. The procedures could include:
 - i. Types of projects that require review.
 - ii. Documents required from developers.
 - iii. Hearing procedures, if any.
- b. Regulations relating to nonconforming lots, uses, structures, and signs.

c. Time phasing and sequence of development projects.

E. Application for Amendment to the Planned Development – County/City Initiated Overlay Zoning District. The procedures for filing an amendment to the planned development – county/city initiated overlay zoning district adopted pursuant to this title shall be the same as for any amendment to the zoning code.

F. Adoption by Reference. The following planned development – county/city initiated overlay zoning district(s) has/have been adopted as part of this title by reference and is/are so designated on the zoning map of the city:

1. Sunriver Planned Development (adopted by Ordinance 77-PDC-4, amended by Ordinance SZC 93-0037). [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.060)].

23.325.070 Parkway corridor (PC) overlay zoning district.

A. Purpose. The parkway corridor (PC) overlay zoning district, as shown on the zoning map, shall be used to regulate property along the American River within the city. The goals promoted by establishment of this zone include:

1. Implement the goals and policies of the city's General Plan relative to preservation of the American River parkway.

2. Preserve and enhance the American River and its immediate environment consistent with the goals and policies of the American River Parkway Plan.

3. Ensure, to the extent possible, the compatibility of land uses within the American River parkway and land adjacent to the parkway for their mutual benefit.

4. Ensure that development with access within and adjacent to the American River parkway is designed to reduce as much as possible visible intrusion into the parkway and to complement the naturalistic amenities of the parkway.

5. Provide flexibility in development requirements such as setback, height, bulk, and landscaping applicable to parcels of property subject to the regulations of the parkway corridor (PC) zone.

6. Minimize risks to public health, safety, and welfare in areas which are potentially threatened by erosional processes.

7. Ensure that bluff development, including related storm runoff, foot traffic, site preparation, construction activity, irrigation, and other activities and facilities accompanying such development, does not create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding areas.

8. Ensure that bluff development is sited and designed to assure stability and structural integrity for its expected economic life span while minimizing alteration of natural landform features.

9. Ensure that development within the American River parkway corridor zone occurs in a manner which maintains a safe environment for homes and other improvements and protects the aesthetic and environmental quality of the parkway.

B. Applicability of Parkway Corridor Overlay Zoning District Designation.

1. Property regulated by the parkway corridor overlay zoning district shall be identified in the city zoning map consistent with the provisions of this title.

2. The parkway corridor overlay zoning district may be applied to property within the city adjacent to or near the American River for which the city council determines that land development may affect the stability of bluffs or terraces or have an impact on the

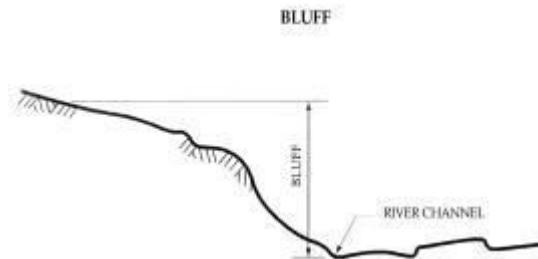
preservation or enhancement of scenic, recreational, fishery, or wildlife values along or near the American River.

3. The parkway corridor overlay zoning district contains erosion zones based on geologic hazards resulting from erosional processes. Erosion zones have been defined with development setbacks which identify areas potentially subject to erosion within the next 100 years. Property owners and developers must address the erosion problems associated with the erosion zones prior to development in the applicable erosion zone.

C. Definitions. The following definitions apply to this chapter. The planning director or a designee shall resolve disputes with regard to a determination made establishing a bluff or terrace, the edge of a bluff or terrace, toe of a bluff or terrace, 100-year floodplain, designated floodway, or other significant topographic or geologic feature. Any person dissatisfied with the determination made by the director or a designee may appeal such determination as set forth in Chapter 23.164 RCMC (Appeals) and Chapter 23.167 RCMC (Council Call-Ups).

1. “Bluff” is an escarpment or steep face of rock, decomposed rock, sediment, or soil resulting from erosion, faulting, folding, or excavation of a landmass. A bluff may be planar or have a curved surface, or it may be steplike in section. As used in this zone, “bluff” is limited to those features having a vertical relief of 10 feet or more whose toe is subject to river erosion (see Figure 23.325-3).

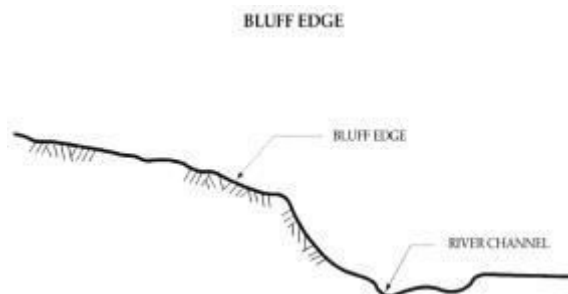
Figure 23.325-3



2. “Bluff edge” is the upper termination of a bluff. The bluff edge can be defined in the following manner:

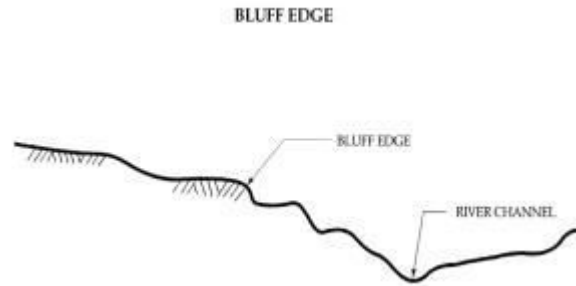
a. When the top of the bluff is rounded away from the face of the bluff, the edge shall be defined as that point nearest the bluff at which the slope of the land surface becomes more or less continuous with the general slope of the surrounding land area going away from the river (see Figure 23.325-4).

Figure 23.325-4



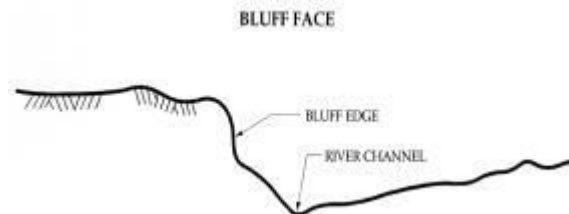
b. When there is a steplike feature at the top of the bluff face, the landward edge of the topmost riser shall be defined as the bluff edge (see Figure 23.325-5).

Figure 23.325-5



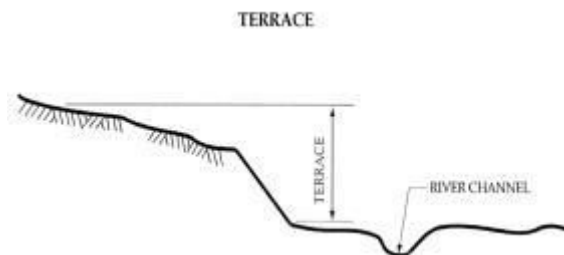
3. “Bluff face” shall be defined as that portion of the bluff’s land surface which extends in a downward gradient from the bluff edge to the toe (see Figure 23.325-6).

Figure 23.325-6



4. “Terrace” shall be defined as an elevated portion of rock, decomposed rock, sediment, or soil resulting from erosion, faulting, folding, or excavation of a landmass. A terrace may have a curved surface or it may be steplike in section. As used in this zone, a “terrace” is limited to those features having a vertical relief of 10 feet or more whose toe is not presently subject to river erosion (see Figure 23.325-7).

Figure 23.325-7



D. Use of County-Owned Property. Consistent with the regulations of Sacramento County, property owned or controlled by the county that is subject to the parkway corridor overlay zoning district shall require prior approval of the Sacramento County board of supervisors for any use of the property.

E. Authorized Uses.

1. The following use is permitted in an erosion zone as described on Exhibits A through D at the end of this chapter and within the total setback distance as shown on Table 23.325-4 (Development Setbacks) upon submission of geotechnical data as set forth in subsection (J) of this section (Application Requirements) and approval of a conditional use permit by the designated approving authority:

a. Construction, enlargement, or modification of any building or structure for which a building permit is required.

2. Construction, erection, or installation of any structure, wall, abutment, or similar device intended to reinforce, stabilize, or otherwise protect any bluff or terrace from erosion, mass wasting, or similar land movement is permitted subject to the submission of geotechnical data as set forth in subsection (J) of this section (Application Requirements) and approval of a conditional use permit by the designated approving authority.

3. Notwithstanding other provisions of this title, the following uses, buildings, and structures, either located outside an erosion zone or within an erosion zone as described in Exhibits A through D at the end of this chapter, but outside the total setback distance as shown in Table 23.325-4 (Development Setbacks), are authorized without the grant of a conditional use permit upon compliance with the provisions of subsection (I) of this section (Submittal of Plans) and provided the buildings or structures meet the development standards specified in subsection (H) of this section (Development Standards); otherwise such uses, buildings, or structures shall not be erected or maintained without first obtaining a conditional use permit as set forth in subsection (E)(4) of this section.

- a. One single-family detached dwelling, including mobile home, on each lot.
- b. One two-family dwelling, including mobile home, on each lot.
- c. Accessory uses, buildings, and structures (including swimming pools and appurtenant equipment) customarily incidental to and subordinate to single-family detached and two-family dwellings.

4. Unless otherwise provided in this title, all uses designated as either permitted or conditional uses in the underlying zone shall be authorized in the parkway corridor overlay zoning district provided a conditional use permit is first obtained from the designated approving authority.

F. Findings. In addition to the findings required by this title, when development is proposed within an erosion zone as described in Exhibits A through D of this section and within the total setback distance as shown on Table 23.325-4 (Development Setbacks), the designated approving authority shall not grant a conditional use permit pursuant to subsection (E) of this section unless it finds and records in writing that:

1. Development will be sited and designed to assure stability and structural integrity for its expected economic life span while minimizing alteration of natural landform features;
2. Development will not create or contribute to significant problems of erosion or geologic instability on the site or on surrounding areas;
3. Development will maintain a safe environment for homes and other improvements and protect the aesthetics and environmental quality of the American River parkway;
4. Development does not preclude or foreclose future recreation or open space potential in the American River parkway; and
5. There are adequate provisions included in the development proposal for maintenance and revegetation of the project area.

G. Authority of Hearing Body. Generally, development requirements of property including lot area, lot width, or public street frontage applicable to property located in the underlying zone shall apply to the uses authorized by subsection (E) of this section. However, the designated approving authority, in granting the conditional use permit,

may impose any or all of the development requirements specified in this section if, in the judgment of the designated approving authority, the special requirements specified in this section are necessary to carry out the intent of this title.

The granting authority may:

1. Require a reasonable additional building setback or yard area, particularly in high terrace and bluff areas which overlook the American River.
2. Require the screening of any portion or all of the structure, building, or use through the use of walls or fences, the planting of locally native trees or shrubbery, or combinations thereof.
3. Require the modification of exterior features of structures where necessary to minimize physical or visual intrusion into the parkway.
4. Establish a limitation on the size or bulk of a building or structure.
5. Regulate the design and location of access drives and other features.
6. Regulate the location, design, and capacity of utilities.
7. Require the use of specific colors, lighting, and landscaping features as otherwise required by this chapter.
8. Regulate the design, as well as require the maintenance, of grounds, landscaping, or an irrigation or drainage system.
9. Regulate noise, vibration, odors, and other similar concerns within certain performance standards.
10. Require the phasing of development.
11. Require a bond or deposit of money to assure completion of development as authorized by the permit.
12. Require the use of noncombustible roofing and siding materials to minimize structural loss in areas with limited accessibility and which are potentially threatened by the occurrence of fire originating from the parkway.
13. Require a fire-resistant buffer between the open areas of the parkway and structures adjacent to it, or require locally native plant varieties which are drought- and fire-resistant. A list of locally native plant varieties is maintained by the Cordova recreation and park district (CRPD).
14. Require that disruption to natural riparian vegetation be minimized, and no trees which are native to the area and which are six inches in diameter or larger shall be damaged or removed unless in imminent danger of collapse from erosion.
15. Require that the area disrupted by the project be revegetated in accordance with a revegetation program utilizing an approved combination of locally native riparian trees, shrubs, and groundcover. If gabion, riprap, or other structural measures are used, require that they be screened from public view with locally native vegetation.
16. Require that the slope and appearance of the project area be compatible with the natural character of nearby slopes or riverbanks.
17. Require that, where feasible, vegetation be used to prevent further erosion. Gabions, rock and wire mattresses, or wire mesh over stone may be used where vegetative measures alone are insufficient, but the erosion control program shall include measures to minimize damage to riparian vegetation and wildlife. Riprap shall not be used unless slope, stream current, and existing native vegetation are favorable to providing substantial vegetative screening of the riprap. Rubble, gunite, cement or

sandbags, bulkheads, fences, used tires, and similar materials or structures are prohibited.

18. Require the review of development at a specified time to ensure compliance with all conditions of approval, zoning agreements, ordinances, statutes, regulations, and procedures applicable at the time of development.

If the granting authority imposes any of the development requirements specified above, the designated approving authority shall find and record in writing as required by this title the circumstances which it determined necessary to require the imposition of any special development requirement.

H. Development Standards.

1. Development standards for uses, buildings, or structures on lots protected by levees maintained by a public agency.

a. Height. The maximum height of a building or structure shall not exceed the difference between the elevation of the finished grade of the building site and the elevation of that portion of the levee crown closest to the building site, plus five feet, plus one foot for each five feet by which the distance from the building structure to the landward toe of the levee exceeds 35 feet, but in no event greater than the height limitations set forth in the underlying zone.

b. Setback. No building or structure other than an accessory building is located closer than 35 feet, and no accessory building is located closer than 25 feet, to the landward toe of the levee.

2. Development standards for uses, buildings, or structures on lots not protected by levees maintained by a public agency, and also not within the total setback distance in an erosion zone as described on Exhibits A through D at the end of this chapter.

a. Accessory buildings shall not exceed 12 feet in height.

b. Dwellings and other structures shall be screened by live plantings of locally native trees and shrubs to minimize the visual impact of the dwelling or structure from the parkway.

c. Dwellings and structures shall be finished in earthtones as defined in Article 11 of this title (Definitions).

3. Development standards for uses, buildings, or structures on lots which are located within an erosion zone as described on Exhibits A through D at the end of this chapter and within the total setback distance for that zone as shown on Table 23.325-4 (Development Setbacks).

a. Accessory buildings shall not exceed 12 feet in height.

b. Dwellings and other structures shall be screened by live plantings of locally native trees and shrubs to minimize the visual impact of the dwelling or structure from the parkway.

c. Dwellings and structures shall be finished in earthtones as defined in Article 11 of this title (Definitions).

d. Accessory uses, buildings, and structures (including swimming pools and appurtenant equipment) customarily incidental to and subordinate to single-family detached and two-family dwellings shall not be located closer than 20 feet from the edge of a bluff or terrace.

e. Construction, erection, or installation of any fence, wall, abutment, or similar device shall not be located closer than:

- i. Twenty feet from the edge of a bluff or terrace when proposed in Erosion Zone 1 or 2; and
 - ii. Ten feet from the edge of a bluff or terrace when proposed in Erosion Zone 3 or 4.
- f. No form of trenching, grading, earth filling, or similar disturbance of residual or transported soils shall occur within:
 - i. Twenty feet from the edge of a bluff or terrace when proposed in Erosion Zone 1 or 2; and
 - ii. Ten feet from the edge of a bluff or terrace when proposed in Erosion Zone 3 or 4.

Table 23.325-4: Development Setbacks

Erosion Zone	Potential Recession Due to Long-Term Channel Migration ¹	Distance of Potential Short-Term Erosion Due to Slope Erosion ²	Buffer Zone ³	Total Setback ⁴
1	0	20 feet	20 feet	40 feet
2	30 feet	20 feet	20 feet	70 feet
3	30 feet	10 feet	20 feet	60 feet
4	30 feet	10 feet	20 feet	60 feet
5	*	*	*	*

Notes:

1. Long-term bluff recession is based on estimated channel migration rate and a 100-year time period.
 2. Distance measured from edge of bluff which is potentially subject to erosion within 10 years.
 3. Buffer zone added to allow for property remaining at end of 100-year period.
 4. The total setback distance is measured from the edge of a bluff or terrace, whichever is closer to the river.
- *The entire area within Zone 5 is potentially subject to erosion within a 100-year period.

Any reference to erosion zones in this chapter shall be shown on Exhibits A through D at the end of this chapter, which are hereby incorporated by this reference into this chapter.

I. Submittal of Plans. Any application for a building permit or other entitlement of use, building, or structure subject to the parkway corridor overlay zoning district authorized without a conditional use permit by subsection (E) of this section shall be reviewed by the director for compliance with the provisions of this chapter. The director may require a site plan as provided in subsection (J) of this section (Application Requirements) to make any determination. If, in the opinion of the director, the proposed development will not meet the development requirements provided in this chapter, the director shall inform the applicant that the building permit or other entitlement of use is disapproved. The director's decision is not subject to an appeal. The applicant's sole recourse to the director's decision is to apply for approval of the proposed development as provided in subsection (E) of this section.

J. Application Requirements. In addition to other data required by this title for conditional use permits, the following information shall be required for any application of a conditional use permit in the parkway corridor overlay zoning district.

1. Site plan showing:
 - a. Location of existing and proposed structures, buildings, and signs.
 - b. Location of existing trees and shrubs. For trees, the species and dbh (i.e., diameter breast height) shall be indicated.
 - c. Location of any proposed off-street parking and loading.
 - d. Location of adjacent public rights-of-way and private easements for ingress and egress, if any.
 - e. Location of proposed vehicle entrances and internal circulation patterns.
 - f. Location of any proposed walls and fences; the height and construction materials thereof.
 - g. Proposed exterior lighting, if any.
 - h. Finished grade of the site at the building.
 - i. Location of an irrigation system, subterranean water lines, drainage facilities, and other appurtenant equipment.
2. Preliminary landscaping plans.
3. Color, materials, and texture of proposed buildings and structures.
4. Location, materials, size and copy of any signs, and illumination thereof, if any.
5. Elevation drawing of all improvements.
6. Other data or materials deemed necessary by the director.

K. Geotechnical Requirements. In addition to other data required pursuant to subsection (J) of this section (Application Requirements) for a conditional use permit, the following information shall be required when development is proposed within an erosion zone as described on Exhibits A through D at the end of this chapter and within the total setback distance as shown in Table 23.325-4 (Development Setbacks) in subsection (H) of this section (Development Standards).

1. A geotechnical investigation and report shall be filed by the applicant. The report shall be prepared by a registered geologist or professional civil engineer with expertise in soils or foundation engineering, surface and groundwater hydrology, river hydraulics, and erosion control. The report shall evaluate the topographic and geologic

conditions of the site and the effect of the development. The report shall be based on an on-site investigation in addition to a review of the general character of the area.

The report shall consider, describe, and analyze the following:

- a. Bluff and site topography, extending the surveying work beyond the site as needed to depict geomorphic conditions that might affect the site;
- b. Geologic conditions, including soil, sediment, and rock types and characteristics, in addition to structural features, such as bedding, joints, and faults;
- c. Hydrologic conditions, including surface water drainage, groundwater, and American River 100-year floodplain and designated floodway locations and elevations;
- d. Historic, current, and foreseeable bluff erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available, and possible changes in channel configuration and sediment transport;
- e. The potential effects of the development on both on-site and off-site erosion;
- f. The impact of the proposed construction activity on both on-site and off-site erosion;
- g. The effect of foreseeable erosion on the development and potential mitigation measures, including maintenance requirements;
- h. Potential effects of seismic forces resulting from a maximum credible earthquake;
- i. Any other factors which may affect slope stability and erosion.

2. The report shall contain a diagram establishing the location of the bluff edge, the toe of the bluff, other significant geologic features, and the 100-year floodplain and designated floodway locations. Distances to each feature shall be identified, with measurements taken from a fixed location.

3. The report shall detail mitigation measures for any potential impacts and shall outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the economic life span of the project.

4. The report shall use a currently acceptable engineering stability analysis method and shall also describe the degree of uncertainty of analytical results due to assumptions and unknowns. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project.

5. An engineered design for the development and/or erosion protection measures shall be filed by the applicant. The design shall be of sufficient detail to ensure compliance with the American River Parkway Plan and to allow for appropriate consideration of all potential erosion problems affected by and affecting the proposed development and its associated construction activity.

L. Exemption. When the procedures set forth in this chapter differ from procedures for review of development set forth in any county or privately initiated planned development, special development permit, or zoning agreement, then the procedures set forth in the planned development ordinance, special development permit, or zoning agreement shall prevail. Notwithstanding the preceding sentence, when this chapter prescribes a procedure for review and issuance for permits within an erosion zone as described on Exhibits A through D at the end of this chapter and within the total setback

distance as shown in Table 23.325-4 (Development Setbacks) of subsection (H) of this section (Development Standards), the procedures set forth in this title shall prevail.

Exhibit A

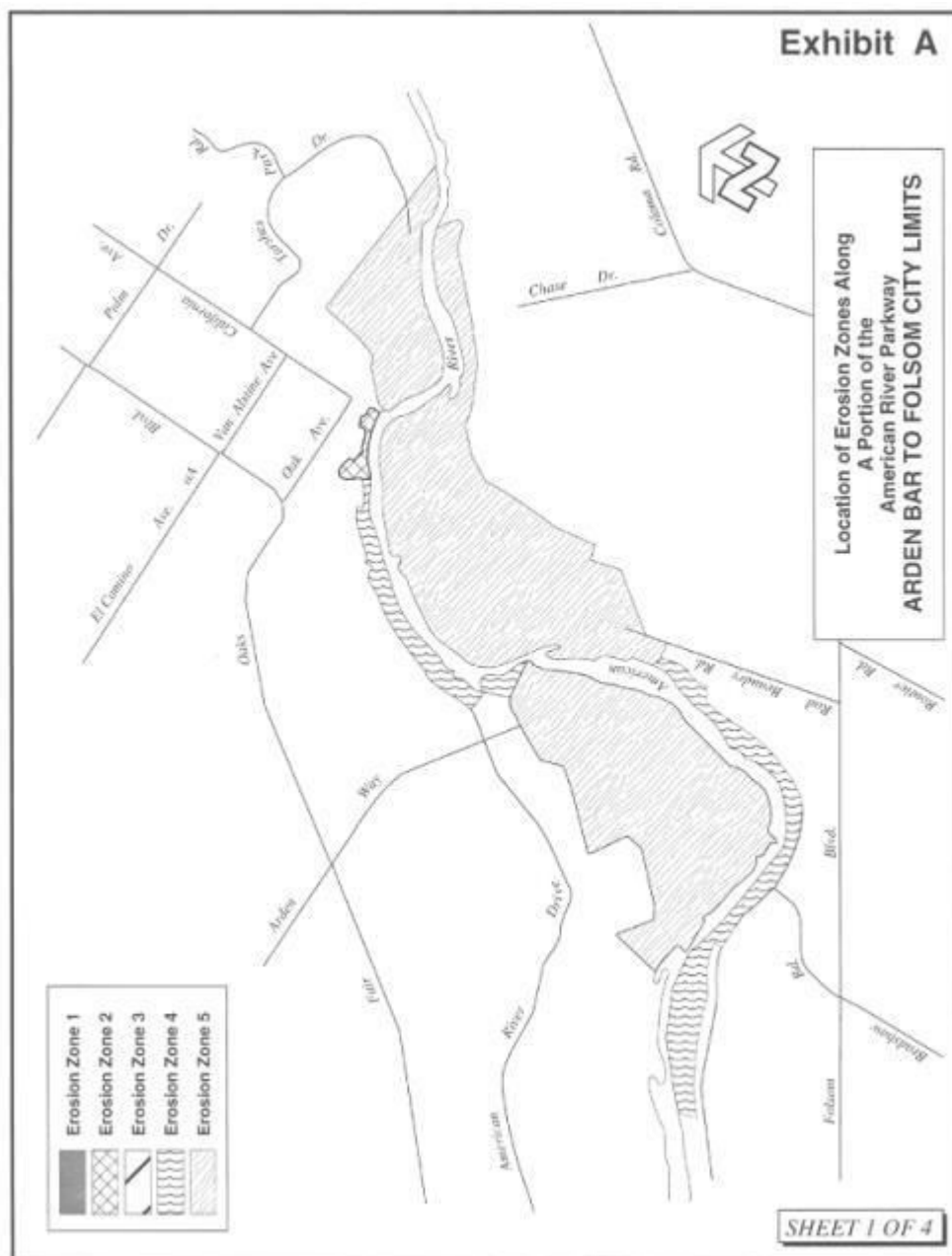


Exhibit B

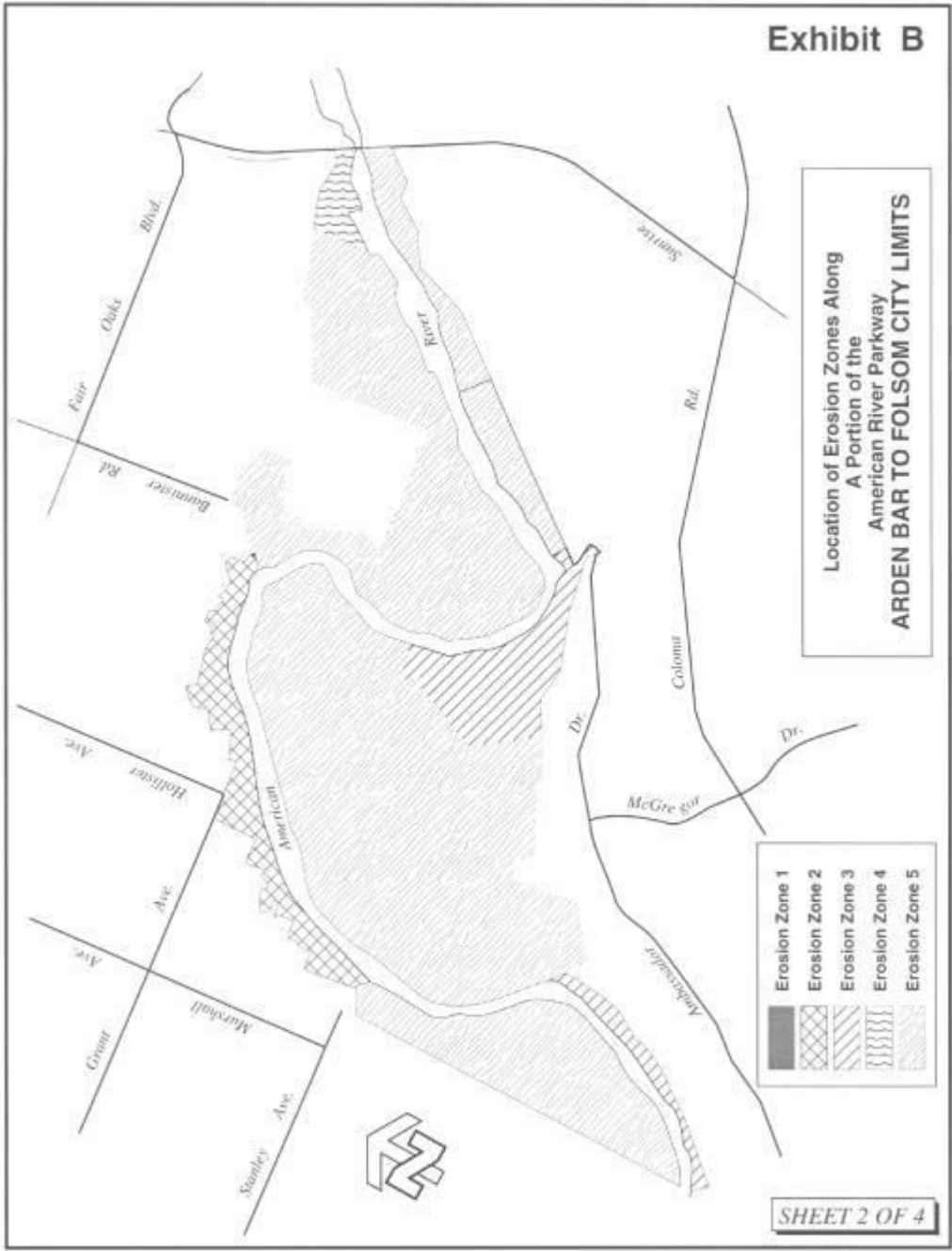


Exhibit C

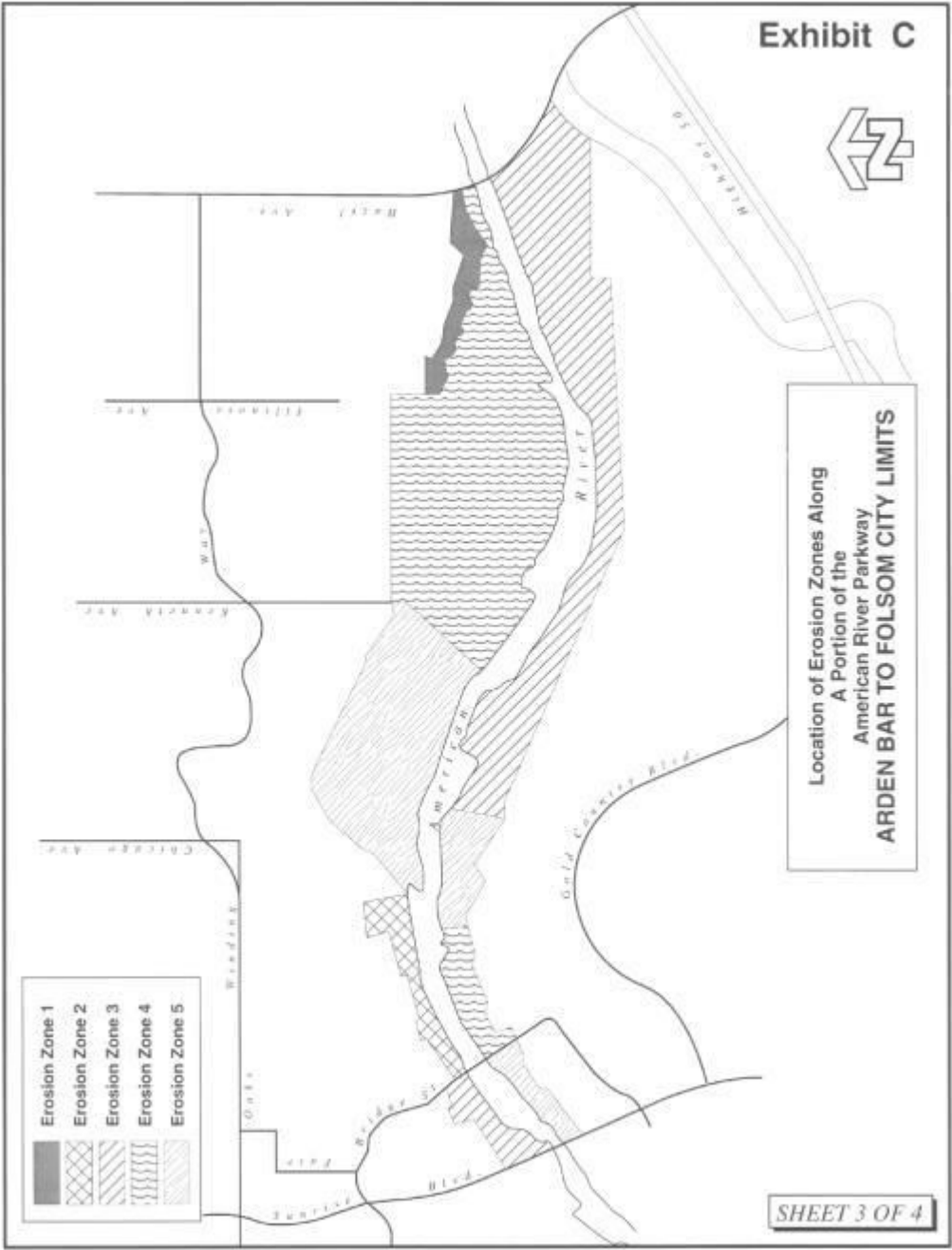
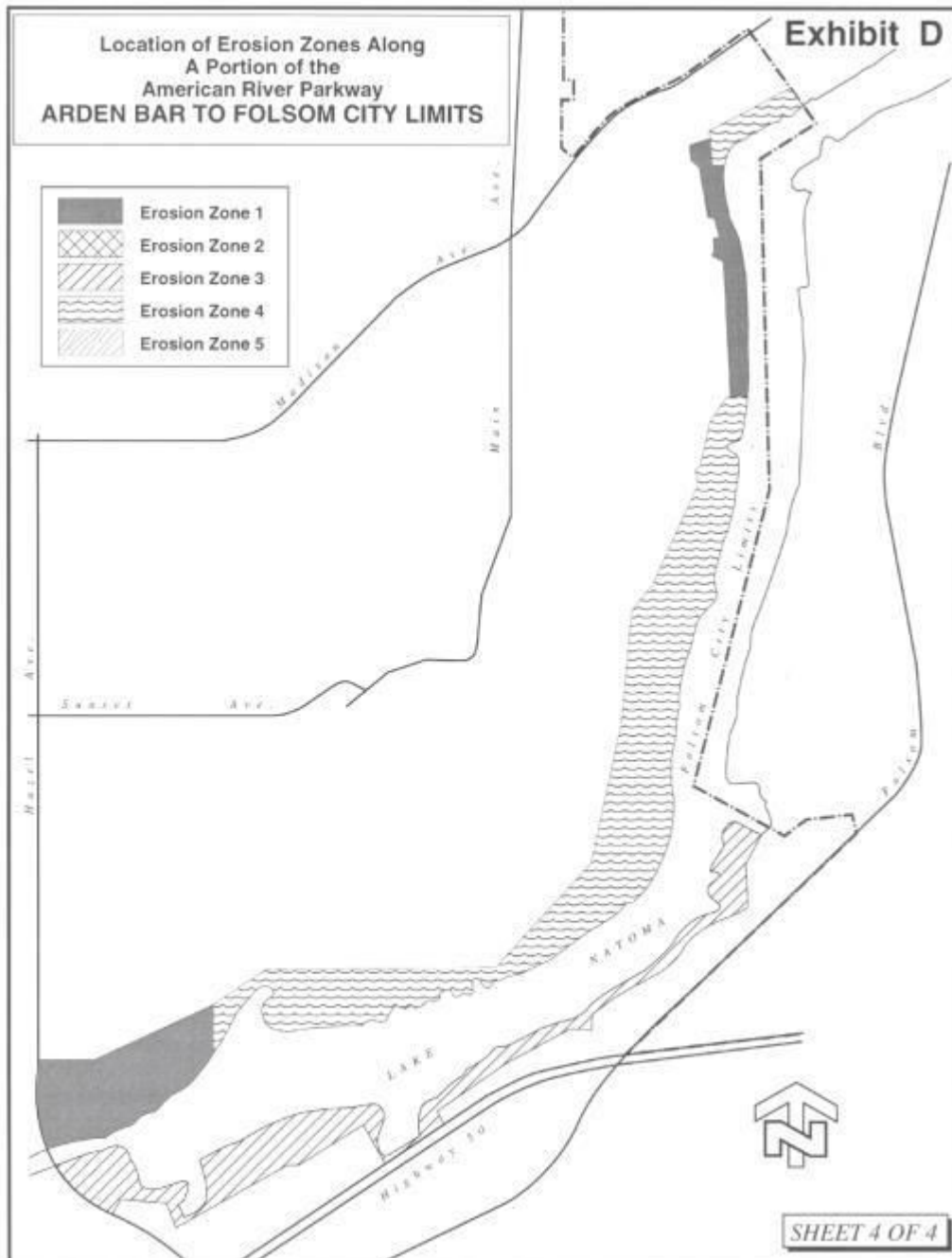


Exhibit D



[Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.070)].

23.325.080 Surface mining (SM) overlay zoning district.

A. Purpose and Intent. The city of Rancho Cordova recognizes that the extraction of minerals is essential to the continued economic well-being of the city and to the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The city

also realizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different, and the reclamation operations and the specifications therefor may vary accordingly.

The purpose and intent of this section is to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code (PRC) Section 2710 et seq.), as amended, hereinafter referred to as "SMARA" or "the Act," Public Resources Code Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "state regulations") for surface mining and reclamation practices (California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1, Section 3500 et seq.), to ensure that:

1. Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.
2. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
3. Residual hazards to the public health and safety are eliminated.

B. Definitions. The definitions set forth below shall govern the construction of this section:

1. "Area of regional significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the state within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.
2. "Area of statewide significance" means an area designated by the Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the state and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.
3. "Board" means the State Mining and Geology Board.
4. "Borrow pits" means excavations created by the surface mining of rock, unconsolidated geologic deposits, or soil to provide material (borrow) for fill elsewhere.
5. "Compatible land uses" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures and land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.
6. "Haul road" means a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.
7. "Idle" means surface mining operations curtailed for a period of one year or more, by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

8. "Incompatible land uses" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact-intensive industrial, and commercial.

9. "Mined lands" means the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

10. "Minerals" means any naturally occurring chemical element or compound, or group of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

11. "Operator" means any person who is engaged in surface mining operations or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.

12. "Reclamation" means the combined process of land treatment that maximizes post-mining land uses and minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed as rapidly as reasonably feasible to an unusable condition which is readily adaptable for alternate land uses and creates no danger to public health or safety. The process may extend to affected lands surrounding mined lands and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

13. "Streambed skimming" means excavation of sand and gravel from streambed deposits above the mean summer water level or stream bottom, whichever is higher.

14. "Surface mining operation" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in-place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

C. Incorporation by Reference. The provisions of SMARA (PRC Section 2710 et seq.), PRC Section 2207, and state regulations (CCR Section 3500 et seq.), as those provisions and regulations may be amended from time to time, are made a part of this section by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than correlative state provisions, this section shall prevail.

D. Scope. Except as provided in this section, no person shall conduct surface mining operations unless a permit, reclamation plan, and financial assurances for reclamation have first been approved by the city. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the city, including, but not limited to, the application of CEQA, the requirement of site approvals or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this section shall apply to all lands within the city, public and private.

This section shall not apply to the following activities, subject to the above-referenced exceptions:

1. Excavations or grading related to agricultural activities or on-site construction or for the purpose of restoring land following a flood or natural disaster.

2. On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, and the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

a. All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (CEQA, Public Resources Code Division 13, Section 21000 et seq.);

b. The city's approval of the construction project including consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA;

c. The approved construction project is consistent with the General Plan or zoning of the site; and

d. Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

3. Operation of a plant site used for mineral processing, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling and on-site recovery of mined materials, subject to all of the following conditions:

a. The plant site is located on lands designated for industrial or commercial uses in the city's General Plan;

b. The plant site is located on lands zoned industrial or commercial, or is contained within a zoning category intended exclusively for industrial activities by the city;

c. None of the minerals being processed is being extracted on site; and

d. All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred on site after January 1, 1976.

4. Prospecting for, or the extraction of, minerals for commercial purposes and removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

5. Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

6. Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.

7. Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

8. Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and post-closure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to on-site excavation and grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavations for materials that are or have been sold for commercial purposes.

9. Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions: (a) the operations are being conducted in accordance with Division 3 (commencing with PRC Section 3000); (b) the operations are consistent with the city's General Plan and the zoning applicable to the site; (c) the earthmoving activities are within oil or gas field properties under a common owner or operator; and (d) no excavated materials are sold for commercial purposes.

E. Vested Rights. No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, state regulations, and this section. Where a person with vested rights has continued surface mining operations in the same area subsequent to January 1, 1976, he shall obtain city approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the reclamation plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).

All other requirements of state law and this section shall apply to vested mining operations.

F. Process.

1. Applications for a site approval or reclamation plan for surface mining or land reclamation projects shall be made on forms provided by the planning department. Said application shall be filed in accord with this section and procedures to be established by the planning director. The forms for reclamation plan applications shall require, at a

minimum, each of the elements required by SMARA (PRC Sections 2772 through 2773) and state regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed reclamation plan, to be established at the discretion of the planning director. As many copies of the site approval application as may be required by the planning director shall be submitted to the planning department.

2. As many copies of a reclamation plan application as may be required shall be submitted in conjunction with all applications for site approvals for surface mining operations. For surface mining operations that are exempt from a site approval pursuant to this section, the reclamation plan application shall include information concerning the mining operation that is required for processing the reclamation plan. All documentation for the reclamation plan shall be submitted to the city at one time.

3. Applications shall include all required environmental review forms and information prescribed by the planning director.

4. Upon completion of the environmental review procedure and filing of all documents required by the planning director, consideration of the site approval or reclamation plan for the proposed or existing surface mine shall be completed pursuant to this section at a public hearing before the city council and pursuant to Section 2774 of the Public Resources Code.

5. The reclamation plan shall be applicable to a specific property or properties and shall be based upon the character of the surrounding area and such characteristics of the property as the type of overburden, vegetation, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities.

6. All reclamation plans shall contain, at a minimum, the following information and documents:

a. The estimated time schedule for the beginning and completion of reclamation activities. If the mining operation is to be accomplished in phases, the time schedule shall indicate the estimated beginning and completion of reclamation activities for each phase.

b. An estimate of the cost of completion of reclamation activities, computed at current cost at the time proposed in the time schedule submitted for completion of the reclamation plan.

c. A description of the existing vegetation at and surrounding the site.

d. A general description of the geology of the surrounding area and a detailed description of the geology at the reclamation site.

e. A description of the proposed use or potential uses of land after reclamation, and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

f. A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished, including:

i. The manner in which mining wastes and related contaminants will be controlled and disposed of.

ii. The manner in which affected streambed channels and stream banks will be rehabilitated to a condition minimizing erosion and sedimentation.

g. An assessment of the effect of implementation of the reclamation plan on future mining in the area.

h. A statement by the applicant that he accepts responsibility for reclaiming mined lands in accordance with the approved reclamation plan.

i. A statement by the applicant that he accepts responsibility for all completed reclamation work for a period of two years or such greater period as deemed necessary by the city council to assure the permanency of all features of the reclamation plan. This subsection shall not apply to normal maintenance and repairs unrelated to the reclamation work on public facilities where dedicated to and accepted by the city of Rancho Cordova.

j. Such other information as the planning department may require.

k. The planning department may waive the filing of one or more of the above items where it is determined unnecessary to process the application subject to the provisions of this chapter.

7. Additional information may be required per a planning department form. Where a reclamation plan is not filed as a part of a surface mining permit, such plan shall be accompanied by an application for separate reclamation plan approval which contains the following information:

a. The names and addresses of the applicant and the mining operator, if different, and of any persons designated by the applicant as his agents for service of process; and

b. The names and addresses of all persons owning a possessory and/or mineral interest in any or all of the property to be used for mining operations.

8. The planning department may deny, without a public hearing, an application for a reclamation plan if such application or plan does not contain the information required in subsection (F)(6) of this section. The planning department may permit the applicant to amend such application.

9. Within 10 days of acceptance of an application as complete for a site approval for surface mining operations and/or a reclamation plan, the planning department shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the 100-year floodplain of any stream, as shown in Zone A of the flood insurance rate maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the planning department shall also notify the State Department of Transportation that the application has been received.

10. The planning department shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and the city's environmental review guidelines.

11. Subsequent to the appropriate environmental review, the planning department shall prepare a staff report with recommendations for consideration by the city council.

12. The city council shall hold at least one noticed public hearing on site approval and/or reclamation plan.

13. Prior to final approval of a reclamation plan, financial assurances (as provided in this section), or any amendments to the reclamation plan or existing financial assurances, the city council shall certify to the State Department of Conservation that the reclamation plan and/or financial assurance complies with the applicable requirements of state law, and submit the plan, assurance, or amendments

to the State Department of Conservation for review. The city council may conceptually approve the reclamation plan and financial assurance before submittal to the State Department of Conservation. If a site approval is being processed concurrently with the reclamation plan, the city council may simultaneously also conceptually approve the site approval. However, the city council may defer action on the site approval until taking final action on the reclamation plan and financial assurances. If necessary to comply with permit processing deadlines, the city council may conditionally approve the Site Approval with the condition that the planning department shall not issue the site approval for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the reclamation plan and financial assurances.

Pursuant to PRC Section 2774(d), the State Department of Conservation shall be given 30 days to review and comment on the reclamation plan and 45 days to review and comment on the financial assurance. The city council shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the state for the city council's approval. In particular, when the city council's position is at variance with the recommendations and objections raised in the state's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the city council shall be promptly forwarded to the operator/applicant.

14. The city council shall then take action to approve, conditionally approve, or deny the site approval and/or reclamation plan, and to approve the financial assurances pursuant to PRC Section 2770(d).

15. The planning department shall forward a copy of each approved site approval for mining operations and/or approved reclamation plan, and a copy of the approved financial assurances, to the State Department of Conservation. By July 1st of each year, the planning department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the site approval or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year.

G. Standards for Reclamation.

1. All reclamation plans shall comply with the provisions of SMARA (Sections 2772 and 2773) and state regulations (CCR Sections 3500 through 3505). Reclamation plans approved after January 15, 1993, reclamation plans for proposed new mining operations, and any substantial amendments to previously approved reclamation plans shall also comply with the requirements for reclamation performance standards (CCR Sections 3700 through 3713).

2. The city may impose additional performance standards, including without limitation standards beyond those cited to make the findings in this chapter, as developed either in review of individual projects, as warranted, or through the formulation and adoption of citywide performance standards.

3. Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that

may be disturbed again in future operations or in connection with approved or proposed development. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the city. Each phase of reclamation shall be specifically described in the reclamation plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

4. Unless otherwise specified in the approved reclamation plan, the reclamation of mined lands shall be carried out in accordance with the following requirements:

a. Reclamation Timing.

i. The reclamation of mined lands shall occur as soon as practical following completion of mining operations at successive locations within the mining site as required by the schedule in the approved reclamation plan.

ii. The reclamation of lands affected by surface mining operations shall be completed within one year of the completion of mining operations, except where the permanent reclaimed condition of mined lands cannot be achieved within one year due to the regulatory approvals (e.g., compliance with the California Environmental Quality Act) required for the ultimate land use contemplated or proposed for the property (e.g., urban development). In such case, only interim reclamation, pursuant to this chapter, need be accomplished within one year, and final reclamation shall be completed as soon as it is possible to complete the reclamation in compliance with the above regulatory approvals, but in no case shall reclamation take more than three years.

b. Disposal of Overburden and Mining Waste.

i. Permanent piles or dumps of overburden and waste rock placed on the land shall be made stable, shall not restrict natural drainage without provision for diversion, and shall have an overall smooth or even profile subject to the satisfaction of the city engineer. Where practical, such permanent piles or dumps shall be located in the least visible location at the mining site.

ii. Old equipment and inert mining wastes shall be removed or buried subject to the approval of the hearing officer.

iii. Toxic materials shall be removed from the site or permanently protected to prevent leaching into the underlying groundwater, to the satisfaction of the planning department.

iv. Overburden and mining waste placed beneath the existing or potential groundwater level which will reduce the transmissivity or area through which water may flow shall be confined to an area approved by the city engineer.

c. Revegetation.

i. All permanently exposed lands that have been denuded by mining operations shall be revegetated to provide ground cover sufficient to control erosion from such lands.

ii. All plantings shall be established and maintained in good horticultural condition. The revegetation shall be able to survive under natural conditions, with native species used whenever possible.

iii. Revegetation methods shall take into account the topography and existing growth patterns and mixes of flora present at and adjacent to the site of mining

operations in order to create a more natural appearance. Plantings shall avoid rigid, geometric patterns and shall utilize natural scatterings.

iv. Where the ultimate intended or proposed use of mined lands would be a level of development inconsistent with extensive permanent vegetation, the amount of vegetation required for reclamation need not be more than is sufficient to prevent erosion.

d. Resoiling.

i. Resoiling measures shall take into consideration the quality of soils which may be required to sustain plant life pursuant to any revegetation that the hearing officer may require in its approval of the applicant's reclamation plan.

ii. Coarse, hard material shall be graded and covered with a layer of finer material or weathered waste. A soil layer shall then be placed on this prepared surface. Where quantities of available soils are inadequate to provide cover, native materials shall be upgraded to the extent feasible for this purpose.

e. Final Slopes.

i. Final slopes shall be engineered and contoured so as to be geologically stable, to control the drainage therefrom, and to blend with the surrounding topography where practical. On the advice of the city engineer, the planning department may require the establishment of terrace drains to control drainage and erosion.

ii. Final slopes shall not be steeper than two feet horizontal to one foot vertical unless the applicant can demonstrate to the planning department's satisfaction that a steeper slope will not:

(A) Reduce the effectiveness of revegetation and erosion control measures where they are necessary; and

(B) Be incompatible with the alternate future uses approved by the city council for the site; and

(C) Be hazardous to persons that may utilize the site under the alternate future uses approved for the site.

f. Drainage, Erosion, and Sediment Control.

i. Any temporary stream or watershed diversion shall be restored to its state prior to any surface mining activities unless the planning department deems otherwise based on recommendations from the city engineer.

ii. Streambed channels and stream banks affected by surface mining shall be rehabilitated to a condition which would minimize erosion and sedimentation, except that such rehabilitation need not attempt to restore or mimic natural conditions where the contemplated or proposed ultimate use of the reclaimed property would be inconsistent with the maintenance of restored or rehabilitated streambed channels and stream banks.

iii. Revegetation and regrading techniques shall be designed and executed so as to minimize erosion and sedimentation. Drainage shall be provided to natural outlets or interior basins designed for water storage, with such basins subject to the approval of the city engineer. In addition, final excavation shall eliminate potholes and similar catchments so as to prevent potential breeding areas for mosquitoes.

iv. The final grading and drainage of the site shall be designed in a manner to prevent discharge of sediment above natural levels existent prior to mining operations.

v. Silt basins which will store water during periods of surface runoff shall be equipped with sediment control and removal facilities and protected spillways designed to minimize erosion when such basins have outlet to lower ground.

vi. No condition shall remain after reclamation which will or could lead to degradation of groundwater quality below applicable standards of the regional water quality control board or any other agency with jurisdiction over water quality.

g. Backfilling and Grading.

i. Subject to the approval of the city engineer, backfilled and graded areas shall be compacted to avoid excessive settlement and to the degree necessary to accommodate anticipated future uses.

ii. Materials used in the refilling shall be of a quality suitable to prevent contamination and/or pollution of groundwater. If materials for backfilling and grading are obtained from an area other than the site of surface mining operations, such materials shall be included and the approximate quantities identified in the applicant's reclamation plan.

h. Reservoirs, ponds, lakes, or any body of water created as a feature of the reclamation plan shall be approved by the city engineer and the planning department.

i. The periodic review of the conditions contained in approved reclamation plans shall be conducted by the planning department in accordance with the schedule adopted at the time such plans were approved. At the time of approval of a permit to mine, the city shall determine whether future public hearings are necessary to consider such new or changed circumstances as physical development near the mining site and improved technological innovations in the field of reclamation which may significantly improve the reclamation process. The city may set a term for such reviews on a case-by-case basis as a condition of the permit if it deems such a review to be necessary. Should a permit be modified pursuant to such a review, the modified permit and/or reclamation plan shall be binding upon the operator and all successors, heirs, and assigns of the applicant.

H. Statement of Responsibility. The person submitting the reclamation plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the reclamation plan. Said statement shall be kept by the planning department in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the planning department for placement in the permanent record.

I. Findings for Approval.

1. Site Approvals. In addition to any findings required by this section, site approvals for surface mining operations shall include a finding that the project complies with the provisions of SMARA and state regulations.

2. Reclamation Plans. For reclamation plans, the following findings shall be required:

a. That the reclamation plan complies with SMARA Sections 2772 and 2773 and any other applicable provisions.

b. That the reclamation plan complies with applicable requirements of state regulations (CCR Sections 3500 through 3505 and 3700 through 3713).

c. That the reclamation plan will restore the mined lands to a usable condition that is readily adaptable for alternative land uses that are consistent with this section

and either (i) the city's General Plan and any applicable resource plan or element, or (ii) probable future uses anticipated by the city to be adopted in future amendments to the city's General Plan, which uses are identified in findings made on approval of the reclamation plan.

d. That the reclamation plan has been reviewed pursuant to CEQA and the city environmental review guidelines, and any significant adverse impacts from reclamation of the surface mining operations are mitigated to the extent feasible.

e. That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.

f. That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that department. Where the city's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

J. Financial Assurances.

1. To ensure that the reclamation will proceed in accordance with the approved reclamation plan, the city shall require as a condition of approval security in the form of a surety bond, trust fund, or irrevocable letter of credit from an accredited financial institution, or other method acceptable to the city and the State Mining and Geology Board as specified in state regulations, and which the city reasonably determines is adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan. Financial assurances shall be made payable to the city of Rancho Cordova and the State Department of Conservation.

2. Financial assurance will be required to ensure compliance with elements of the reclamation plan, including, but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.

3. Cost estimates for the financial assurance shall be submitted to the planning department for review and approval prior to the operator securing financial assurances. The planning director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the city has reason to determine that additional costs may be incurred. The planning director shall have the discretion to approve the financial assurance, if it meets the requirements of this section, SMARA, and state regulations.

4. The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved reclamation plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities necessary to implement the approved reclamation plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual

administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved reclamation plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of 10 percent shall be added to the cost of the financial assurance.

5. In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the city or State Department of Conservation may need to contract with a third-party commercial company for reclamation of the site.

6. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).

7. The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operation, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

8. Revisions to financial assurances shall be submitted to the planning director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

K. Interim Management Plans.

1. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the planning department a proposed interim management plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all site approval conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the planning department and shall be processed as an amendment to the reclamation plan. IMPs shall not be considered projects for the purposes of environmental review.

2. Financial assurances for idle operations shall be maintained as though the operation were active.

3. Upon receipt of a complete proposed IMP, the planning department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least 30 days prior to approval by the city council.

4. Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the planning director and the operator, the city council shall review and approve or deny the IMP in accordance with this section. The operator shall have 30 days, or a longer period mutually agreed upon by the planning director and the operator,

to submit a revised IMP. The city council shall approve or deny the revised IMP within 60 days of receipt.

5. The IMP may remain in effect for a period not to exceed five years, at which time the city council may renew the IMP for another period not to exceed five years or require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

L. Annual Report Requirements. Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the city planning department on a date established by the State Department of Conservation, on forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within 30 days of permit approval or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

M. Inspections. The planning department shall arrange for inspection of a surface mining operation within six months of receipt of the annual report required in subsection (L) of this section (Annual Report Requirements) to determine whether the surface mining operation is in compliance with the approved site approval and/or reclamation plan, approved financial assurances, and state regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the planning director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The planning department shall notify the State Department of Conservation within 30 days of completion of the inspection that said inspection has been conducted and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection.

N. Violations and Penalties. If the planning director, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this section, the applicable site approval, any required permit, and/or the reclamation plan, the city shall follow the procedures set forth in Public Resources Code Sections 2774.1 and 2774.2 concerning violations and penalties, as well as those provisions of the city development code for revocation and/or abandonment of site approval which are not preempted by SMARA.

O. Appeals. Any person aggrieved by an act or determination of the planning department in the exercise of the authority granted herein shall have the right to appeal to the city council. An appeal shall be filed on forms provided, within 15 calendar days after the rendition, in writing, of the appealed decision.

P. Fees. The city shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this section and the state regulations, including, but not limited to, processing of applications, annual reports, inspections,

monitoring, enforcement, and compliance. Such fees shall be paid by the operator, as required by the city, at the time of filing of the site approval application, reclamation plan application, and at such other times as are determined by the city to be appropriate in order to ensure that all reasonable costs of implementing this section are borne by the mining operator.

Q. Mineral Resource Protection. Mine development is encouraged in compatible areas before encroachment of conflicting uses. Except as provided by Public Resources Code Section 2763, mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, as well as existing surface mining operations that remain in compliance with the provisions of this section, shall be protected from the intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the city's General Plan.

In accordance with PRC Section 2762, the city's General Plan and resource maps will be prepared to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the city will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts. [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.080)].

CITY OF RANCHO CORDOVA

ORDINANCE NO. 19-2013

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA
AMENDING SECTION 23.325.020 (CONVENTION OVERLAY DISTRICT) OF TITLE 23 OF
THE MUNICIPAL CODE AND SECTION IV (PAGE IV-6, IV-27, TABLE IV-4) OF THE
FOLSOM BOULEVARD SPECIFIC PLAN**

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Purpose and Declarations.

WHEREAS, the City's General Plan established a Convention District around the intersection of Sunrise and Folsom Boulevards, in an area of the City that was substantially developed at incorporation; and

WHEREAS, the City adopted the Folsom Boulevard Specific Plan and the City-wide Zoning Code to reflect the General Plan desire for a Convention District; and

WHEREAS, the Zoning Code and Folsom Boulevard Specific Plan establish specific regulations for allowed uses and development standards for the Convention Overlay District; and

WHEREAS, the existing buildings within the Convention Overlay District have had difficulty in tenancing or re-tenancing existing spaces with uses in an efficient and cost effective manner due to the City's regulations; and

WHEREAS, until such time the existing buildings are ready to transform to better reflect the intent of the Convention Overlay District, the City wants to allow vacant spaces within existing buildings to be occupied in an efficient and cost effective way; and

WHEREAS, the amendments to the Zoning Code and Folsom Boulevard Specific Plan will allow certain, specific uses to occupy buildings within the Convention Overlay District upon issuance of an Administrative Use Permit, as opposed to a Conditional Use Permit, reducing the required fee by approximately 90% and the level of discretion to the Planning Director; and

WHEREAS, the certified Environmental Impact Report (EIR) prepared for the previously adopted General Plan and the Folsom Boulevard Specific Plan (FBSP) Mitigated Negative Declaration (MND) were found to adequately address all potential environmental impacts associated with the adoption of the proposed Zoning Code and Folsom Boulevard Specific Plan amendments; and

WHEREAS, these amendments were analyzed and determined to be within the scope of the General Plan EIR and FBSP MND and require no further environmental review under State CEQA Guidelines Section 15162; and

WHEREAS, on June 17, 2013, the City Council held a properly noticed public hearing for this Ordinance.

Section 2: Findings. The City Council hereby finds:

A. **CEQA Compliance.** The Rancho Cordova General Plan FEIR (SCH #2005022137) was certified in June 2006 by the Rancho Cordova City Council. The General Plan EIR is a Program EIR. (CEQA Guidelines section 15168.) Subsequently, in July 2008, the City adopted the Folsom Boulevard Specific Plan MND (SCH: 2007112018) to address project specific impacts that were not fully addressed in the General Plan EIR. The amendments to Section 23.325.020 of the Zoning Code and to Section IV of the Folsom Boulevard Specific Plan are activities within the scope of the General Plan EIR and FBSP MND and require no further environmental review. Further environmental review is not required because the proposed amendments do not meet the criteria for preparing a subsequent EIR or Negative Declaration under State CEQA Guidelines section 15162. Furthermore, these changes will not result in a direct, or reasonably foreseeable indirect, physical change in the environment. Therefore, adoption of the Ordinance is not subject to CEQA pursuant to Guidelines Section 15060(c)(2).

B. **The proposed amendment is consistent with the General Plan.** The attached Zoning Code Amendment ("Amendment" or "proposed Amendment") is consistent with the General Plan as required by Government Code Section 65454. The Amendment is consistent with and implements the following provisions of the City's adopted General Plan:

General Plan Goals, Policies, and Actions:

- Economic Development Policy ED.1.3 – Retain and expand the existing industrial and warehouse uses in the City.

Finding: The Amendments will allow for specific land uses to occupy buildings within the Convention Overlay upon issuance of an Administrative Use Permit. Many of the properties within the Convention Overlay District were developed prior to City incorporation and are occupied with light industrial/office type buildings. In order to retain the greatest flexibility for these existing buildings to retain and welcome new businesses, an efficient and quick review process is required. The Amendments will provide such a process and in turn, implement the General Plan policy to retain and expand the existing industrial and warehouse uses in the City.

C. **The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.** The Amendment is in the public interest by facilitating the continued occupancy of buildings within the City's job core area. There are no adverse impacts to health, safety, convenience, or welfare of the City and its residents.

D. **The proposed amendment is internally consistent with other applicable provisions of the zoning code.** The Amendments have been reviewed and determined to be consistent with all applicable provisions of the zoning code and Folsom Boulevard Specific Plan.

Section 3. Amendments to Section 23.325.020 of Title 23

The City Council hereby adopts amended Section 23.325.020 (Convention Overlay District) of Title 23 (Zoning Code) of the Municipal Code in **Exhibit A**, attached and incorporated herein.

Section 4. Amendments to Section IV of the FBSP

The City Council hereby adopts amended Section IV (Page IV-6, Page IV-27, Table IV-4) of the Folsom Boulevard Specific Plan in **Exhibit B**, attached and incorporated herein.

Section 5. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid or unenforceable.

Section 6. Effective Date

Within fifteen (15) days after adoption, a Summary of this Ordinance shall be published once in the Grapevine Independent, or the Sacramento Bee, a newspaper of general circulation printed and published in Sacramento County and circulated in the City of Rancho Cordova, in accordance with Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its inception.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the ____ day of _____ 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Linda Budge, Mayor

ATTEST:

Mindy Cuppy, CMC, City Clerk

Chapter 23.325 OVERLAY ZONING DISTRICTS

Sections:

23.325.010	Purpose.
23.325.020	Convention (CO) overlay zoning district.
23.325.030	Transit oriented development (TOD) overlay zoning district.
23.325.040	Flood (F) overlay zoning district.
23.325.050	Planned development (PD) overlay zoning district.
23.325.060	Planned development – County/city initiated (PDC) overlay zoning district.
23.325.070	Parkway corridor (PC) overlay zoning district.
23.325.080	Surface mining (SM) overlay zoning district.

23.325.010 Purpose.

The overlay zoning districts established in this chapter are designed to supplement the use regulations and/or development standards of the applicable underlying base zoning district by recognizing distinctive areas of the city that have special and unique social, architectural, or environmental characteristics which require special considerations not otherwise adequately provided by the underlying base zone applicable to the property. The application of these overlay zoning districts emphasizes the need for special attention in planning projects in the area governed by the overlay. The provisions of this chapter shall apply to all parcels of land located within the designed boundaries of an overlay district as illustrated on maps contained in this chapter and on the city zoning map. On the zoning map, overlay zoning districts shall be designated by their representative symbol along with the base zoning district in a format determined by the planning director. In the event of a conflict with the regulations of the underlying base zoning district and the overlay zoning district, the provisions of the overlay zoning district shall apply. [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.010)].

23.325.020 Convention (CO) overlay zoning district.

A. Purpose and Intent. The purpose of the convention (CO) overlay zoning district is to establish an area in the city specifically for the development of a convention center with related and supporting uses. The convention district is intended to be a special place in the city that is entertaining, vibrant, and inviting to tourists, visitors, and residents alike. This overlay district supplements the provisions of the underlying zoning districts for the special purposes identified herein. Where there is conflict between this overlay district and the underlying base district, the overlay district regulations prevail.

B. Convention Overlay District Area. The convention overlay zoning district is applied to those parcels described in Figure 23.325-1 (Convention Overlay District Area), consistent with the General Plan's convention overlay. The convention overlay district is generally defined as that area south of Highway 50, east of Kilgore Road, north of Sun Center Drive, and west of Citrus Road.

Figure 23.325-1: Convention Overlay District Area



C. Allowed Uses. Specific to the convention overlay zoning district, Table 23.325-1 identifies the allowed use provisions within the convention overlay zoning district. The allowed use provisions of Table 23.325-1 supersede and replace the allowed use provisions of the underlying base zoning district of the applicable property. Similar uses may be determined as identified in this title. The allowed use provisions are listed in compliance with Chapter 23.304 RCMC (Land Use Classification).

Use regulations in the table are shown with representative symbol by use classification listing: “P” symbolizes uses allowed by right, “AUP” symbolizes uses that require approval of an administrative use permit, “L” symbolizes uses that require approval of a limited use permit, “C” symbolizes uses that require approval of a conditional use permit, and “N” symbolizes uses that are not permitted.

Table 23.325-1: Allowed Use Provisions in the Convention Overlay Zoning District

Land Use Category	Convention Overlay Zoning District	Special Use Regulations
Residential Uses		
Caretaker Housing	C	
Dwelling, Multifamily	P ¹	
Dwelling, Single-Family	C	
Dwelling, Two-Family	C	
Home Occupations	C	RCMC 23.901.030
Live-Work Facility	C	RCMC 23.901.040
Recreation, Education, and Public Assembly Uses		

Rancho Cordova Municipal Code
Chapter 23.325 OVERLAY ZONING DISTRICTS

Land Use Category	Convention Overlay Zoning District	Special Use Regulations
Clubs, Lodges, and Private Meeting Halls	P	
Convention Center	P	
Indoor Amusement/Entertainment Facility	P	
Indoor Fitness and Sports Facility	C	
Libraries and Museums	P	
Outdoor Commercial Recreation	C	
Parks and Public Plazas	P	
Public Safety Facility	P	
Religious Institutions	C	
Schools, Private and Special/Studios	P	
Schools, Public	P	
Theaters and Auditoriums	P	
Utility, Transportation, and Communication Use Listings		
Heliports	C	
Park and Ride Facility	C	
Telecommunication Facility	C	RCMC 23.907.020
Transit Stations and Terminals	C	
Utility Facilities and Infrastructure	C	RCMC 23.907.030
Retail, Service, and Office Uses		
Alcoholic Beverage Sales	C	
Banks and Financial Services	P	
Bars and Nightclubs	C	
Bed and Breakfast Inns	C	
Building Materials Stores and Yards	AUP	
Business Support Services	AUP	
Child Day Care Facility	C	
Drive-In and Drive-Through Sales and Service	N	RCMC 23.910.030
Home Improvement Supplies	AUP	
Hotels and Motels	P	
Hotels and Motels, Extended Stay	C	
Medical Services, General	C	
Medical Services, Extended Care	C	
Medical Services, Hospitals	C	

Land Use Category	Convention Overlay Zoning District	Special Use Regulations
Offices, Business and Professional	P	
Offices, Accessory	P	
Personal Services	P	
Restaurants	P	
Retail, Accessory	P	
Retail, General	P	
Veterinary Facility	C	
Automobile and Vehicle Uses		
Auto and Vehicle Sales and Rental	AUP	
Car Washing and Detailing	C	
Service Stations	C	
Vehicle Services, Minor	AUP	
Industrial, Manufacturing, and Processing Uses		
Manufacturing – Small Scale	AUP	
Printing and Publishing	AUP	
Research and Development	AUP	

Notes:

1. The use is permitted in conjunction with the predominant use of the underlying base zoning district. In other words, this use is only allowed as part of an integrated development.

D. Development Standards. The following development standards are applicable to the convention overlay zoning district. These standards, along with other development standards (e.g., landscaping requirements, parking standards) in this title and citywide design guidelines, are intended to assist property owners and project designers in understanding the city's minimum requirements and expectations for high quality development. Where site development standards listed herein are in conflict with the site development standards in other chapters of this code or the underlying zoning district, these standards shall apply. The designated approving authority will review development applications against these standards to determine compliance with applicable zoning regulations.

Table 23.325-2: Development Standards in the Convention Overlay District

Development Standard	Convention Overlay District
Density¹	
Minimum	10 du/ac

Development Standard	Convention Overlay District
Maximum	18.0 du/ac
Floor Area Ratio²	
Minimum	0.4
Maximum	3.0
Setbacks	
Front and Street-Side	0 ft.
Rear	10 ft.
Between Structures	10 ft. ³
Interior	0 ft.
Residential, Stand-Alone Structure ⁴	Refer to setbacks for the MDR zone
Height Limit	
Primary Structures	No maximum ⁵

Notes:

1. The minimum and maximum density standards are only applicable to mixed-use and integrated developments that include residential uses. Residential projects shall include a minimum of four units.

2. Includes residential uses and square footage. See Article 11 of this title for definition of floor area ratio (FAR).

3. The distance between structures may be modified as part of design review; however, any modifications must be consistent with the Uniform Building Code.

4. For residential units developed as part of an integrated development but not in the same building as the primary use(s), refer to the MDR zone for all setbacks. In all other instances, the setbacks shall be the same as the primary structure(s).

5. While there is no height maximum, the regulations of the Federal Aviation Administration (FAA) limit the height of structures to between 150 and 350 feet based on location. See the safety element of the General Plan for more information. FAA approval is required for all structures over 150 feet in height.

E. Parking Standards. Parking standards for uses in the convention overlay zoning district shall be consistent with Chapter 23.719 RCMC (Parking and Loading). Required off-street loading/unloading and passenger loading areas shall also be consistent with applicable provisions of Chapter 23.719 RCMC (Parking and Loading). [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.020)].

23.325.030 Transit oriented development (TOD) overlay zoning district.

A. Purpose and Intent. The purpose of the transit oriented development (TOD) overlay zoning district is to promote and provide for higher density and intensity uses as part of or in proximity to transit stations. The objective of locating more intensive uses near transit stations is to promote transit services along major transit corridors of the city. The transit oriented development overlay zoning district implements the local transit oriented development and regional transit oriented development land use categories of the General Plan.

B. Applicability.

1. TOD Designation. The transit oriented development overlay zoning district shall be applied to properties that are located within one-quarter mile of an existing or planned light rail/streetcar station or bus rapid transit station. In determining the extent

of the applicability, a circle of one-quarter mile in radius shall be drawn from a central point at the designated station location (e.g., station platform). See Figure 23.325-2 (Transit Oriented Development Overlay Zoning District) for a prototypical example of a TOD overlay.

Figure 23.325-2: Transit Oriented Development Overlay Zoning District



2. Properties Partially Located Within the TOD Overlay. The provisions of the transit oriented development overlay zoning district shall only apply to those portions of property located within the one-quarter-mile radius circle. Those portions of parcels zoned transit oriented development overlay but not included within the one-quarter-mile radius circle shall have development standards consistent with the underlying base district (see section on integrated development as described later in this chapter) and may only be developed consistent with the development standards of the base district. Qualifying integrated developments as defined in Chapter 23.707 RCMC (Integrated Developments) may locate more intense development outside of the one-quarter-mile radius circle, provided the provisions of this section are observed.

3. Special Standards for Integrated Development. When a portion of an integrated development, as defined in Chapter 23.707 RCMC (Integrated Developments), includes both an area zoned transit oriented development overlay and an area not subject to the development standards of the transit oriented development overlay zone, the development potential for the site shall be determined on an aggregate basis. For example, if half of a 10-acre site is zoned transit oriented development overlay and the other half is zoned commercial mixed-use, then the development potential of the first half is 400 dwelling units (80 du/ac times five acres) and the potential of the second half is 90 dwelling units (18 du/ac times five acres), resulting in a total potential of 490 dwelling units. Consistent with the provisions for integrated developments, the 490 dwelling units may be located anywhere within the development, except that the majority of the units shall be located within the one-quarter-mile radius. The designated approving authority, as part of design review, may allow the majority of the units to be located outside of the one-quarter-mile radius;

provided, that pedestrian uses and gathering spaces are located within the radius and connect the residential area(s) to the transit station.

C. Development Standards. The following development standards are applicable to the transit oriented development overlay zoning district. These standards, along with other development standards (e.g., landscaping requirements, parking standards) in this title and citywide design guidelines, are intended to assist property owners and project designers in understanding the city's minimum requirements and expectations for high quality development. Where site development standards listed herein are in conflict with the site development standards in other chapters of this code or the underlying base zoning district, these standards shall apply. The designated approving authority will review development applications against these standards to determine compliance with applicable zoning regulations.

The table describes development standards for two types of transit oriented developments – TODs generally and TODs as part of regional town centers. For the majority of transit oriented developments, the general development standards of the “TODs Generally” column will apply. In those cases where a transit oriented development overlay is applied to a regional town center base zoning district, the development standards of the “TODs as Part of a Regional Town Center” shall apply. The intent of these two sets of standards is to implement the unique development standards of the local TOD and regional TOD land use categories under the city's General Plan.

Table 23.325-3: Transit Oriented Development Overlay Zoning District Development Standards

Development Standard	TODs Generally	TODs as Part of a Regional Town Center
Density ¹		
Minimum	20.0 du/ac	
Maximum	80.0 du/ac	
Floor Area Ratio ²		
Minimum	0.50	0.65
Maximum	2.5	3.0
Height (maximum)	80 feet	No maximum ³

Notes:

1. The minimum and maximum density standards are only applicable to mixed-use and integrated developments that include residential uses. Residential projects shall include a minimum of four units.

2. Includes residential uses and square footage. See Article 11 of this title for definition of floor area ratio (FAR).

3. While there is no height maximum, the regulations of the Federal Aviation Administration (FAA) limit the height of structures to between 150 and 350 feet based on location. See the safety element of the General Plan for more information. FAA approval is required for all structures over

Development Standard	TODs Generally	TODs as Part of a Regional Town Center
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150 feet in height.

[Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.030)].

23.325.040 Flood (F) overlay zoning district.

A. Purpose and Intent. The flood (F) overlay zoning district as shown on the zoning map is intended to comprise all land covered by rivers, creeks, and streams and land subject to flooding within the city. The city council, in adopting the regulations in this section, recognizes that:

1. The promotion of the orderly development and beneficial use of lands subject to recurrent flooding is necessary if the potential property damage which results from improper development is to be minimized.

2. There is a need to protect current and future occupants of land subject to flooding from the physical damage of flooding.

3. The health, general welfare, and safety of the public of the city as a whole requires that lands subject to flooding be strictly regulated as to the uses permitted on the land and the amount of open space which separates buildings and structures.

4. Inundation frequently causes extensive property damage.

5. Strict regulation of flood lands is necessary to protect prospective buyers of land from deception as to the utility of the land within the flood zones.

B. Prohibition. No building, structure, vehicle, sign, or area in any zone with which the flood overlay zone is applied shall be used, nor shall any building, structure, sign, or vehicle be erected, altered, moved, enlarged, or stored in any zone with which the flood overlay zone is applied, except as hereinafter specifically provided in this section or elsewhere in this title; nor shall any area, building, structure, vehicle, or sign be used in any manner so as to create problems detrimental to the public health, safety, or general welfare, or so as to constitute a public nuisance. Any building, structure, vehicle, sign, or lot, or the use of any building, structure, vehicle, or lot, in any zone with which the flood overlay zone is applied shall be regulated and governed by the provisions of this section, the regulations and provisions applicable to the base zone with which the flood overlay zone is applied, and the general regulations and conditions of this title. If there are any conflicts between the flood overlay zoning district and the base zone to which it is applied, the provisions of the flood overlay zoning district shall apply.

C. Elevations. No building or structure designed for human habitation shall hereafter be erected, altered, moved, or enlarged with a first floor elevation lower than required by the Sacramento County water agency drainage ordinance and regulations adopted pursuant thereto.

D. Area. Each lot or parcel shall have a minimum lot area and/or density as specified in the base zoning district. If neither a public water supply nor a public sewerage facility is in use, the net lot area for each lot or parcel shall be not less than one acre.

E. Lot Width. Each lot or parcel shall have a minimum lot width as required by the base zoning district.

F. Determination of Zoning Boundaries. For purposes of the flood overlay zoning district, the following rules shall apply when determining the boundaries of the zone:

1. Zoning boundaries of the flood overlay zoning district are intended to represent the 100-year floodplain as determined by public works. The 100-year floodplain will be based on the best available information, which may include the National Flood Insurance Program flood insurance rate map, county Drainage Master Plan, historic flooding events, or other available information.

2. When public works revises the 100-year flood elevation based upon detailed engineering data, the zoning boundaries of the flood overlay zoning district may be adjusted by the planning director so as to accurately reflect the 100-year floodplain.

3. Upon development of a property, the designated approving authority shall determine the exact location of the 100-year floodplain based on a topographic survey of the property at one-foot intervals and the 100-year flood elevation as determined by public works. [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.040)].

23.325.050 Planned development (PD) overlay zoning district.

A. Purpose. The purpose of the planned development (PD) overlay zoning district is to encourage a creative and more efficient approach to the use of land, to maximize choice in the type of environment available to the people of the city, and to encourage more efficient allocation and maintenance of privately controlled common open space through the redistribution of overall density where such rearrangement is desirable and feasible. While this overlay district has been established to reflect previous actions of the county of Sacramento prior to incorporation of the city, subsequent development does not require a planned development overlay zoning district to establish development rights consistent with this title and the city's General Plan. Existing planned development overlay zoning districts are hereby incorporated into this title by reference and are considered consistent with the city's General Plan.

B. Intent of the Planned Development Overlay Zoning District. The intent of the planned development overlay zoning district is to carry out the purpose as set forth above by providing the means of greater creativity and flexibility in design than are provided under the strict application of the zoning and subdivision ordinances while at the same time preserving the public interest, health, safety, welfare, and property values. Various land uses may be combined in a planned development zone including combinations of residential, commercial, industrial, utility, institutional, educational, cultural, recreational, and other uses provided the combination of uses results in a balanced and stable environment. A PD zone may be combined with any other zoning classification except permanent agricultural or agricultural hold zones, provided the underlying base zoning district is consistent with the General Plan.

C. Criteria. The criteria for establishing new planned development overlay zoning districts are as follows:

1. Size. A planned development, or unit thereof, shall be of sufficient size, composition, and arrangement that its composition, marketing, and operation are feasible as a complete unit independent of any subsequent unit.

2. Permitted Uses. All uses which are authorized in the base zone(s) with which the planned development overlay zoning district is combined, including uses which are authorized only with a use permit, provided the uses are approved and made part of the development plan as provided in this section. In residential developments, the applicant

must show that accessory commercial uses are intended to serve principally the residents of the development.

3. Land Use Intensity. The planned development shall be at a land use intensity which conforms to the city's General Plan and complements existing permitted uses in the neighborhood. If the planned development proposed indicates a greater intensity of land use than is permitted by existing zoning regulations, the applicant shall show that the design of the project merits such a change in zoning and will not:

a. Create traffic congestion in the streets which adjoin or are near the planned development;

b. Create a burden on parks, schools, and other public facilities and utilities which serve or are proposed to serve the planned development;

c. Have an undue and adverse impact on the reasonable enjoyment of neighboring property.

An increase in land use intensity shall be compensated for by additional amenities to be achieved by the amount, location, and proposed use of open space and location, design, and type of development.

4. Design Standards. The city council may permit deviations from the standards in the base zones with which the planned development overlay zoning district is combined provided the developer demonstrates by his design proposal that the objectives of the General Plan, the subdivision ordinance (RCMC Title 22), and this title will be achieved.

5. Common Open Space. The city council may adopt regulations to govern the amount, use, and location of open space. After development, the common open space may be conveyed to a public agency or private association. The city council, prior to any conveyance of common open space, shall approve all agreements and instruments relating to use, maintenance, and ownership thereof. The city council may also require the dedication of development rights or scenic easements to assure that common open space will be maintained. The city council may further require that instruments of conveyance or covenants or deed restrictions of associations provide that, in the event the common open space is not maintained in a condition consistent with the approved development plan, the city may, at its option, cause such maintenance to be performed and assess the costs to the affected property owners or responsible association. If the common open space is dedicated, conveyed, or designed for use by the general public and so used, any assessment of maintenance costs shall be made by benefit areas which are not necessarily restricted to the subject planned development overlay zoning district.

D. Preliminary Plan.

1. Purpose. The purpose of the preliminary plan is to require the developer to demonstrate the feasibility and general design concept of a proposed development to the planning department. Prior to submitting an application for zone change to the planned development overlay zoning district, the applicant shall submit and receive approval of a preliminary plan for the full area to be covered by the planned development overlay zoning district from the planning director. Approval of the preliminary plan does not grant or vest development rights, but rather ensures that the proposed development will comply with the goals and policies of the city's General Plan and other standards and regulations of the city prior to zone change.

2. Procedure. The initial step to be taken by the developer is to submit a preliminary plan to the planning department. The plan shall include:

- a. Maps or drawings which may be schematic in form;
- b. Proposed land uses, the approximate number of dwelling units, acres and population density for each area of land, existing uses of surrounding property;
- c. Proposed circulation system, indicating both public and private streets;
- d. Public uses including schools, parks, recreation areas, and other open spaces;
- e. The use and general description of each different type of structure;
- f. Nature of the applicant's interest in the land proposed to be developed;
- g. Written explanation of the nature of the proposed development and the deviations from regulations otherwise applicable to the property;
- h. Proposed sequence and schedule of development; and
- i. Other contents as deemed necessary by the planning director and city council.

3. Action by the Planning Department. Review and processing of the preliminary plan application shall be consistent with the provisions of Chapter 23.110 RCMC (Application Processing). The designated approving authority for the preliminary plan shall be the planning director; however, the director shall have the authority to elevate the preliminary plan review to the city council.

E. Proposed Development Plan and Request for Planned Development Overlay Zoning District. Within one year after approval of the preliminary plan, an application may be filed with the planning director for a planned development overlay zoning district. The petitioner shall include with the application for zone change his proposed development plan for all or a portion of the property included within the preliminary plan, which shall include all information required for the preliminary plan and the following:

1. Maps showing existing topography, tree cover, buildings, streets, and other existing physical features;
2. Detailed breakdown of the proposed land use showing lot lines, location of buildings, parking areas, common grounds, recreation improvements and structures, and open space around buildings and structures;
3. Elevation drawings of typical proposed structures and improvements for each proposed use except detached single-family dwellings;
4. At least one perspective drawing or model which will demonstrate the architectural character of the project;
5. Proposed agreements, deed restrictions, bylaws, and articles of incorporation which relate to the preservation or maintenance of open space and associations created to preserve and maintain said open space;
6. A schedule and sequence of development for all of the property included in the preliminary development plan even though the applicant elects to include only a portion of the property in the proposed tentative development plan.

F. Action on the Proposed Development Plan and Request for Planned Development Overlay Zoning District.

1. The process for approving a proposed development plan and request for zone change to the planned development overlay zoning district shall be the same as for zoning amendments as provided for in Chapter 23.146 RCMC (Zoning Amendments).

2. Findings. In addition to the findings for approval of a zoning amendment, the designated approving authority shall also make all of the following findings when approving a zone change to the planned development overlay zoning district:

- a. The proposed development will carry out the intent of the General Plan.
- b. The proposed development is of sufficient size and is designed so as to provide a desirable environment within its own boundaries.
- c. The proposed development is compatible with existing and proposed land uses in the surrounding area.
- d. Any exceptions to the standard requirements of the base zoning district and the provisions of this title are justified by the design of the development. In the case of residential areas, the rearrangement of dwellings and the mixing of dwelling types shall be justified by larger and more usable open spaces.
- e. There is adequate assurance that all public improvements will be installed at the scheduled times as required by the public works department.
- f. There is adequate assurance that the development schedule will be met.
- g. The existing or proposed utility services are adequate for the uses and population densities proposed.

G. Designation of Planned Development Overlay Zoning District. A planned development overlay zoning district shall be delineated on the zoning map in a manner similar to that of any other overlay district by showing a name, number, symbol, or other designation after the base zone for the subject property(ies), as determined by the planning director, which distinguishes it from other overlay zones, base zoning districts, or special purpose zones.

H. Adoption by Reference. The following planned development overlay zoning district(s) has/have been adopted as part of this title by reference and is/are so designated on the zoning map of the city:

1. Briarwood Coloma Planned Development (adopted by Ordinance 71-PD-2, amended by Ordinances 71-PD-2A, 71-PD-2A1, 71-PD-2C, and 71-PD-2D).

I. Subsequent Approvals. No subsequent approvals, including tentative maps, conditional use permits, and other discretionary permits, as well as building permits, grading plans, improvement plans, sign permits, temporary sign permits, and other ministerial permits/actions, shall be approved unless they are substantially compliant with the provisions of the adopted planned development and other regulations of this title. [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.050)].

23.325.060 Planned development – County/city initiated (PDC) overlay zoning district.

A. Purpose. This section establishes the procedure whereby the city council may initiate proceedings to regulate certain property through the process of a county initiated planned development overlay zoning district. The city council recognizes that there are areas throughout the city that have unique environmental, economic, historic, or architectural features and that too little attention has been given through the application of standard zone regulations to these special characteristics. It is the purpose of this section to provide for the city to guide the regulation of such areas so as to preserve such unique characteristics. While this overlay district has been established to reflect previous actions of the county of Sacramento prior to incorporation of the city,

subsequent development does not require a planned development – county/city initiated overlay zoning district to establish development rights consistent with this title and the city's General Plan. Existing planned development – county/city initiated overlay zoning district zones are hereby incorporated into this title by reference and are considered consistent with the city's General Plan.

B. Designation. A planned development – county/city initiated overlay zoning district shall be delineated on the zoning map in a manner similar to that of any other overlay district by showing a name, number, symbol, or other designation after the base zoning district for the subject property(ies), as determined by the planning director, which distinguishes it from other overlay zoning districts, base zoning districts, or special purpose zones.

C. Initiation of Zone. The city council may initiate proceedings to place parcels within the planned development – county/city initiated overlay zoning district. The procedure for zoning property to the planned development – county/city initiated overlay zoning district shall be the same as for changing the zone as provided in Chapter 23.146 RCMC (Zoning Amendments).

D. Content of County/City Initiated Planned Development Ordinance.

1. The following provisions are mandatory and shall be included in each county/city initiated planned development overlay zoning district ordinance:

- a. A list of permitted uses.
- b. Performance and development requirements relating to yards, lot area, intensity of development on each lot, parking, landscaping, and signs.
- c. Other design standards appropriate for the specific planned development.
- d. Legal description of property covered by the ordinance.
- e. Reasons for establishment of a planned development – county/city initiated overlay zoning district on the particular property.

2. The following provisions are permissive and are not intended to be an exclusive list of the provisions that could be part of a planned development – county/city initiated overlay zoning district ordinance.

- a. Procedures for Review of Proposed Development. The procedures could include:
 - i. Types of projects that require review.
 - ii. Documents required from developers.
 - iii. Hearing procedures, if any.
- b. Regulations relating to nonconforming lots, uses, structures, and signs.
- c. Time phasing and sequence of development projects.

E. Application for Amendment to the Planned Development – County/City Initiated Overlay Zoning District. The procedures for filing an amendment to the planned development – county/city initiated overlay zoning district adopted pursuant to this title shall be the same as for any amendment to the zoning code.

F. Adoption by Reference. The following planned development – county/city initiated overlay zoning district(s) has/have been adopted as part of this title by reference and is/are so designated on the zoning map of the city:

1. Sunriver Planned Development (adopted by Ordinance 77-PDC-4, amended by Ordinance SZC 93-0037). [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.060)].

23.325.070 Parkway corridor (PC) overlay zoning district.

A. Purpose. The parkway corridor (PC) overlay zoning district, as shown on the zoning map, shall be used to regulate property along the American River within the city. The goals promoted by establishment of this zone include:

1. Implement the goals and policies of the city's General Plan relative to preservation of the American River parkway.
2. Preserve and enhance the American River and its immediate environment consistent with the goals and policies of the American River Parkway Plan.
3. Ensure, to the extent possible, the compatibility of land uses within the American River parkway and land adjacent to the parkway for their mutual benefit.
4. Ensure that development with access within and adjacent to the American River parkway is designed to reduce as much as possible visible intrusion into the parkway and to complement the naturalistic amenities of the parkway.
5. Provide flexibility in development requirements such as setback, height, bulk, and landscaping applicable to parcels of property subject to the regulations of the parkway corridor (PC) zone.
6. Minimize risks to public health, safety, and welfare in areas which are potentially threatened by erosional processes.
7. Ensure that bluff development, including related storm runoff, foot traffic, site preparation, construction activity, irrigation, and other activities and facilities accompanying such development, does not create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding areas.
8. Ensure that bluff development is sited and designed to assure stability and structural integrity for its expected economic life span while minimizing alteration of natural landform features.
9. Ensure that development within the American River parkway corridor zone occurs in a manner which maintains a safe environment for homes and other improvements and protects the aesthetic and environmental quality of the parkway.

B. Applicability of Parkway Corridor Overlay Zoning District Designation.

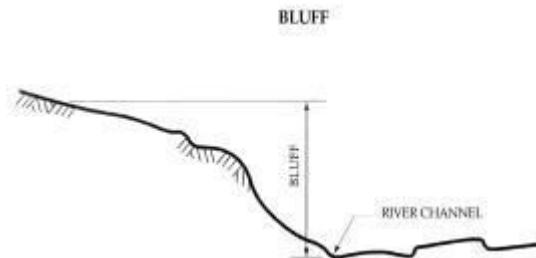
1. Property regulated by the parkway corridor overlay zoning district shall be identified in the city zoning map consistent with the provisions of this title.
2. The parkway corridor overlay zoning district may be applied to property within the city adjacent to or near the American River for which the city council determines that land development may affect the stability of bluffs or terraces or have an impact on the preservation or enhancement of scenic, recreational, fishery, or wildlife values along or near the American River.
3. The parkway corridor overlay zoning district contains erosion zones based on geologic hazards resulting from erosional processes. Erosion zones have been defined with development setbacks which identify areas potentially subject to erosion within the next 100 years. Property owners and developers must address the erosion problems associated with the erosion zones prior to development in the applicable erosion zone.

C. Definitions. The following definitions apply to this chapter. The planning director or a designee shall resolve disputes with regard to a determination made establishing a bluff or terrace, the edge of a bluff or terrace, toe of a bluff or terrace, 100-year floodplain, designated floodway, or other significant topographic or geologic feature. Any person dissatisfied with the determination made by the director or a designee may

appeal such determination as set forth in Chapter 23.164 RCMC (Appeals) and Chapter 23.167 RCMC (Council Call-Ups).

1. “Bluff” is an escarpment or steep face of rock, decomposed rock, sediment, or soil resulting from erosion, faulting, folding, or excavation of a landmass. A bluff may be planar or have a curved surface, or it may be steplike in section. As used in this zone, “bluff” is limited to those features having a vertical relief of 10 feet or more whose toe is subject to river erosion (see Figure 23.325-3).

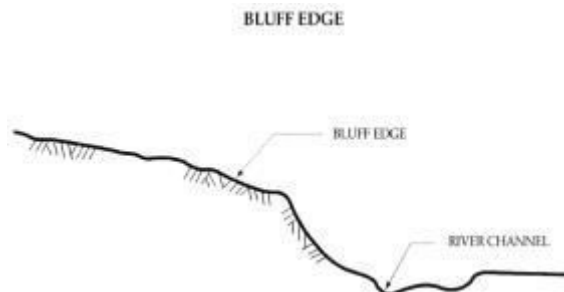
Figure 23.325-3



2. “Bluff edge” is the upper termination of a bluff. The bluff edge can be defined in the following manner:

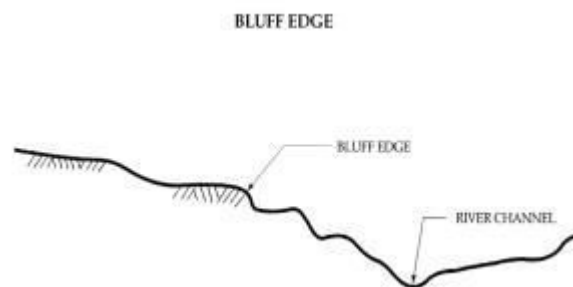
a. When the top of the bluff is rounded away from the face of the bluff, the edge shall be defined as that point nearest the bluff at which the slope of the land surface becomes more or less continuous with the general slope of the surrounding land area going away from the river (see Figure 23.325-4).

Figure 23.325-4



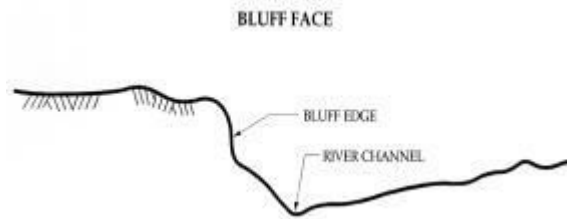
b. When there is a steplike feature at the top of the bluff face, the landward edge of the topmost riser shall be defined as the bluff edge (see Figure 23.325-5).

Figure 23.325-5



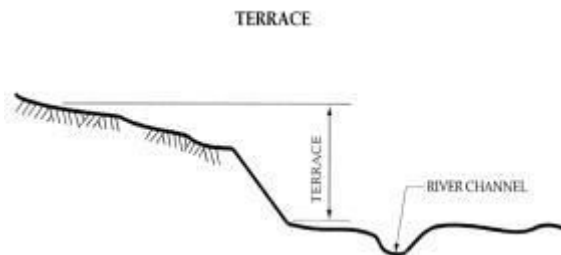
3. “Bluff face” shall be defined as that portion of the bluff’s land surface which extends in a downward gradient from the bluff edge to the toe (see Figure 23.325-6).

Figure 23.325-6



4. “Terrace” shall be defined as an elevated portion of rock, decomposed rock, sediment, or soil resulting from erosion, faulting, folding, or excavation of a landmass. A terrace may have a curved surface or it may be steplike in section. As used in this zone, a “terrace” is limited to those features having a vertical relief of 10 feet or more whose toe is not presently subject to river erosion (see Figure 23.325-7).

Figure 23.325-7



D. Use of County-Owned Property. Consistent with the regulations of Sacramento County, property owned or controlled by the county that is subject to the parkway corridor overlay zoning district shall require prior approval of the Sacramento County board of supervisors for any use of the property.

E. Authorized Uses.

1. The following use is permitted in an erosion zone as described on Exhibits A through D at the end of this chapter and within the total setback distance as shown on Table 23.325-4 (Development Setbacks) upon submission of geotechnical data as set forth in subsection (J) of this section (Application Requirements) and approval of a conditional use permit by the designated approving authority:

a. Construction, enlargement, or modification of any building or structure for which a building permit is required.

2. Construction, erection, or installation of any structure, wall, abutment, or similar device intended to reinforce, stabilize, or otherwise protect any bluff or terrace from erosion, mass wasting, or similar land movement is permitted subject to the submission of geotechnical data as set forth in subsection (J) of this section (Application Requirements) and approval of a conditional use permit by the designated approving authority.

3. Notwithstanding other provisions of this title, the following uses, buildings, and structures, either located outside an erosion zone or within an erosion zone as described in Exhibits A through D at the end of this chapter, but outside the total setback distance as shown in Table 23.325-4 (Development Setbacks), are authorized

without the grant of a conditional use permit upon compliance with the provisions of subsection (I) of this section (Submittal of Plans) and provided the buildings or structures meet the development standards specified in subsection (H) of this section (Development Standards); otherwise such uses, buildings, or structures shall not be erected or maintained without first obtaining a conditional use permit as set forth in subsection (E)(4) of this section.

- a. One single-family detached dwelling, including mobile home, on each lot.
- b. One two-family dwelling, including mobile home, on each lot.
- c. Accessory uses, buildings, and structures (including swimming pools and appurtenant equipment) customarily incidental to and subordinate to single-family detached and two-family dwellings.

4. Unless otherwise provided in this title, all uses designated as either permitted or conditional uses in the underlying zone shall be authorized in the parkway corridor overlay zoning district provided a conditional use permit is first obtained from the designated approving authority.

F. Findings. In addition to the findings required by this title, when development is proposed within an erosion zone as described in Exhibits A through D of this section and within the total setback distance as shown on Table 23.325-4 (Development Setbacks), the designated approving authority shall not grant a conditional use permit pursuant to subsection (E) of this section unless it finds and records in writing that:

1. Development will be sited and designed to assure stability and structural integrity for its expected economic life span while minimizing alteration of natural landform features;
2. Development will not create or contribute to significant problems of erosion or geologic instability on the site or on surrounding areas;
3. Development will maintain a safe environment for homes and other improvements and protect the aesthetics and environmental quality of the American River parkway;
4. Development does not preclude or foreclose future recreation or open space potential in the American River parkway; and
5. There are adequate provisions included in the development proposal for maintenance and revegetation of the project area.

G. Authority of Hearing Body. Generally, development requirements of property including lot area, lot width, or public street frontage applicable to property located in the underlying zone shall apply to the uses authorized by subsection (E) of this section. However, the designated approving authority, in granting the conditional use permit, may impose any or all of the development requirements specified in this section if, in the judgment of the designated approving authority, the special requirements specified in this section are necessary to carry out the intent of this title.

The granting authority may:

1. Require a reasonable additional building setback or yard area, particularly in high terrace and bluff areas which overlook the American River.
2. Require the screening of any portion or all of the structure, building, or use through the use of walls or fences, the planting of locally native trees or shrubbery, or combinations thereof.

3. Require the modification of exterior features of structures where necessary to minimize physical or visual intrusion into the parkway.

4. Establish a limitation on the size or bulk of a building or structure.

5. Regulate the design and location of access drives and other features.

6. Regulate the location, design, and capacity of utilities.

7. Require the use of specific colors, lighting, and landscaping features as otherwise required by this chapter.

8. Regulate the design, as well as require the maintenance, of grounds, landscaping, or an irrigation or drainage system.

9. Regulate noise, vibration, odors, and other similar concerns within certain performance standards.

10. Require the phasing of development.

11. Require a bond or deposit of money to assure completion of development as authorized by the permit.

12. Require the use of noncombustible roofing and siding materials to minimize structural loss in areas with limited accessibility and which are potentially threatened by the occurrence of fire originating from the parkway.

13. Require a fire-resistant buffer between the open areas of the parkway and structures adjacent to it, or require locally native plant varieties which are drought- and fire-resistant. A list of locally native plant varieties is maintained by the Cordova recreation and park district (CRPD).

14. Require that disruption to natural riparian vegetation be minimized, and no trees which are native to the area and which are six inches in diameter or larger shall be damaged or removed unless in imminent danger of collapse from erosion.

15. Require that the area disrupted by the project be revegetated in accordance with a revegetation program utilizing an approved combination of locally native riparian trees, shrubs, and groundcover. If gabion, riprap, or other structural measures are used, require that they be screened from public view with locally native vegetation.

16. Require that the slope and appearance of the project area be compatible with the natural character of nearby slopes or riverbanks.

17. Require that, where feasible, vegetation be used to prevent further erosion. Gabions, rock and wire mattresses, or wire mesh over stone may be used where vegetative measures alone are insufficient, but the erosion control program shall include measures to minimize damage to riparian vegetation and wildlife. Riprap shall not be used unless slope, stream current, and existing native vegetation are favorable to providing substantial vegetative screening of the riprap. Rubble, gunite, cement or sandbags, bulkheads, fences, used tires, and similar materials or structures are prohibited.

18. Require the review of development at a specified time to ensure compliance with all conditions of approval, zoning agreements, ordinances, statutes, regulations, and procedures applicable at the time of development.

If the granting authority imposes any of the development requirements specified above, the designated approving authority shall find and record in writing as required by this title the circumstances which it determined necessary to require the imposition of any special development requirement.

H. Development Standards.

1. Development standards for uses, buildings, or structures on lots protected by levees maintained by a public agency.

a. Height. The maximum height of a building or structure shall not exceed the difference between the elevation of the finished grade of the building site and the elevation of that portion of the levee crown closest to the building site, plus five feet, plus one foot for each five feet by which the distance from the building structure to the landward toe of the levee exceeds 35 feet, but in no event greater than the height limitations set forth in the underlying zone.

b. Setback. No building or structure other than an accessory building is located closer than 35 feet, and no accessory building is located closer than 25 feet, to the landward toe of the levee.

2. Development standards for uses, buildings, or structures on lots not protected by levees maintained by a public agency, and also not within the total setback distance in an erosion zone as described on Exhibits A through D at the end of this chapter.

a. Accessory buildings shall not exceed 12 feet in height.

b. Dwellings and other structures shall be screened by live plantings of locally native trees and shrubs to minimize the visual impact of the dwelling or structure from the parkway.

c. Dwellings and structures shall be finished in earthtones as defined in Article 11 of this title (Definitions).

3. Development standards for uses, buildings, or structures on lots which are located within an erosion zone as described on Exhibits A through D at the end of this chapter and within the total setback distance for that zone as shown on Table 23.325-4 (Development Setbacks).

a. Accessory buildings shall not exceed 12 feet in height.

b. Dwellings and other structures shall be screened by live plantings of locally native trees and shrubs to minimize the visual impact of the dwelling or structure from the parkway.

c. Dwellings and structures shall be finished in earthtones as defined in Article 11 of this title (Definitions).

d. Accessory uses, buildings, and structures (including swimming pools and appurtenant equipment) customarily incidental to and subordinate to single-family detached and two-family dwellings shall not be located closer than 20 feet from the edge of a bluff or terrace.

e. Construction, erection, or installation of any fence, wall, abutment, or similar device shall not be located closer than:

i. Twenty feet from the edge of a bluff or terrace when proposed in Erosion Zone 1 or 2; and

ii. Ten feet from the edge of a bluff or terrace when proposed in Erosion Zone 3 or 4.

f. No form of trenching, grading, earth filling, or similar disturbance of residual or transported soils shall occur within:

i. Twenty feet from the edge of a bluff or terrace when proposed in Erosion Zone 1 or 2; and

ii. Ten feet from the edge of a bluff or terrace when proposed in Erosion Zone 3 or 4.

Table 23.325-4: Development Setbacks

Erosion Zone	Potential Recession Due to Long-Term Channel Migration¹	Distance of Potential Short-Term Erosion Due to Slope Erosion²	Buffer Zone³	Total Setback⁴
1	0	20 feet	20 feet	40 feet
2	30 feet	20 feet	20 feet	70 feet
3	30 feet	10 feet	20 feet	60 feet
4	30 feet	10 feet	20 feet	60 feet
5	*	*	*	*

Notes:

1. Long-term bluff recession is based on estimated channel migration rate and a 100-year time period.
 2. Distance measured from edge of bluff which is potentially subject to erosion within 10 years.
 3. Buffer zone added to allow for property remaining at end of 100-year period.
 4. The total setback distance is measured from the edge of a bluff or terrace, whichever is closer to the river.
- *The entire area within Zone 5 is potentially subject to erosion within a 100-year period.

Any reference to erosion zones in this chapter shall be shown on Exhibits A through D at the end of this chapter, which are hereby incorporated by this reference into this chapter.

I. Submittal of Plans. Any application for a building permit or other entitlement of use, building, or structure subject to the parkway corridor overlay zoning district authorized without a conditional use permit by subsection (E) of this section shall be reviewed by the director for compliance with the provisions of this chapter. The director may require a site plan as provided in subsection (J) of this section (Application Requirements) to make any determination. If, in the opinion of the director, the proposed development will not meet the development requirements provided in this chapter, the director shall inform the applicant that the building permit or other entitlement of use is disapproved. The director's decision is not subject to an appeal. The applicant's sole recourse to the director's decision is to apply for approval of the proposed development as provided in subsection (E) of this section.

J. Application Requirements. In addition to other data required by this title for conditional use permits, the following information shall be required for any application of a conditional use permit in the parkway corridor overlay zoning district.

1. Site plan showing:
 - a. Location of existing and proposed structures, buildings, and signs.
 - b. Location of existing trees and shrubs. For trees, the species and dbh (i.e., diameter breast height) shall be indicated.
 - c. Location of any proposed off-street parking and loading.
 - d. Location of adjacent public rights-of-way and private easements for ingress and egress, if any.
 - e. Location of proposed vehicle entrances and internal circulation patterns.
 - f. Location of any proposed walls and fences; the height and construction materials thereof.
 - g. Proposed exterior lighting, if any.
 - h. Finished grade of the site at the building.
 - i. Location of an irrigation system, subterranean water lines, drainage facilities, and other appurtenant equipment.
2. Preliminary landscaping plans.
3. Color, materials, and texture of proposed buildings and structures.
4. Location, materials, size and copy of any signs, and illumination thereof, if any.
5. Elevation drawing of all improvements.
6. Other data or materials deemed necessary by the director.

K. Geotechnical Requirements. In addition to other data required pursuant to subsection (J) of this section (Application Requirements) for a conditional use permit, the following information shall be required when development is proposed within an erosion zone as described on Exhibits A through D at the end of this chapter and within the total setback distance as shown in Table 23.325-4 (Development Setbacks) in subsection (H) of this section (Development Standards).

1. A geotechnical investigation and report shall be filed by the applicant. The report shall be prepared by a registered geologist or professional civil engineer with expertise in soils or foundation engineering, surface and groundwater hydrology, river hydraulics, and erosion control. The report shall evaluate the topographic and geologic

conditions of the site and the effect of the development. The report shall be based on an on-site investigation in addition to a review of the general character of the area.

The report shall consider, describe, and analyze the following:

- a. Bluff and site topography, extending the surveying work beyond the site as needed to depict geomorphic conditions that might affect the site;
- b. Geologic conditions, including soil, sediment, and rock types and characteristics, in addition to structural features, such as bedding, joints, and faults;
- c. Hydrologic conditions, including surface water drainage, groundwater, and American River 100-year floodplain and designated floodway locations and elevations;
- d. Historic, current, and foreseeable bluff erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available, and possible changes in channel configuration and sediment transport;
- e. The potential effects of the development on both on-site and off-site erosion;
- f. The impact of the proposed construction activity on both on-site and off-site erosion;
- g. The effect of foreseeable erosion on the development and potential mitigation measures, including maintenance requirements;
- h. Potential effects of seismic forces resulting from a maximum credible earthquake;
- i. Any other factors which may affect slope stability and erosion.

2. The report shall contain a diagram establishing the location of the bluff edge, the toe of the bluff, other significant geologic features, and the 100-year floodplain and designated floodway locations. Distances to each feature shall be identified, with measurements taken from a fixed location.

3. The report shall detail mitigation measures for any potential impacts and shall outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the economic life span of the project.

4. The report shall use a currently acceptable engineering stability analysis method and shall also describe the degree of uncertainty of analytical results due to assumptions and unknowns. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project.

5. An engineered design for the development and/or erosion protection measures shall be filed by the applicant. The design shall be of sufficient detail to ensure compliance with the American River Parkway Plan and to allow for appropriate consideration of all potential erosion problems affected by and affecting the proposed development and its associated construction activity.

L. Exemption. When the procedures set forth in this chapter differ from procedures for review of development set forth in any county or privately initiated planned development, special development permit, or zoning agreement, then the procedures set forth in the planned development ordinance, special development permit, or zoning agreement shall prevail. Notwithstanding the preceding sentence, when this chapter prescribes a procedure for review and issuance for permits within an erosion zone as described on Exhibits A through D at the end of this chapter and within the total setback

distance as shown in Table 23.325-4 (Development Setbacks) of subsection (H) of this section (Development Standards), the procedures set forth in this title shall prevail.

Exhibit A

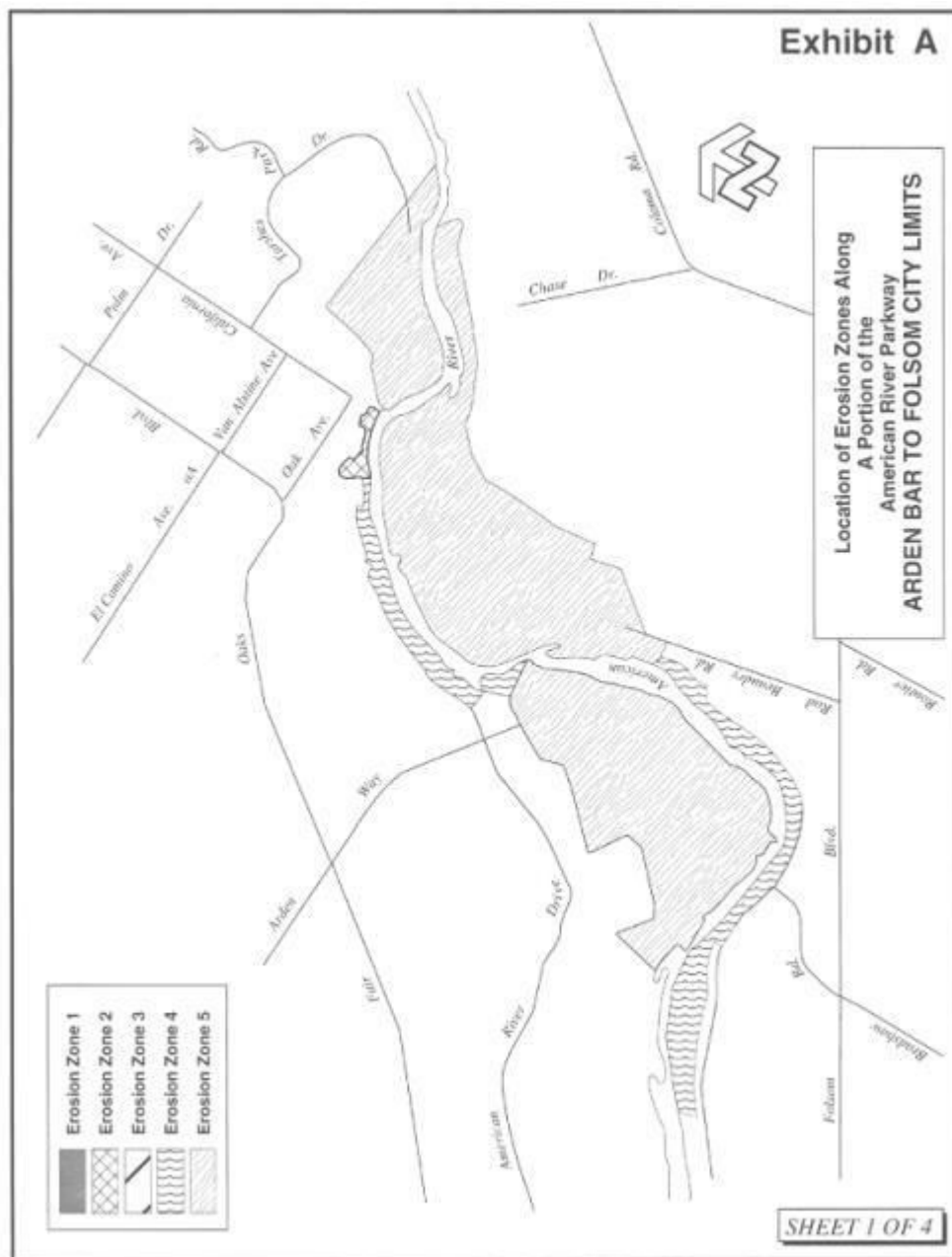


Exhibit B

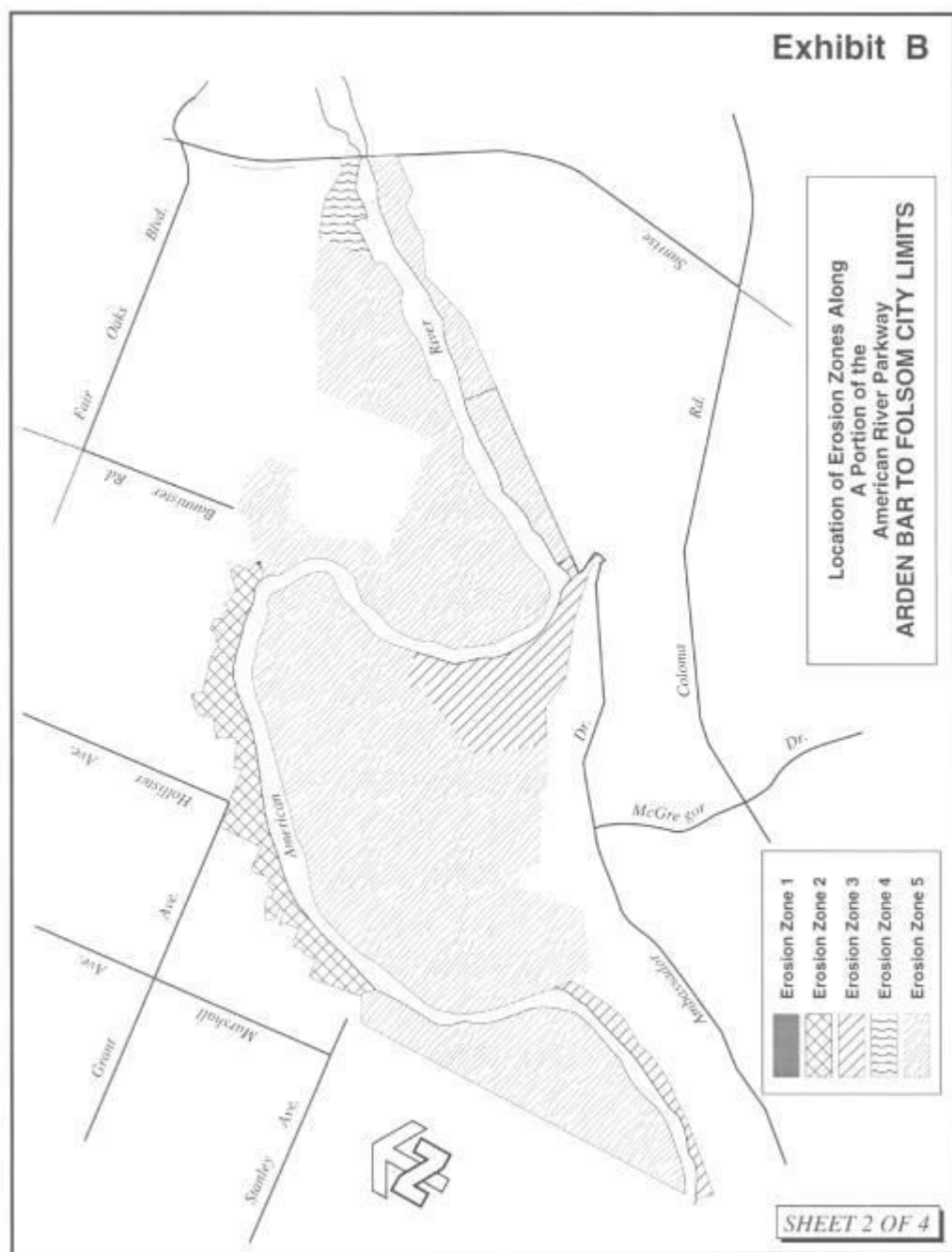


Exhibit C

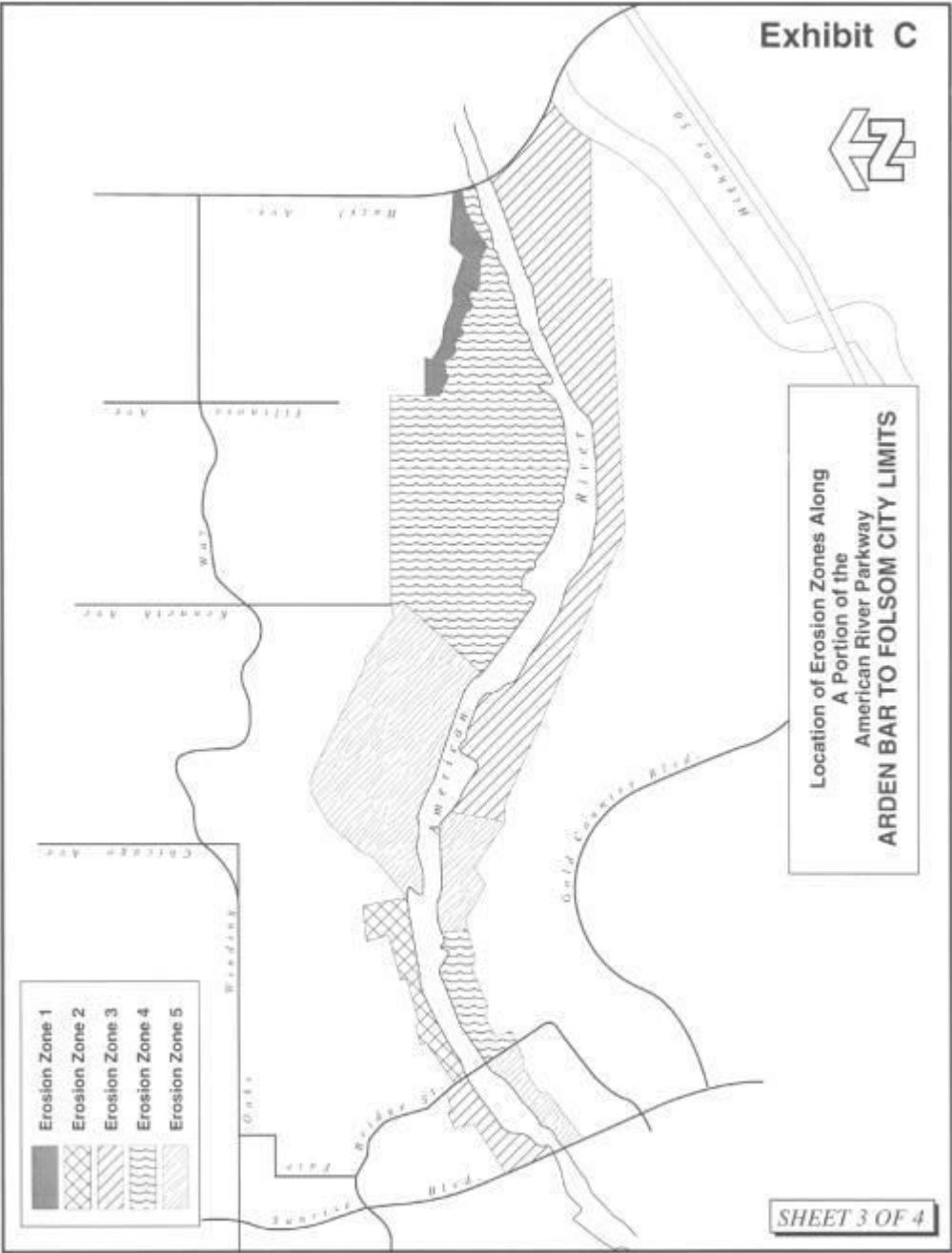
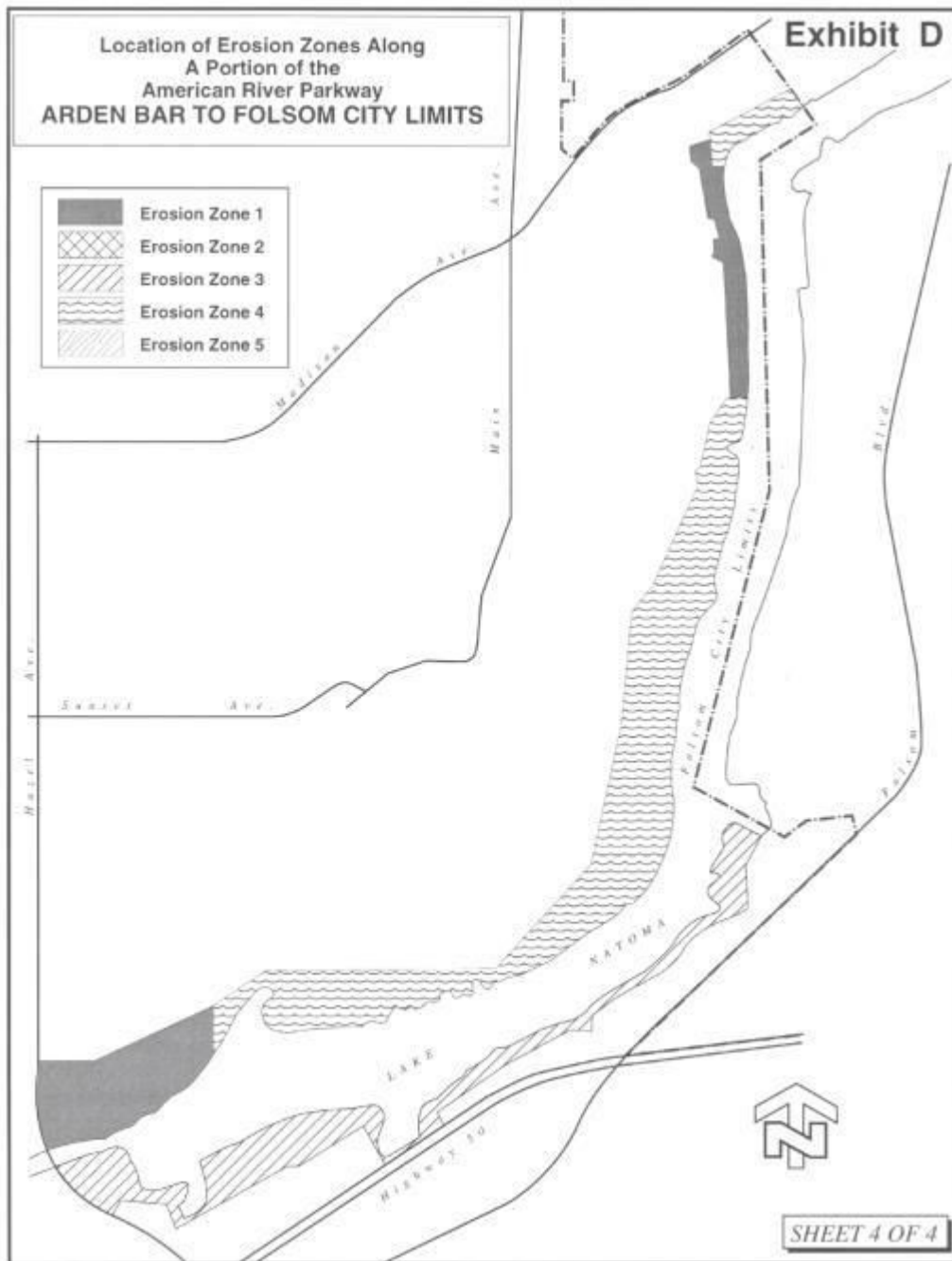


Exhibit D



[Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.070)].

23.325.080 Surface mining (SM) overlay zoning district.

A. Purpose and Intent. The city of Rancho Cordova recognizes that the extraction of minerals is essential to the continued economic well-being of the city and to the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The city also realizes that surface mining takes place in diverse areas where the geologic,

topographic, climatic, biological, and social conditions are significantly different, and the reclamation operations and the specifications therefor may vary accordingly.

The purpose and intent of this section is to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code (PRC) Section 2710 et seq.), as amended, hereinafter referred to as "SMARA" or "the Act," Public Resources Code Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "state regulations") for surface mining and reclamation practices (California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1, Section 3500 et seq.), to ensure that:

1. Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.
2. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
3. Residual hazards to the public health and safety are eliminated.

B. Definitions. The definitions set forth below shall govern the construction of this section:

1. "Area of regional significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the state within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.

2. "Area of statewide significance" means an area designated by the Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the state and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

3. "Board" means the State Mining and Geology Board.

4. "Borrow pits" means excavations created by the surface mining of rock, unconsolidated geologic deposits, or soil to provide material (borrow) for fill elsewhere.

5. "Compatible land uses" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures and land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

6. "Haul road" means a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

7. "Idle" means surface mining operations curtailed for a period of one year or more, by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

8. "Incompatible land uses" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact-intensive industrial, and commercial.

9. "Mined lands" means the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

10. "Minerals" means any naturally occurring chemical element or compound, or group of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

11. "Operator" means any person who is engaged in surface mining operations or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.

12. "Reclamation" means the combined process of land treatment that maximizes post-mining land uses and minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed as rapidly as reasonably feasible to an unusable condition which is readily adaptable for alternate land uses and creates no danger to public health or safety. The process may extend to affected lands surrounding mined lands and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

13. "Streambed skimming" means excavation of sand and gravel from streambed deposits above the mean summer water level or stream bottom, whichever is higher.

14. "Surface mining operation" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in-place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

C. Incorporation by Reference. The provisions of SMARA (PRC Section 2710 et seq.), PRC Section 2207, and state regulations (CCR Section 3500 et seq.), as those provisions and regulations may be amended from time to time, are made a part of this section by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than correlative state provisions, this section shall prevail.

D. Scope. Except as provided in this section, no person shall conduct surface mining operations unless a permit, reclamation plan, and financial assurances for reclamation have first been approved by the city. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the city, including, but not limited to, the application of CEQA, the requirement of site approvals or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this section shall apply to all lands within the city, public and private.

This section shall not apply to the following activities, subject to the above-referenced exceptions:

1. Excavations or grading related to agricultural activities or on-site construction or for the purpose of restoring land following a flood or natural disaster.

2. On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, and the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

a. All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (CEQA, Public Resources Code Division 13, Section 21000 et seq.);

b. The city's approval of the construction project including consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA;

c. The approved construction project is consistent with the General Plan or zoning of the site; and

d. Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

3. Operation of a plant site used for mineral processing, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling and on-site recovery of mined materials, subject to all of the following conditions:

a. The plant site is located on lands designated for industrial or commercial uses in the city's General Plan;

b. The plant site is located on lands zoned industrial or commercial, or is contained within a zoning category intended exclusively for industrial activities by the city;

c. None of the minerals being processed is being extracted on site; and

d. All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred on site after January 1, 1976.

4. Prospecting for, or the extraction of, minerals for commercial purposes and removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

5. Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

6. Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.

7. Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

8. Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and post-closure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to on-site excavation and grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavations for materials that are or have been sold for commercial purposes.

9. Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions: (a) the operations are being conducted in accordance with Division 3 (commencing with PRC Section 3000); (b) the operations are consistent with the city's General Plan and the zoning applicable to the site; (c) the earthmoving activities are within oil or gas field properties under a common owner or operator; and (d) no excavated materials are sold for commercial purposes.

E. Vested Rights. No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, state regulations, and this section. Where a person with vested rights has continued surface mining operations in the same area subsequent to January 1, 1976, he shall obtain city approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the reclamation plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).

All other requirements of state law and this section shall apply to vested mining operations.

F. Process.

1. Applications for a site approval or reclamation plan for surface mining or land reclamation projects shall be made on forms provided by the planning department. Said application shall be filed in accord with this section and procedures to be established by the planning director. The forms for reclamation plan applications shall require, at a

minimum, each of the elements required by SMARA (PRC Sections 2772 through 2773) and state regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed reclamation plan, to be established at the discretion of the planning director. As many copies of the site approval application as may be required by the planning director shall be submitted to the planning department.

2. As many copies of a reclamation plan application as may be required shall be submitted in conjunction with all applications for site approvals for surface mining operations. For surface mining operations that are exempt from a site approval pursuant to this section, the reclamation plan application shall include information concerning the mining operation that is required for processing the reclamation plan. All documentation for the reclamation plan shall be submitted to the city at one time.

3. Applications shall include all required environmental review forms and information prescribed by the planning director.

4. Upon completion of the environmental review procedure and filing of all documents required by the planning director, consideration of the site approval or reclamation plan for the proposed or existing surface mine shall be completed pursuant to this section at a public hearing before the city council and pursuant to Section 2774 of the Public Resources Code.

5. The reclamation plan shall be applicable to a specific property or properties and shall be based upon the character of the surrounding area and such characteristics of the property as the type of overburden, vegetation, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities.

6. All reclamation plans shall contain, at a minimum, the following information and documents:

a. The estimated time schedule for the beginning and completion of reclamation activities. If the mining operation is to be accomplished in phases, the time schedule shall indicate the estimated beginning and completion of reclamation activities for each phase.

b. An estimate of the cost of completion of reclamation activities, computed at current cost at the time proposed in the time schedule submitted for completion of the reclamation plan.

c. A description of the existing vegetation at and surrounding the site.

d. A general description of the geology of the surrounding area and a detailed description of the geology at the reclamation site.

e. A description of the proposed use or potential uses of land after reclamation, and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

f. A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished, including:

i. The manner in which mining wastes and related contaminants will be controlled and disposed of.

ii. The manner in which affected streambed channels and stream banks will be rehabilitated to a condition minimizing erosion and sedimentation.

g. An assessment of the effect of implementation of the reclamation plan on future mining in the area.

h. A statement by the applicant that he accepts responsibility for reclaiming mined lands in accordance with the approved reclamation plan.

i. A statement by the applicant that he accepts responsibility for all completed reclamation work for a period of two years or such greater period as deemed necessary by the city council to assure the permanency of all features of the reclamation plan. This subsection shall not apply to normal maintenance and repairs unrelated to the reclamation work on public facilities where dedicated to and accepted by the city of Rancho Cordova.

j. Such other information as the planning department may require.

k. The planning department may waive the filing of one or more of the above items where it is determined unnecessary to process the application subject to the provisions of this chapter.

7. Additional information may be required per a planning department form. Where a reclamation plan is not filed as a part of a surface mining permit, such plan shall be accompanied by an application for separate reclamation plan approval which contains the following information:

a. The names and addresses of the applicant and the mining operator, if different, and of any persons designated by the applicant as his agents for service of process; and

b. The names and addresses of all persons owning a possessory and/or mineral interest in any or all of the property to be used for mining operations.

8. The planning department may deny, without a public hearing, an application for a reclamation plan if such application or plan does not contain the information required in subsection (F)(6) of this section. The planning department may permit the applicant to amend such application.

9. Within 10 days of acceptance of an application as complete for a site approval for surface mining operations and/or a reclamation plan, the planning department shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the 100-year floodplain of any stream, as shown in Zone A of the flood insurance rate maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the planning department shall also notify the State Department of Transportation that the application has been received.

10. The planning department shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and the city's environmental review guidelines.

11. Subsequent to the appropriate environmental review, the planning department shall prepare a staff report with recommendations for consideration by the city council.

12. The city council shall hold at least one noticed public hearing on site approval and/or reclamation plan.

13. Prior to final approval of a reclamation plan, financial assurances (as provided in this section), or any amendments to the reclamation plan or existing financial assurances, the city council shall certify to the State Department of Conservation that the reclamation plan and/or financial assurance complies with the applicable requirements of state law, and submit the plan, assurance, or amendments

to the State Department of Conservation for review. The city council may conceptually approve the reclamation plan and financial assurance before submittal to the State Department of Conservation. If a site approval is being processed concurrently with the reclamation plan, the city council may simultaneously also conceptually approve the site approval. However, the city council may defer action on the site approval until taking final action on the reclamation plan and financial assurances. If necessary to comply with permit processing deadlines, the city council may conditionally approve the Site Approval with the condition that the planning department shall not issue the site approval for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the reclamation plan and financial assurances.

Pursuant to PRC Section 2774(d), the State Department of Conservation shall be given 30 days to review and comment on the reclamation plan and 45 days to review and comment on the financial assurance. The city council shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the state for the city council's approval. In particular, when the city council's position is at variance with the recommendations and objections raised in the state's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the city council shall be promptly forwarded to the operator/applicant.

14. The city council shall then take action to approve, conditionally approve, or deny the site approval and/or reclamation plan, and to approve the financial assurances pursuant to PRC Section 2770(d).

15. The planning department shall forward a copy of each approved site approval for mining operations and/or approved reclamation plan, and a copy of the approved financial assurances, to the State Department of Conservation. By July 1st of each year, the planning department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the site approval or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year.

G. Standards for Reclamation.

1. All reclamation plans shall comply with the provisions of SMARA (Sections 2772 and 2773) and state regulations (CCR Sections 3500 through 3505). Reclamation plans approved after January 15, 1993, reclamation plans for proposed new mining operations, and any substantial amendments to previously approved reclamation plans shall also comply with the requirements for reclamation performance standards (CCR Sections 3700 through 3713).

2. The city may impose additional performance standards, including without limitation standards beyond those cited to make the findings in this chapter, as developed either in review of individual projects, as warranted, or through the formulation and adoption of citywide performance standards.

3. Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that

may be disturbed again in future operations or in connection with approved or proposed development. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the city. Each phase of reclamation shall be specifically described in the reclamation plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

4. Unless otherwise specified in the approved reclamation plan, the reclamation of mined lands shall be carried out in accordance with the following requirements:

a. Reclamation Timing.

i. The reclamation of mined lands shall occur as soon as practical following completion of mining operations at successive locations within the mining site as required by the schedule in the approved reclamation plan.

ii. The reclamation of lands affected by surface mining operations shall be completed within one year of the completion of mining operations, except where the permanent reclaimed condition of mined lands cannot be achieved within one year due to the regulatory approvals (e.g., compliance with the California Environmental Quality Act) required for the ultimate land use contemplated or proposed for the property (e.g., urban development). In such case, only interim reclamation, pursuant to this chapter, need be accomplished within one year, and final reclamation shall be completed as soon as it is possible to complete the reclamation in compliance with the above regulatory approvals, but in no case shall reclamation take more than three years.

b. Disposal of Overburden and Mining Waste.

i. Permanent piles or dumps of overburden and waste rock placed on the land shall be made stable, shall not restrict natural drainage without provision for diversion, and shall have an overall smooth or even profile subject to the satisfaction of the city engineer. Where practical, such permanent piles or dumps shall be located in the least visible location at the mining site.

ii. Old equipment and inert mining wastes shall be removed or buried subject to the approval of the hearing officer.

iii. Toxic materials shall be removed from the site or permanently protected to prevent leaching into the underlying groundwater, to the satisfaction of the planning department.

iv. Overburden and mining waste placed beneath the existing or potential groundwater level which will reduce the transmissivity or area through which water may flow shall be confined to an area approved by the city engineer.

c. Revegetation.

i. All permanently exposed lands that have been denuded by mining operations shall be revegetated to provide ground cover sufficient to control erosion from such lands.

ii. All plantings shall be established and maintained in good horticultural condition. The revegetation shall be able to survive under natural conditions, with native species used whenever possible.

iii. Revegetation methods shall take into account the topography and existing growth patterns and mixes of flora present at and adjacent to the site of mining

operations in order to create a more natural appearance. Plantings shall avoid rigid, geometric patterns and shall utilize natural scatterings.

iv. Where the ultimate intended or proposed use of mined lands would be a level of development inconsistent with extensive permanent vegetation, the amount of vegetation required for reclamation need not be more than is sufficient to prevent erosion.

d. Resoiling.

i. Resoiling measures shall take into consideration the quality of soils which may be required to sustain plant life pursuant to any revegetation that the hearing officer may require in its approval of the applicant's reclamation plan.

ii. Coarse, hard material shall be graded and covered with a layer of finer material or weathered waste. A soil layer shall then be placed on this prepared surface. Where quantities of available soils are inadequate to provide cover, native materials shall be upgraded to the extent feasible for this purpose.

e. Final Slopes.

i. Final slopes shall be engineered and contoured so as to be geologically stable, to control the drainage therefrom, and to blend with the surrounding topography where practical. On the advice of the city engineer, the planning department may require the establishment of terrace drains to control drainage and erosion.

ii. Final slopes shall not be steeper than two feet horizontal to one foot vertical unless the applicant can demonstrate to the planning department's satisfaction that a steeper slope will not:

(A) Reduce the effectiveness of revegetation and erosion control measures where they are necessary; and

(B) Be incompatible with the alternate future uses approved by the city council for the site; and

(C) Be hazardous to persons that may utilize the site under the alternate future uses approved for the site.

f. Drainage, Erosion, and Sediment Control.

i. Any temporary stream or watershed diversion shall be restored to its state prior to any surface mining activities unless the planning department deems otherwise based on recommendations from the city engineer.

ii. Streambed channels and stream banks affected by surface mining shall be rehabilitated to a condition which would minimize erosion and sedimentation, except that such rehabilitation need not attempt to restore or mimic natural conditions where the contemplated or proposed ultimate use of the reclaimed property would be inconsistent with the maintenance of restored or rehabilitated streambed channels and stream banks.

iii. Revegetation and regrading techniques shall be designed and executed so as to minimize erosion and sedimentation. Drainage shall be provided to natural outlets or interior basins designed for water storage, with such basins subject to the approval of the city engineer. In addition, final excavation shall eliminate potholes and similar catchments so as to prevent potential breeding areas for mosquitoes.

iv. The final grading and drainage of the site shall be designed in a manner to prevent discharge of sediment above natural levels existent prior to mining operations.

v. Silt basins which will store water during periods of surface runoff shall be equipped with sediment control and removal facilities and protected spillways designed to minimize erosion when such basins have outlet to lower ground.

vi. No condition shall remain after reclamation which will or could lead to degradation of groundwater quality below applicable standards of the regional water quality control board or any other agency with jurisdiction over water quality.

g. Backfilling and Grading.

i. Subject to the approval of the city engineer, backfilled and graded areas shall be compacted to avoid excessive settlement and to the degree necessary to accommodate anticipated future uses.

ii. Materials used in the refilling shall be of a quality suitable to prevent contamination and/or pollution of groundwater. If materials for backfilling and grading are obtained from an area other than the site of surface mining operations, such materials shall be included and the approximate quantities identified in the applicant's reclamation plan.

h. Reservoirs, ponds, lakes, or any body of water created as a feature of the reclamation plan shall be approved by the city engineer and the planning department.

i. The periodic review of the conditions contained in approved reclamation plans shall be conducted by the planning department in accordance with the schedule adopted at the time such plans were approved. At the time of approval of a permit to mine, the city shall determine whether future public hearings are necessary to consider such new or changed circumstances as physical development near the mining site and improved technological innovations in the field of reclamation which may significantly improve the reclamation process. The city may set a term for such reviews on a case-by-case basis as a condition of the permit if it deems such a review to be necessary. Should a permit be modified pursuant to such a review, the modified permit and/or reclamation plan shall be binding upon the operator and all successors, heirs, and assigns of the applicant.

H. Statement of Responsibility. The person submitting the reclamation plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the reclamation plan. Said statement shall be kept by the planning department in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the planning department for placement in the permanent record.

I. Findings for Approval.

1. Site Approvals. In addition to any findings required by this section, site approvals for surface mining operations shall include a finding that the project complies with the provisions of SMARA and state regulations.

2. Reclamation Plans. For reclamation plans, the following findings shall be required:

a. That the reclamation plan complies with SMARA Sections 2772 and 2773 and any other applicable provisions.

b. That the reclamation plan complies with applicable requirements of state regulations (CCR Sections 3500 through 3505 and 3700 through 3713).

c. That the reclamation plan will restore the mined lands to a usable condition that is readily adaptable for alternative land uses that are consistent with this section

and either (i) the city's General Plan and any applicable resource plan or element, or (ii) probable future uses anticipated by the city to be adopted in future amendments to the city's General Plan, which uses are identified in findings made on approval of the reclamation plan.

d. That the reclamation plan has been reviewed pursuant to CEQA and the city environmental review guidelines, and any significant adverse impacts from reclamation of the surface mining operations are mitigated to the extent feasible.

e. That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.

f. That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that department. Where the city's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

J. Financial Assurances.

1. To ensure that the reclamation will proceed in accordance with the approved reclamation plan, the city shall require as a condition of approval security in the form of a surety bond, trust fund, or irrevocable letter of credit from an accredited financial institution, or other method acceptable to the city and the State Mining and Geology Board as specified in state regulations, and which the city reasonably determines is adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan. Financial assurances shall be made payable to the city of Rancho Cordova and the State Department of Conservation.

2. Financial assurance will be required to ensure compliance with elements of the reclamation plan, including, but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.

3. Cost estimates for the financial assurance shall be submitted to the planning department for review and approval prior to the operator securing financial assurances. The planning director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the city has reason to determine that additional costs may be incurred. The planning director shall have the discretion to approve the financial assurance, if it meets the requirements of this section, SMARA, and state regulations.

4. The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved reclamation plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities necessary to implement the approved reclamation plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual

administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved reclamation plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of 10 percent shall be added to the cost of the financial assurance.

5. In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the city or State Department of Conservation may need to contract with a third-party commercial company for reclamation of the site.

6. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).

7. The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operation, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

8. Revisions to financial assurances shall be submitted to the planning director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

K. Interim Management Plans.

1. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the planning department a proposed interim management plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all site approval conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the planning department and shall be processed as an amendment to the reclamation plan. IMPs shall not be considered projects for the purposes of environmental review.

2. Financial assurances for idle operations shall be maintained as though the operation were active.

3. Upon receipt of a complete proposed IMP, the planning department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least 30 days prior to approval by the city council.

4. Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the planning director and the operator, the city council shall review and approve or deny the IMP in accordance with this section. The operator shall have 30 days, or a longer period mutually agreed upon by the planning director and the operator,

to submit a revised IMP. The city council shall approve or deny the revised IMP within 60 days of receipt.

5. The IMP may remain in effect for a period not to exceed five years, at which time the city council may renew the IMP for another period not to exceed five years or require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

L. Annual Report Requirements. Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the city planning department on a date established by the State Department of Conservation, on forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within 30 days of permit approval or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

M. Inspections. The planning department shall arrange for inspection of a surface mining operation within six months of receipt of the annual report required in subsection (L) of this section (Annual Report Requirements) to determine whether the surface mining operation is in compliance with the approved site approval and/or reclamation plan, approved financial assurances, and state regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the planning director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The planning department shall notify the State Department of Conservation within 30 days of completion of the inspection that said inspection has been conducted and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection.

N. Violations and Penalties. If the planning director, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this section, the applicable site approval, any required permit, and/or the reclamation plan, the city shall follow the procedures set forth in Public Resources Code Sections 2774.1 and 2774.2 concerning violations and penalties, as well as those provisions of the city development code for revocation and/or abandonment of site approval which are not preempted by SMARA.

O. Appeals. Any person aggrieved by an act or determination of the planning department in the exercise of the authority granted herein shall have the right to appeal to the city council. An appeal shall be filed on forms provided, within 15 calendar days after the rendition, in writing, of the appealed decision.

P. Fees. The city shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this section and the state regulations, including, but not limited to, processing of applications, annual reports, inspections,

monitoring, enforcement, and compliance. Such fees shall be paid by the operator, as required by the city, at the time of filing of the site approval application, reclamation plan application, and at such other times as are determined by the city to be appropriate in order to ensure that all reasonable costs of implementing this section are borne by the mining operator.

Q. Mineral Resource Protection. Mine development is encouraged in compatible areas before encroachment of conflicting uses. Except as provided by Public Resources Code Section 2763, mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, as well as existing surface mining operations that remain in compliance with the provisions of this section, shall be protected from the intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the city's General Plan.

In accordance with PRC Section 2762, the city's General Plan and resource maps will be prepared to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the city will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts. [Ord. 12-2011 § 3 (Exh. A); Ord. 27-2008 § 1 (Exh. A § 2.9.080)].



Chapter

IV

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

When Rancho Cordova incorporated as a new city in 2003, the Sacramento County Zoning Code was adopted as the City's interim Zoning Code. The City has since made updates to this code, including a new zoning map, new districts, and updated development standards. Part of this update has included adoption of the Folsom Boulevard Specific Plan. Under this Specific Plan, the land plan includes a simplified approach to zoning (in contrast to the previous zoning) in that it has condensed the land use categories. This reduction of categories allows for more flexibility in what is permitted in each land designation, leaving the development community less restricted in the use that inhabits new development and keeping the focus on quality building form, placement, and orientation. The regulatory approach provided under this Specific Plan will allow this important part of the Rancho Cordova community to transform over time into a series of vibrant mixed-use commercial centers and residential neighborhoods.

This chapter includes the land use plan, permitted uses, and form-based development standards for future development and redevelopment of the Boulevard within City limits. This chapter constitutes the zoning regulations for property within the Folsom Boulevard Specific Plan.

The following summarizes the components of this chapter:

- A. **Land Use Designations** describe the land use districts for the Planning Area and reflect the development assumptions in the development strategy in terms of mix of uses and density and intensity of development. These zoning districts are consistent with the land use policies and designations in the City's General Plan.
- B. **Folsom Boulevard Land Use Map** translates the community's Vision for the Boulevard by applying the new mixed-use land use designations for individual property throughout the corridor. The land use map is reflective of the development strategy for Folsom Boulevard and is informed by a number of economic factors such as market supply and demand analysis and broker/developer insight.
- C. **Permitted Uses Matrix** identifies permitted use provisions for all of the land use categories applied within the Project Area. Permitted use listings are provided by general use category on the basis of common function, product, or compatibility characteristics. For a detailed list of use definitions, please see Chapter IX – Glossary.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

- D. **Development Standards** for each of the land designations listed herein can be found in this section. For each designation, this Specific Plan, along with other development standards (e.g., landscaping requirements, signs, parking development standards) listed in other sections of the Zoning Code as well as relevant Citywide Design Guidelines, are intended to assist property owners and project designers in understanding the City's minimum requirements and expectations for high-quality development. In any case, key features of successful development include relationship to the primary and secondary street frontages, pedestrian access and circulation, and the relationship between uses. Project design must be of high quality and incorporate timeless architecture, providing residential uses with convenient access to services. Where site development standards are in conflict with the site development standards in other parts of the City's Zoning Code, this Specific Plan prevails as it applies to the mixed use zoning districts. The designated approving authority will review development applications against these standards to determine compliance with applicable zoning regulations.

A. LAND USE DESIGNATIONS AND CLASSIFICATIONS

The following land use districts for the Folsom Boulevard Specific Plan reflect the development assumptions in the development strategy in terms of mix of uses and density and intensity of development. The mixed use land use zones established by this chapter are intended to:

- Implement the goals, policies, and land use categories described in the City's General Plan.
- Promote the integration of compatible land uses in a vertical and/or horizontal manner that provides additional opportunities for commercial, office, residential, and industrial uses in the City.
- Promote public health, safety, and welfare.

SPECIFIC PLAN BASE DISTRICTS

Urban Reserve (UR) District

Purpose and Characteristics

The purpose of the Urban Reserve (UR) District is to create a mixed use neighborhood environment where existing businesses continue to serve the community, new residential development (and office development is UR-3) is encouraged, and over time, commercial properties are rebuilt as residential, office or mixed use developments. The UR district is ultimately intended for small lot single-family detached, single-family attached (e.g., townhomes, condominiums, brownstones), small apartment complexes, neighborhood serving retail and service establishments and office buildings (in UR-3 only). This district provides a transition between the single-family residential neighborhoods of the City to the more urban locations near transit stops and commercial centers. The Urban Reserve district is not intended to contain a concentration of commercial uses, since those uses should be focused near transit stations and in commercial "Pulse Point" locations.

The UR has three sub-districts (UR₁, UR₂ and UR₃) which have different characteristics and requirements when new residential or mixed use projects occur. When new development occurs, the required density range of residential development and the mix of allowed uses will vary depended on the sub-district designations:

- UR-1. Required density of between 10.1 and 18 dwelling units per acre. Permitted land uses are listed in Table IV-1 and Table IV-2. The uses listed in Table IV-1 are only permitted in existing Active Commercial Structures. This sub-district is ultimately intended for small lot single-family

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

detached, single-family attached (e.g., townhomes, condominiums, brownstones), and small apartment complexes, and neighborhood serving retail and service establishments. This district provides a transition between the single-family residential neighborhoods of the City to the more urban locations near transit stops and commercial centers.

- UR-2. Required density of between 6.1 and 40 dwelling units per acre. Permitted land uses for the Folsom Boulevard base districts are listed in Table IV-1 and Table IV-2. The uses listed in Table IV-1 are only permitted in existing Active Commercial Structures. While the predominate future development pattern within this district will have a medium to high density housing focus, the City encourages the vertical and/or horizontal integration of commercial and/or office uses that are compatible with residential development, particularly at the edge of neighborhoods to provided needed and compatible services.
- UR-3. This district accommodates the development of office buildings and mixed use projects where office is the predominant use (see OPMU), the district also allows some continuation of existing industrial uses.

Permitted Uses

The uses permitted in the UR District shall be those uses specified in Table IV-1 – Permitted Uses for Active Commercial Structures and Table IV-3 - Permitted Uses for Folsom Boulevard Base Zoning Districts.

Development Standards

The development standards that apply to this district are listed in Section D.

Commercial Mixed Use (CMU) District

Purpose and Characteristics

The purpose of the Commercial Mixed Use (CMU) District is to designate property for vibrant commercial and mixed-use development. While a predominately commercial district, the CMU category is designed to provide for the integration of retail and service commercial uses with office and/or residential uses. In multiple story buildings, retail uses are the predominant use on the ground floor. Commercial retail and service uses (including general retail, personal services, and minor auto services) are permitted by right and more intense commercial and service uses are conditionally permitted. Business and professional office uses, as well as residential uses (density between 10 and 18 units per acre; 10 to 40 units per acre in the Downtown), are also permitted by right when integrated vertically or horizontally with commercial uses.

Permitted Uses

The uses permitted in the CMU District shall be those uses specified in Table IV-3 - Permitted Uses for Folsom Boulevard Base Zoning Districts.

Development Standards

The development standards that apply to this district are listed in Section D.

Office Professional Mixed Use (OPMU) District

Purpose and Characteristics

The purpose of the Office Professional Mixed Use (OPMU) District is to designate property for the development of larger office buildings and business parks with supporting retail and service uses. The predominant use is office, but commercial uses may be integrated into office buildings or located horizontally

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

in freestanding buildings. This district also allows residential uses to be integrated with office use where compatible at a density between 10 and 18 units per acre. Public and quasi-public uses are permitted in this district by right.

Permitted Uses

The uses permitted in the OPMU District shall be those uses specified in Table IV-3 - Permitted Uses for Folsom Boulevard Base Zoning Districts.

Development Standards

The development standards that apply to this district are listed in Section D.

Office Industrial Mixed Use (OIMU) District

Purpose and Characteristics

The purpose of the Office Industrial Mixed Use (OIMU) District is to designate property for a wide range of office and light industrial development. The OIMU district is intended for the seamless integration of office and light industrial uses with supporting retail and service uses. Offices may be developed in an office park setting, but most office and light industrial development stands alone. Commercial and other support services may be integrated vertically and/or horizontally in this district, but the predominant use of integrated developments is office and/or light industrial. Public and quasi-public uses are permitted by right in this district.

Permitted Uses

The uses permitted in the OIMU District shall be those uses specified in Table IV-3 - Permitted Uses for Folsom Boulevard Base Zoning Districts.

Development Standards

The development standards that apply to this district are listed in Section D.

Transportation Corridor (T) District

Purpose and Characteristics

The purpose of the Transportation Corridor (T) District is to designate property specifically for transportation purposes (e.g., light rail tracks/station, multi-modal transportation hubs, park and ride facilities). Such properties typically include transportation infrastructure (e.g., rails, catenaries, signals), but may also include related and supporting uses (e.g., stations with transit and services for riders).

Permitted Uses

The uses permitted in the T District shall be those uses specified in Table IV-3 - Permitted Uses for Folsom Boulevard Base Zoning Districts.

Development Standards

The development standards that apply to this district are listed in Section D.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

SPECIFIC PLAN OVERLAY DISTRICTS

Convention Overlay District

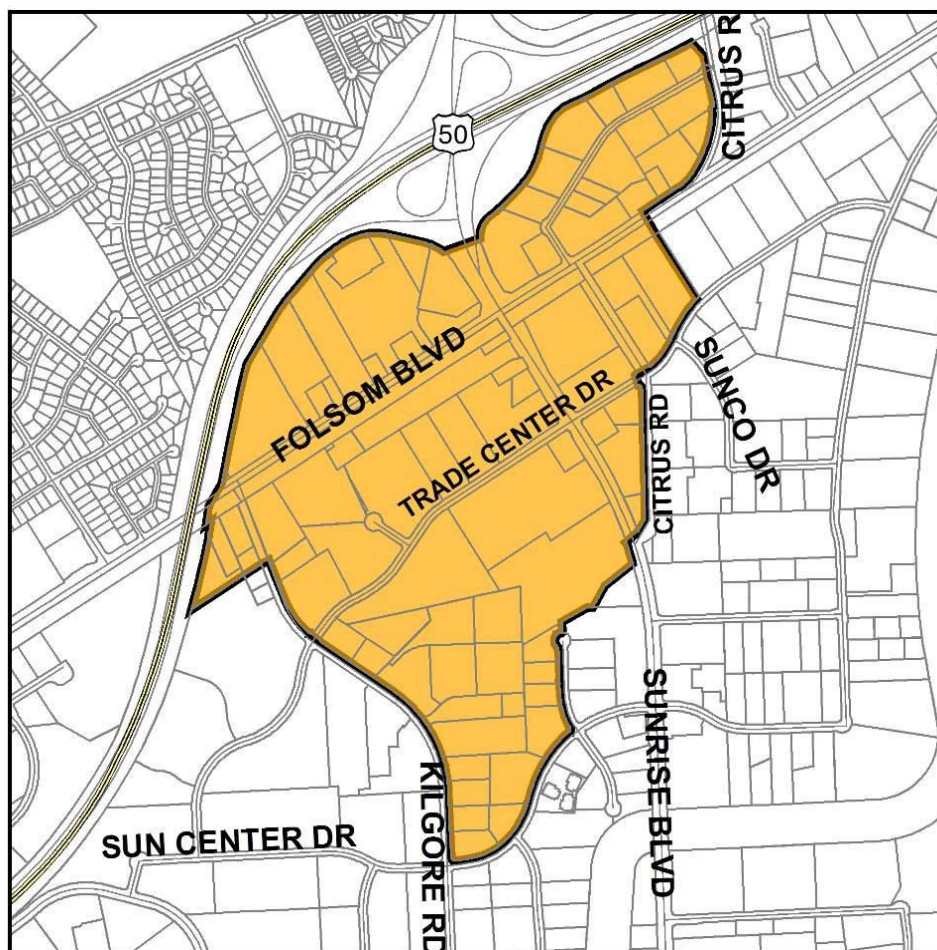
Purpose and Characteristics

The purpose of the Convention Overlay (CO) District is to establish an area in the City specifically for the development of a convention center with related and supporting uses. The Convention District is intended to be a special place in the City that is entertaining, vibrant, and inviting to tourists, visitors, and residents alike. This overlay district supplements the provisions of the underlying base districts for the special purposes identified herein. Where there is conflict between this overlay district and the underlying base district, the overlay district regulations prevail.

Applicability

The Convention Overlay District is applied to those parcels described in Figure IV-1, consistent with the General Plan's Convention Overlay.

Figure IV-1 Convention Center Overlay



PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Permitted Uses

The uses permitted in the Convention Overlay District shall be those uses specified in Table IV-4 - Permitted Uses in the Convention Overlay District.

Development Standards

Development standards for property in the Convention Overlay are included in Section D.

Transit Oriented Development (TOD) Overlay

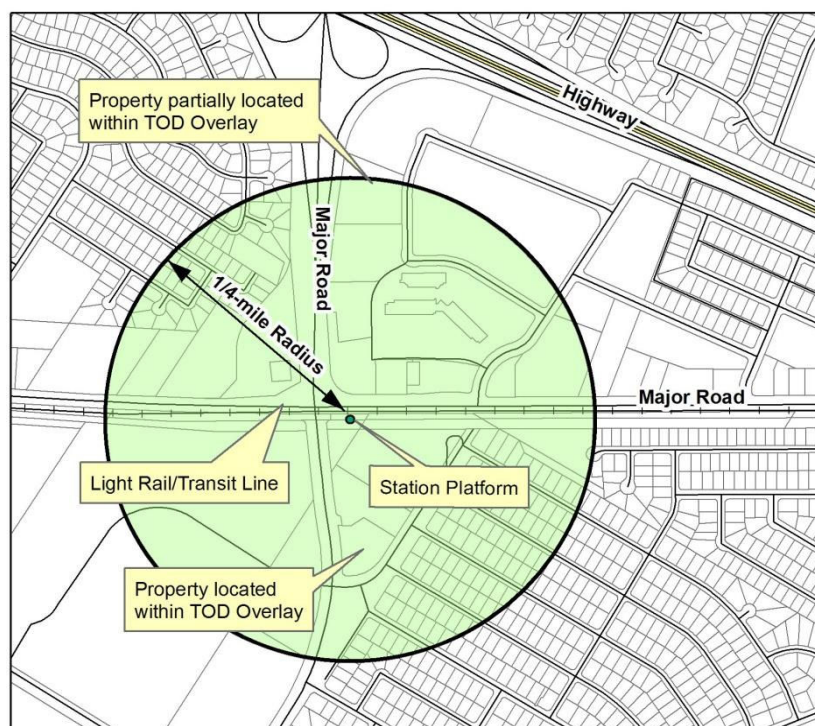
Purpose and Characteristics

The purpose of the Transit Oriented Development (TOD) Overlay is to promote and provide for higher density and intensity uses as part of or in proximity to transit stations. The objective of locating more intensive uses near transit stations is to promote transit services along major transit corridors of the City. The TOD Overlay implements the Local Transit Oriented Development and Regional Transit Oriented Development Land Use Categories of the General Plan.

Applicability

The TOD Overlay shall be applied to properties that are located within one-quarter mile of an existing or planned light rail station within the Folsom Boulevard Specific Plan Area. In determining the extent of the applicability, a circle of one-quarter mile in radius shall be drawn from a central point at the designated station location (e.g., station platform). See Figure IV-2 for a prototypical example of a TOD Overlay.

Figure IV-2 Prototypical TOD Overlay



PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Properties Partially Located within the TOD Overlay

The provisions of the TOD Overlay shall only apply to those portions of property located within the one-quarter mile radius circle. Those portions of parcels designated TOD Overlay but not included within the one-quarter mile radius circle shall have development standards consistent with the underlying base district (see section on Integrated Development as described later in this chapter) and may only be developed consistent with the development standards of the based district. Qualifying integrated developments, as described below, may locate more intense development outside of the one-quarter mile radius circle, provided the provisions of this Section are observed.

Special Standards for Integrated Development

When a portion of an integrated development, as defined in Chapter III, includes both an area designated Transit Oriented Development Overlay and an area not subject to the development standards of the Transit Oriented Development Overlay, the development potential for the site shall be determined on an aggregate basis. For example, if half of a ten acre site is designated Transit Oriented Development Overlay and the other half is designated Commercial Mixed Use, then the development potential of the first half is 400 dwelling units (80 du/ac x 5 acres) and the potential of the second half is 90 dwelling units (18 du/ac x 5 acres), resulting in a total potential of 490 dwelling units. Consistent with the provisions for integrated developments, the 490 dwelling units may be located anywhere within the development, except that the majority of the units shall be located within the one-quarter mile radius. The Designated Approving Authority, as part of Design Review, may allow the majority of the units to be located outside of the quarter mile radius, provided that pedestrian uses and gathering spaces are located within the radius and connect the residential area(s) to the transit station.

Development Standards

Development standards for property in the TOD Overlay are included in Section D - Form-Based Development Standards.

B. THE LAND PLAN/ZONING MAP

The Folsom Boulevard Specific Plan land use policies establish seven base districts for the Project Area as shown in the Land Use Map in Figure IV-3. The districts include Urban Reserve Districts (UR₁, UR₂ and UR₃), Commercial Mixed Use (CMU) District, Office Professional Mixed Use (OPMU) District, Office Industrial Mixed Use (OIMU) District, and Transportation Corridor (T) District. In addition, two overlay districts are identified: Convention Overlay (CO) and Transit-Oriented Development (TOD) Overlay Districts. These base districts and overlay districts will facilitate the Planning Area's transformation from its current land use configuration to the one described by the Specific Plan's vision. This configuration includes the mixing of commercial retail and service uses, office uses, and residences at pulse point activity centers, the inclusion of new mixed-density neighborhoods and the densification of existing neighborhoods throughout the Planning Area, and the continued inclusion of light industrial and office uses in select locations.

The proposed land plan and designations introduce significant changes to the existing land use pattern along Folsom Boulevard. Currently, the Boulevard is lined with automobile-oriented commercial retail and service uses. The Specific Plan seeks to focus these commercial activities in combination with office and residential uses at the pedestrian-oriented, mixed-use pulse points. Planned land use designations for parcels in the vicinity of pulse points includes a combination of CMU, OPMU, and UR designations. In addition, policies give preference to replacing vacated and underutilized commercial areas with new mixed-density residential developments and increasing the density of a few existing residential areas along the Boulevard.

The land plan also creates changes to the land use pattern south of Folsom Boulevard. Today, parcels in the area between Routier Road and Mather Field Road feature industrial, office, and warehouse uses. The plan

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

calls for the eventual transformation of industrial and warehouse uses in this area, expanding office uses and introducing commercial service uses onto all of the parcels adjacent to Mather Field Road, and developing the remainder of the properties in the area into a new mixed-density residential neighborhood. In addition, the area bounded by Bradshaw Road and Routier Road currently includes a low-density residential neighborhood and a mixture of industrial, office, and warehouse uses. This plan allows for an increase in residential densities in the neighborhood (of high-quality development) and the eventual transformation of warehouse uses for a new employment area of office and light industrial development in proximity to supportive uses and transit. The planned designation for this area includes a combination of UR and OIMU.

The Specific Plan also allows, by right, public and quasi-public uses in all base districts, except the T District.

C. PERMITTED USES

PERMITTED LAND USES AND PERMIT REQUIREMENTS

Permitted land uses are listed in Table IV-1, Table IV-2, and Table IV-3 (and Table IV-4 for Convention Center Overlay). The uses listed in Table IV-1 are only permitted in existing Active Commercial Structures and Building Replacements as defined below, and the use listed in Table IV-2 are only permitted in existing Active Industrial Structures. Use listings are grouped by a general category on the basis of common function, product, or compatibility characteristics and are defined in Chapter IX – Glossary.

ACTIVE COMMERCIAL STRUCTURES IN UR-1 AND UR-2

Within the boundaries of the FBSP, an Active Commercial Structure is defined as a permanent building completely, or partially occupied and used for commercial purposes. The existing commercial use must be listed as permitted (with or without a use permit) on Table IV-1. Existing commercial uses not listed on Table IV-1 are considered Non-Conforming Uses and are subject to the requirements of Section E of this Chapter. Properties containing Active Commercial Structures are also eligible for conversion to any use listed on Table IV-2.

A commercial structure is considered to be inactive after a period of three years or more without an active commercial use within any portion of the building and without an active commercial lease. The commercial use or lease must be for a use listed in Table IV-1. If a building is determined to be an Inactive Commercial Structure the property is only eligible for the list of residentially focused uses listed in Table IV-3 within the UR-1 or UR-2 sub-districts. To be declared an Inactive Commercial Building, the City must follow the procedure outlined below.

DETERMINATION PROCEDURE FOR INACTIVE COMMERCIAL STRUCTURE

Any buildings that were completely vacant and without an active lease prior to the initial adoption of this Specific Plan on June 30, 2008 are considered to be Inactive Commercial Structures without any additional action required by the City to make this determination. For buildings that became vacant after June 30, 2008, the determination procedure in this section applies.

If a building is inactive for a period longer than three years, the City may initiate an Inactive Commercial Structure determination procedure. To be considered an Inactive Commercial Structure all of the following must apply:

- The structure has not contained a permitted use as listed in Table IV-1 for a period of three years (thirty-six months) or longer;

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

- The structure is not currently under lease to a legitimate business enterprise that is known to operate a commercial establishment that is listed as permitted use on Table IV-1.
[One year after the date that the lease expires, the building will be considered an Inactive Commercial Structure without any additional action required by the City. A lease that is renewed while the building is vacant does not extend the thirty-six month time period.]

If a building is classified as an Inactive Commercial Structure then the property is only eligible for uses listed on Table IV-3. The following procedure will classify a building as an Inactive Commercial Structure:

- a. The City Planning Department will notify the property owner in writing that the commercial structure on the property in question has been classified as an Inactive Commercial Structure and that this classification will result in a reduction in the range of commercial uses available for the property.
- b. The property owner will have 90 days to appeal this determination in writing to the Planning Department. If no appeal is filed then the determination will stand. If an appeal is filed then a hearing will be conducted by the Planning Director to determine the merit of the objection.
- c. Upon appeal the following evidence is required:
 1. The property owner shall demonstrate that the building has contained an active commercial use that is listed on Table IV-1 at some point within the last thirty-six months and, if required, present a valid use permit; or
 2. If the property is vacant but currently under lease to a third party and is not available for re-occupation by a different user at this time, the property owner must demonstrate existence of this lease and that the business occupied the building prior to vacating. The lease must be for a legitimate commercial enterprise that is known for operating a business that is listed as a permitted use on Table IV-1. If required for the specified use, a use permit must be provided.
- d. The appeal could have three potential outcomes:
 1. The property owner is unsuccessful in the appeal and the Planning Director decision stands. When new development occurs it must comply with the use listings in Table IV-3 and related requirements.
 2. The property owner is successful in demonstrating that an active commercial use, listed on Table IV-1 was occupying the structure within the last thirty-six months. However, the building is now vacant. This information will be used to determine when the thirty-six month clock began. After the end of the newly established thirty-six month period, the building will be classified as an Inactive Commercial Structure without any additional action necessary by the City.
 3. The property owner is successful in demonstration that the commercial structure is currently under an active lease for a legitimate commercial enterprise that is known for operating a business that is listed as a permitted use on Table IV-1. One year after the date that the lease expires, the building will be considered an Inactive Commercial Structure without any additional action required by the City. A lease that is renewed while the building is vacant does not extend the thirty-six month time period.
- e. All code violations shall be adequately addressed prior to any additional City approvals related to the property or structure.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

PERMITTED EXPANSION OF ACTIVE COMMERCIAL BUILDINGS IN UR-1 AND UR-2

Buildings classified as active Commercial Structures within the UR district may be expanded or improved within the following limits. Both limits apply and must be met:

- a. The new floor area to be created by the expansion of the commercial structure shall not exceed twenty-five percent (25%) of the existing floor area of the existing structure; and
- b. The value of the improvement, as verified by the Building Official, shall not exceed fifty percent (50%) of the assessed value of the existing structure according to the most recent County tax assessor data unless a more recent appraisal is submitted by the applicant.

Expansions or improvements that exceed the above limits are prohibited. The intent of these limits is to limit the life-span of commercial buildings to encourage commercial properties to convert to residential use or mixed-use developments within the Urban Reserve zoning district.

SIMILAR USES

When a use is not specifically listed in this Specific Plan, it shall be understood that the use may be permitted if the Planning Director determines that the use is similar to other uses listed. It is further recognized that every conceivable use cannot be identified in this Specific Plan and, anticipating that new uses will evolve over time, this section establishes the Director's authority to compare a proposed use and evaluate its similarities, operation, impacts, or scale to those uses listed in this Specific Plan. In determining "similarity," the Director shall make all of the following findings:

- a. The characteristics of and activities associated with the proposed use are equivalent to one or more of the listed uses and will not involve a higher level of activity or population density than the uses listed in the district.
- b. The proposed use will be consistent with the purposes of the applicable land use district.
- c. The proposed use will be consistent with the General Plan and this Specific Plan.

Determinations will be made in writing and will contain the facts that support the determination. The Department will maintain all such determinations on record at the public counter for review by the general public. All determinations will be provided to the Planning Commission, City Council, City Manager, City Attorney, and City Clerk as an information item within 30 days of the Director's determination. The Director's decision may be appealed as addressed in the Appeals section of the City's Zoning Code.

BUILDING REPLACEMENT POLICY

The City recognizes that replacement (demolition and rebuilt anew) of stand-alone commercial buildings provide new services, employment opportunities, and other quality of life benefits to the City's residents. Individual building replacements may not be able to meet the development standards of the Folsom Boulevard Specific Plan. Notwithstanding any other provisions of the Specific Plan, buildings classified as Active Commercial Structures or existing vacant commercial buildings within the Folsom Boulevard Specific Plan may be torn down and replaced with new commercial buildings, subject to the following limitations:

- The new building may be smaller than the existing building by no more than a 5% reduction in gross square footage; and

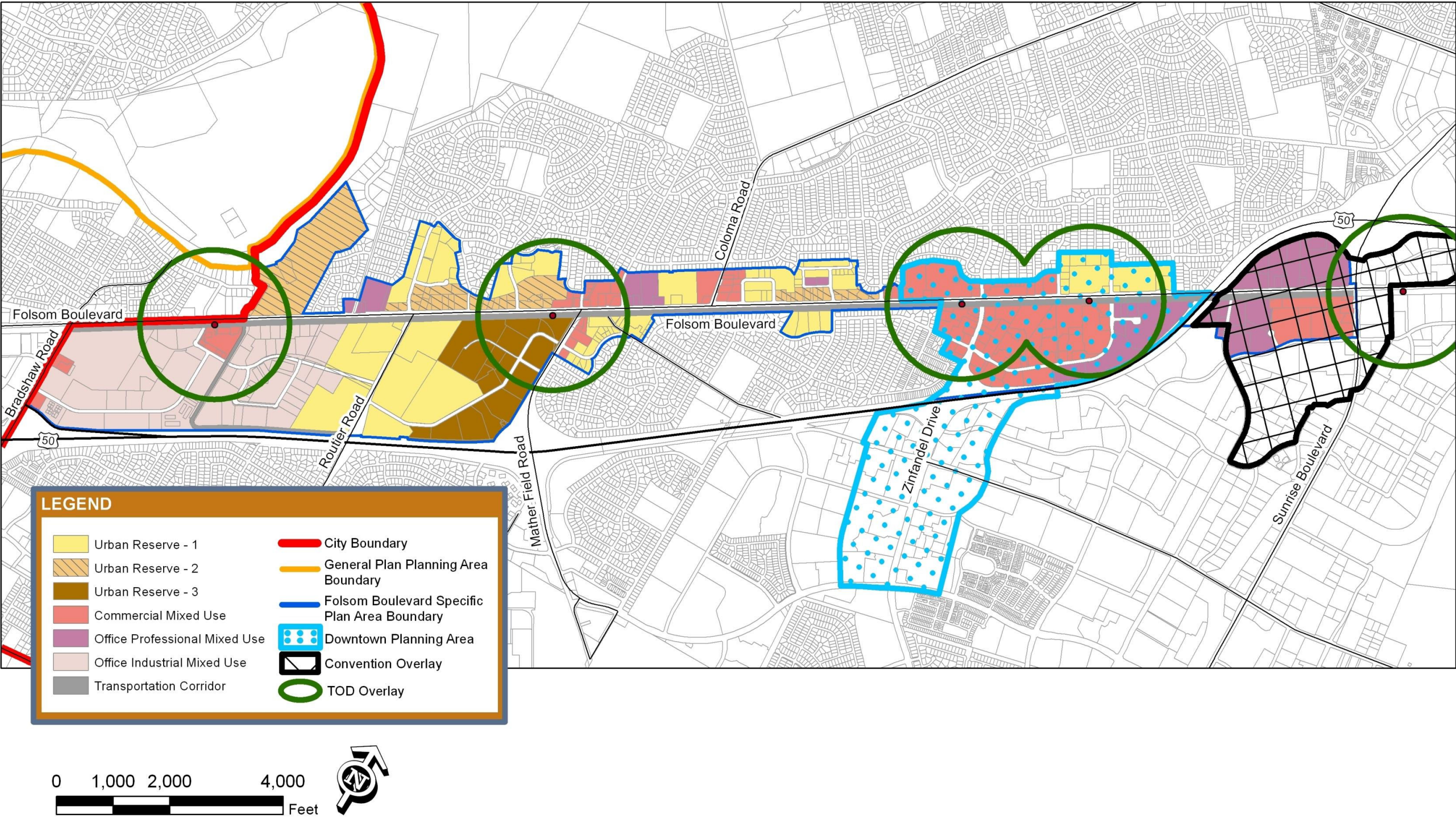
PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

- The new building must be proposed within the same approximate footprint of the existing building; and
- The new building shall not exceed 10,000 square feet; and
- No more than 25% of the total building square footage within an integrated development, as defined in Section 23.707.020 of the Zoning Code, can be replaced as described herein; and
- The new use proposed to occupy the new building must not result in substandard parking as regulated by Chapter 23.719 of the Zoning Code for the commercial development; and
- The new building shall not obstruct existing pedestrian amenities (sidewalks, outdoor plazas, patio areas) within the overall site.

To the extent practical, buildings replaced under this policy should comply with the Specific Plan development standards. Allowed uses within Building Replacements are found in Table IV-1. Buildings that are replaced consistent with this policy are not required to obtain approval of an Exception but, shall be subject to Design Review as required by Sections 23.140 or 23.141 of the Zoning Code. Applications that do not qualify under the Building Replacement Policy provisions above may be considered under Section F, Exceptions. Buildings that have been deemed Inactive Commercial Structures by the process identified in Section C, Determination Procedure for Inactive Commercial Structure, above may not be replaced.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Figure IV-3 Folsom Boulevard Specific Plan Land Use Diagram



PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

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PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

PERMITTED USE TABLE FOR ACTIVE COMMERCIAL STRUCTURES

Table IV-1 below identifies permitted use provisions for uses within Active Commercial Structures (as defined on page IV-8) within the Urban Reserve (UR) 1 and 2 Districts only. Definitions of each use are established in Chapter IX – Glossary. Many uses that are not permitted within the FBSP, are permitted, or conditionally permitted, in one or more other zones outside of the FBSP area. Please consult the City's Municipal Code for applicable zoning.

Permitted use provisions are symbolized in the table as follows:

- P = land use permitted by right
- L = land use permitted with approval of a Limited Use Permit
- C = land use permitted with approval of a Conditional Use Permit
- N = land use not permitted

Table IV-1 Permitted Uses for Active Commercial Structures in UR-1 and UR-2 Districts only

Land Use – Use Classification	
Residential Use Listings	
Live-Work Facility	P ¹
Recreation, Education, and Public Assembly Uses	
Clubs, Lodges, Private Meeting Halls	P
Indoor Amusement/ Entertainment	P
Indoor Fitness and Sports Facilities	P
Libraries and Museums	P
Outdoor Commercial Recreation	C
Parks and Public Plazas	P
Public Safety Facility	P
Religious Institutions	P
Schools – Public	P
Schools – Private, Special/Studio	P
Theatres and Auditoriums	P
Utility, Transportation, and Communication Use Listings	
Heliports	N
Park and Ride Facility	N
Telecommunications Facility	C ³
Transit Stations and Terminals	N
Utility Facility and Infrastructure	L ⁴
Retail, Services, and Office Listings	

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Land Use – Use Classification	
Adult-Related Business	N
Alcoholic Beverage Sales	C
Banks and Financial Services	P
Bars and Nightclubs	C ⁵
Bed and Breakfast	N
Building Materials Stores and Yards	P ^{6,7}
Business Support Services	P
Drive-in/Drive-through sales/services	C
Equipment Sales and Rental	N
Home Improvement Supplies	L ²
Hotels/Motels	P
Kennels	C
Medical Services – Extended Care	C
Medical Services - General	P
Medical Services – Hospital	P
Office – Business and Professional	L ²
Office – Accessory	P
Offices – Temporary	P
Personal Services	P
Restaurants	P
Retail – Accessory	P
Retail - General	P
Veterinary Facility	P
Automotive and Vehicle Use Listings	
Auto Parts Sales	P ⁷
Auto/Vehicle Retail Sales/Rental	C
Auto and Vehicle Sales, Wholesale	N
Auto and Vehicle Storage	N
Car Wash and Detailing	C ⁶
Service Stations	C
Vehicle Services – Major	N
Vehicle Services – Minor	C ⁶
Industrial, Manufacturing, and Processing Use Listings	
Fuel Storage and Distribution	N

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Land Use – Use Classification	
Manufacturing – Major	N
Manufacturing – Minor	N
Manufacturing – Small Scale	P
Personal Storage Facility	N
Printing and Publishing	C
Recycling Facility – Collection	C
Recycling Facility – Processing	N
Recycling Facility–Scrap/Dismantling	N
Research and Development	N
Storage yards	N
Warehousing and Distribution	N
Special Regulated Uses	
Card Rooms	N
Check Cashing Businesses	N
Massage Parlor	N
Pawn Shops	N
Recycling Facility / Collection Facility	N
Sexually Oriented Businesses	N
Smoke Shops	N
Tattoo Parlors	N
Thrift Stores	N

Notes:

1. Shall not exceed 18 dwelling units per acre.
2. This use is limited as specified only in conjunction with the predominant use of the mixed use district. In other words, this use is only allowed as part of an integrated development and is permitted with approval of a Limited Use Permit by the Planning Director.
3. Subject to the provisions for Transmission Facilities and Utility and Public Service sections of the City Zoning Code.
4. Subject to the provisions for Wireless Communication Facilities section of the City Zoning Code.
5. All forms of speaker amplification exterior to the building shall be prohibited unless authorized in combination with project approval or amendment thereto.
6. All activities shall occur within a completely enclosed building or shall be located behind a solid/screened enclosure directly adjacent to the building.
7. Maximum gross floor area is less than 5,000 square feet.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

ACTIVE INDUSTRIAL STRUCTURES IN UR-3

Within the boundaries of the FBSP, an Active Industrial Structure is defined as a permanent building completely, or partially occupied and used for industrial purposes. The existing industrial use must be listed as permitted (with or without a use permit) on Table IV-2. Existing industrial uses not listed on Table IV-2 are considered Non-Conforming Uses and are subject to the requirements of Section E of this Chapter. Properties containing Active Industrial Structures are also eligible for conversion to uses listed on Table IV-3.

An industrial structure is considered to be inactive after a period of three years or more without an active industrial use within any portion of the building and without an active industrial lease. The industrial use or lease must be for a use listed in Table IV-2. If a building is determined to be an Inactive Industrial Structure, the property is only eligible for the list of permitted uses listed in Table IV-3 within the base district (e.g. OPMU or UR-3). To be declared an Inactive Industrial Building, the City must follow the procedure outlined below.

DETERMINATION PROCEDURE FOR INACTIVE INDUSTRIAL STRUCTURE

Any buildings that were completely vacant and without an active lease prior to the initial adoption of this Specific Plan are considered to be Inactive Industrial Structures without any additional action required by the City to make this determination. For buildings that became vacant after the Specific Plan was adopted, the determination procedure in this section applies.

If a building is inactive for a period longer than three years, the City may initiate an Inactive Industrial Structure determination procedure. To be considered an Inactive Industrial Structure all of the following must apply:

- The structure has not contained a permitted use as listed in Table IV-2 for a period of three years (thirty-six months) or longer;
- The structure is not currently under lease to a legitimate business enterprise that is known to operate an industrial establishment that is listed as permitted use on Table IV-2.
[One year after the date that the lease expires, the building will be considered an Inactive Commercial Structure without any additional action required by the City. A lease that is renewed while the building is vacant does not extend the thirty-six month time period.]

If a building is classified as an Inactive Industrial Structure, then the property is only eligible for uses listed on Table IV-3. The following procedure will classify a building as an Inactive Industrial Structure:

- a. The City Planning Department will notify the property owner in writing that the industrial structure on the property in question has been classified as an Inactive Industrial Structure and that this classification will result in a reduction in the range of industrial or commercial uses available for the property.
- b. The property owner will have 90 days to appeal this determination in writing to the Planning Department. If no appeal is filed then the determination will stand. If an appeal is filed then a hearing will be conducted by the Planning Director to determine the merit of the objection.
- c. Upon appeal the following evidence is required:
 1. The property owner shall demonstrate that the building has contained an active industrial use that is listed on Table IV-2 at some point within the last thirty-six months and, if required, present a valid use permit; or

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

2. If the property is vacant but currently under lease to a third party and is not available for re-occupation by a different user at this time, the property owner must demonstrate existence of this lease and that the business occupied the building prior to vacating. The lease must be for a legitimate industrial enterprise that is known for operating a business that is listed as a permitted use on Table IV-2. If required for the specified use, a use permit must be provided.
- d. The appeal could have three potential outcomes:
 1. The property owner is unsuccessful in the appeal and the Planning Director decision stands. When new development occurs it must comply with the use listings in Table IV-3 and related requirements.
 2. The property owner is successful in demonstrating that an active industrial use, listed on Table IV-2 was occupying the structure within the last thirty-six months. However, the building is now vacant. This information will be used to determine when the thirty-six month clock began. After the end of the newly established thirty-six month period, the building will be classified as an Inactive Industrial Structure without any additional action necessary by the City.
 3. The property owner is successful in demonstration that the industrial structure is currently under an active lease for a legitimate industrial enterprise that is known for operating a business that is listed as a permitted use on Table IV-2. One year after the date that the lease expires, the building will be considered an Inactive Industrial Structure without any additional action required by the City. A lease that is renewed while the building is vacant does not extend the thirty-six month time period.
- e. All code violations shall be adequately addressed prior to any additional City approvals related to the property or structure.

PERMITTED EXPANSIONS OF ACTIVE INDUSTRIAL BUILDINGS IN UR-3

Buildings classified as Active Industrial Structures within the UR-3 district may be expanded, replaced or improved within the following limits. Both limits apply and must be met:

- a. The new floor area to be created by the expansion of the industrial structure shall not exceed twenty-five percent (25%) of the existing floor area of the existing structure; and
- b. The value of the improvement, as verified by the Building Official, shall not exceed fifty percent (50%) of the assessed value of the existing structure according to the most recent County tax assessor data unless a more recent appraisal is submitted by the applicant.

Expansions, improvements or building replacements that exceed the above limits are prohibited. The intent of these limits is to limit the life-span of industrial buildings to encourage such properties to convert to residential use or mixed-use developments within the Urban Reserve zoning district.

SIMILAR USES

When a use is not specifically listed in this Specific Plan, it shall be understood that the use may be permitted if the Planning Director determines that the use is similar to other uses listed. It is further recognized that every conceivable use cannot be identified in this Specific Plan and, anticipating that new uses will evolve over time, this section establishes the Director's authority to compare a proposed use and evaluate its similarities, operation, impacts, or scale to those uses listed in this Specific Plan. In determining "similarity," the Director shall make all of the following findings:

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

- a. The characteristics of and activities associated with the proposed use are equivalent to one or more of the listed uses and will not involve a higher level of activity or population density than the uses listed in the district.
- b. The proposed use will be consistent with the purposes of the applicable land use district.
- c. The proposed use will be consistent with the General Plan and this Specific Plan.

Determinations will be made in writing and will contain the facts that support the determination. The Department will maintain all such determinations on record at the public counter for review by the general public. All determinations will be provided to the Planning Commission, City Council, City Manager, City Attorney, and City Clerk as an information item within 30 days of the Director's determination. The Director's decision may be appealed as addressed in the Appeals section of the City's Zoning Code.

Permitted Use Table for ACTIVE INDUSTRIAL Structures

Table IV-2 below identifies permitted use provisions for uses within Active Industrial Structures (as defined on page IV-16) within the Urban Reserve 3 (UR-3) District only. Definitions of each use are established in Chapter IX – Glossary. Many uses that are not permitted within the FBSP, are permitted, or conditionally permitted, in one or more other zones outside of the FBSP area. Please consult the City's Municipal Code for applicable zoning.

Permitted use provisions are symbolized in the table as follows:

- P = land use permitted by right
- L = land use permitted with approval of a Limited Use Permit
- C = land use permitted with approval of a Conditional Use Permit
- N = land use not permitted

Table IV-2 Permitted Uses for Active Industrial Structures in UR-3 Districts only

Land Use – Use Classification	
Residential Use Listings	
Adult Day Care Home	N
Child Day Care Facility	C
Caretaker Housing	P
Dwelling, Multifamily	L ^{1,2}
Dwelling, Second Unit	N
Dwelling, Single-family	L ^{1,2}
Dwelling, Two-family	L ^{1,2}
Emergency Shelter	C
Family Day Care Home, Small	N

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Land Use – Use Classification	
Family Day Care Home, Large	N
Home Occupation	P
Live-Work Facility	P ¹
Residential Care Home	N
Community Service Use Listings	
Clubs, Lodges, Private Meeting Halls	P
Indoor Amusement/ Entertainment	L
Indoor Fitness and Sports Facilities	L
Libraries and Museums	P
Outdoor Commercial Recreation	C
Parks and Public Plazas	P
Public Safety Facility	P
Religious Institutions	L
Schools – Public	P
Schools – Private, Special/Studio	P
Theatres and Auditoriums	P
Utility, Transportation, and Communication Use Listings	
Heliports	C
Park and Ride Facility	P
Telecommunications Facility	P ⁴
Transit Stations and Terminals	P
Utility Facility and Infrastructure	P ⁸
Retail, Service, and Office Listings	
Adult-Related Business	N
Alcoholic Beverage Sales	C
Banks and Financial Services	P
Bars and Nightclubs	C ⁶
Bed and Breakfast	N
Building Materials Stores and Yards	P ²
Business Support Services	P ²
Drive-in/Drive-through sales/services	C ^{2, 9}
Equipment Sales and Rental	P ⁷
Home Improvement Supplies	P ⁷
Hotels/Motels	P

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Land Use – Use Classification	
Kennels	L
Medical Services – Extended Care	N
Medical Services - General	P
Medical Services – Hospital	P
Office – Business and Professional	P
Office – Accessory	P
Offices – Temporary	P
Personal Services	P
Restaurants	L
Retail – Accessory	P
Retail - General	L
Veterinary Facility	P
Automotive and Vehicle Use Listings	
Auto Parts Sales	L
Auto/Vehicle Retail Sales/Rental	N
Auto and Vehicle Sales, Wholesale	C
Auto and Vehicle Storage	C
Car Wash and Detailing	P
Service Stations	C
Vehicle Services – Major	C
Vehicle Services – Minor	C
Auto Vehicle Dismantling	N
Industrial, Manufacturing, and Processing Use Listings	
Fuel Storage and Distribution	N
Manufacturing – Major	L
Manufacturing – Minor	P
Manufacturing – Small Scale	P ⁷
Personal Storage Facility	N
Printing and Publishing	P
Recycling Facility – Collection	N
Recycling Facility – Processing	N
Recycling Facility–Scrap/Dismantling	N
Research and Development	P
Storage Yards	N

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Land Use – Use Classification	
Warehousing and Distribution	P
Special Regulated Uses	
Card Rooms	N
Check Cashing Businesses	N
Massage Parlor	N
Pawn Shops	N
Recycling Facility, Collection Facility	N
Sexually Oriented Businesses	N
Smoke Shops	N
Tattoo Parlors	N
Thrift Store	N

Notes:

1. Shall not exceed 18 dwelling units per acre.
2. This use is limited as specified only in conjunction with the predominant use of the mixed use district. In other words, this use is only allowed as part of an integrated development and is permitted with approval of a Limited Use Permit by the Planning Director.
3. Subject to the provisions for Transmission Facilities and Utility and Public Service sections of the City Zoning Code.
4. Subject to the provisions for Wireless Communication Facilities section of the City Zoning Code.
5. All forms of speaker amplification exterior to the building shall be prohibited unless authorized in combination with project approval or amendment thereto.
6. All activities shall occur within a completely enclosed building or shall be located behind a solid/screened enclosure directly adjacent to the building.
7. Maximum gross floor area is less than 5,000 square feet.
8. Subject to the provisions for Utility, Facilities and Infrastructure section of the City Zoning Code (23.907.030).
9. Limited to a maximum of 25% of the gross floor area of an integrated development.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

PERMITTED USE TABLE FOR BASE DISTRICTS

Table IV-3 below identifies permitted use provisions for all base districts. Definitions of each use are established in Chapter IX - Glossary.

Permitted use provisions are symbolized in the table as follows:

- P = land use permitted by right
- L = land use permitted with approval of a Limited Use Permit
- C = land use permitted with approval of a Conditional Use Permit
- N = land use not permitted

Table IV-3 Permitted Uses for Folsom Boulevard Base Zoning Districts

Land Use – Use Classification	Zoning Districts						
	UR-1	UR-2	UR-3	CMU	OPMU	OIMU	T
Residential Use Listings							
Adult Day Care Home	P	P	N	N	N	N	N
Child Day Care Facility	C	P	C	C	C	C	N
Caretaker Housing	P	P	P	P	P	P	N
Dwelling, Multifamily	P ¹	P ¹	L ^{1,2}	L ^{1,2}	L ^{1,2}	N	N
Dwelling, Second Unit	P ³	P ³	N	N	N	N	N
Dwelling, Single-family	P ¹	P ¹	L ^{1,2}	L ^{1,2}	L ^{1,2}	N	N
Dwelling, Two-family	P ¹	P ¹	L ^{1,2}	L ^{1,2}	L ^{1,2}	N	N
Emergency Shelter	C	C	N	N	N	N	N
Family Day Care Home, Small	P	P	N	N	N	N	N
Family Day Care Home, Large	C	C	N	N	N	N	N
Home Occupation	P	P	P	P	P	N	N
Live-Work Facility	P ¹	P ¹	P ¹	P ¹	P ¹	N	N
Residential Care Home	P	P	N	N	N	N	N
Community Service Use Listings							
Clubs, Lodges, Private Meeting Halls	N	P ¹¹	P	P	P	P	N
Indoor Amusement/ Entertainment	N	C ¹¹	P	P	P	P	N
Indoor Fitness and Sports Facilities	N	C ¹¹	P	P	P	C	N
Libraries and Museums	P	P ¹¹	P	P	P	P	N
Outdoor Commercial Recreation	N	N	P	C	P	P	N

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Land Use – Use Classification	Zoning Districts						
	UR-1	UR-2	UR-3	CMU	OPMU	OIMU	T
Parks and Public Plazas	P	P ¹¹	P	P	P	P	P
Public Safety Facility	P	P ¹¹	P	P	P	P	P
Religious Institutions	P	P ¹¹	P	P	P	P	N
Schools – Public	P	P ¹¹	P	P	P	P	N
Schools – Private, Special/Studio	P	P ¹¹	P	P	P	P	N
Theatres and Auditoriums	N	C ¹¹	P	P	P	P	N
Utility, Transportation, and Communication Use Listings							
Heliports	N	N	C	C	C	C	N
Park and Ride Facility	N	C ¹¹	P	P	P	P	L ¹⁵
Telecommunications Facility	C ⁴	C ^{4, 11}	P ⁴	C ⁴	P ⁴	P ⁴	C
Transit Stations and Terminals	N	C ¹¹	P	P	P	P	P
Utility Facility and Infrastructure	L ⁵	L ^{5, 11}	L ⁵	L ⁵	L ⁵	L ⁵	P
Retail, Service, and Office Listings							
Adult-Related Business	N	N	N	N	N	N	N
Alcoholic Beverage Sales	N	C ¹¹	C	C	C	C	N
Banks and Financial Services	N	P ¹¹	P	P	P	P	N
Bars and Nightclubs	N	C ^{6, 11}	C ⁶	C ⁶	C ⁶	C ⁶	N
Bed and Breakfast	C	P ¹¹	N	N	N	N	N
Building Materials Stores and Yards	N	N	N	P ⁷	N	C ⁷	N
Business Support Services	N	L ^{7, 8, 11}	P	P	P	P	N
Drive-in/Drive-through sales/services	N	N	C ⁹	C	C ⁹	N	N
Equipment Sales and Rental	N	N	N	N	N	P	N
Home Improvement Supplies	N	L ^{2, 11}	L ²	L ²	L ²	P	N
Hotels/Motels	N	C ¹¹	P	P	P	C	N
Kennels	N	N	N	C	N	L	N
Medical Services – Extended Care	C	P ¹¹	N	C	N	N	N
Medical Services - General	N	P ¹¹	P	P	P	P	N
Medical Services – Hospital	N	P ¹¹	P	P	P	P	N
Office – Business and Professional	N	L ^{2, 11}	P	L ²	P	P	N
Office – Accessory	N	P ¹¹	L ¹¹	P	L ¹¹	L ¹¹	N
Offices – Temporary	P	P ¹¹	P	P	P	P	N
Personal Services	N	P ^{8, 11}	P	P	P	P	N

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Land Use – Use Classification	Zoning Districts						
	UR-1	UR-2	UR-3	CMU	OPMU	OIMU	T
Restaurants	N	L ^{2, 11}	L ²	P	L ²	L ²	N
Retail – Accessory	N	L ^{2, 11}	L ⁹	P	L ⁹	L ⁹	N
Retail - General	N	L ^{2, 11, 12}	N	P	N	N	N
Veterinary Facility	N	N	P	P	P	P	N
Automotive and Vehicle Use Listings							
Auto Parts Sales	N	N	N	P ¹³	N	N	N
Auto/Vehicle Retail Sales/Rental	N	N	N	C	N	N	N
Auto and Vehicle Sales, Wholesale	N	N	N	N	N	C	N
Auto and Vehicle Storage	N	N	N	N	N	C ¹³	N
Car Wash and Detailing	N	N	N	C ¹⁰	N	C	N
Service Stations	N	N	N	C	N	C	N
Vehicle Services – Major	N	N	N	N	N	C	N
Vehicle Services – Minor	N	N	N	C ¹⁰	N	C	N
Industrial, Manufacturing, and Processing Use Listings							
Fuel Storage and Distribution	N	N	N	N	N	N	N
Manufacturing – Major	N	N	N	N	N	N	N
Manufacturing – Minor	N	N	N	N	N	P	N
Manufacturing – Small Scale	N	N	N	P	N	P	N
Personal Storage Facility	N	N	N	N	N	C	N
Printing and Publishing	N	N	C	C	C	P	N
Recycling Facility – Collection	N	N	P	C	P	C	N
Recycling Facility – Processing	N	N	N	N	N	N	N
Recycling Facility–Scrap/Dismantling	N	N	N	N	N	N	N
Research and Development	N	N	P	N	P	P	N
Storage Yards	N	N	N	N	N	L ¹⁴	N
Warehousing and Distribution	N	N	N	N	N	L ¹⁴	N
Special Regulated Uses							
Card Rooms	N	N	N	N	N	N	N
Check Cashing Businesses	N	N	N	N	N	N	N
Massage Parlor	N	N	N	N	N	N	N
Pawn Shops	N	N	N	N	N	N	N
Recycling Facility, Collection Facility	N	N	N	C	N	N	N

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

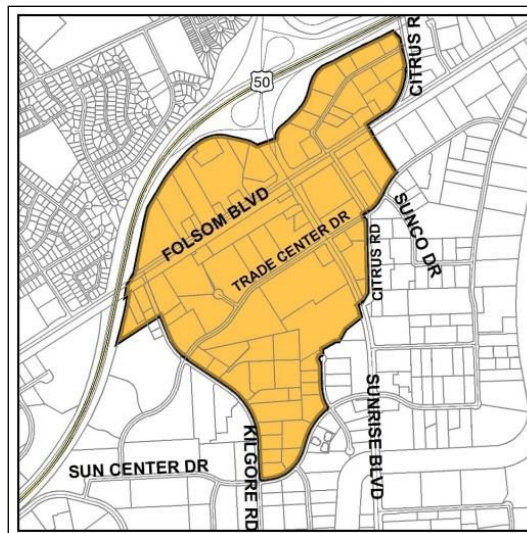
Land Use – Use Classification	Zoning Districts						
	UR-1	UR-2	UR-3	CMU	OPMU	OIMU	T
Sexually Oriented Businesses	N	N	N	N	N	N	N
Smoke Shops	N	N	N	N	N	N	N
Tattoo Parlors	N	N	N	N	N	N	N
Thrift Store	N	N	N	N	N	N	N

Notes:

1. See the density restrictions in the underlying zoning district.
2. This use is limited as specified only in conjunction with the predominant use of the mixed use district. In other words, this use is only allowed as part of an integrated development and is permitted with approval of a Limited Use Permit by the Planning Director.
3. Second dwelling units shall be consistent with development standards listed in the City's zoning code
4. Subject to the provisions for Telecommunication Facility section of the City Zoning Code (23.907.020).
5. Subject to the provisions for Utility, Facilities and Infrastructure section of the City Zoning Code (23.907.030).
6. All forms of speaker amplification exterior to the building shall be prohibited unless authorized in combination with project approval or amendment thereto.
7. All activities shall occur within a completely enclosed building or shall be located behind a solid/screened enclosure directly adjacent to the building.
8. Maximum gross floor area is less than 5,000 square feet.
9. Limited to a maximum of 25 percent of the gross floor area of the integrated development.
10. No portion of the use shall be located within 500 feet of an intersection within the CMU District.
11. Limited to less than 50 percent of the gross floor area of the integrated development as a secondary use only.
12. Maximum tenant space shall be 15,000 square feet.
13. All activity and storage must be located within an enclosed structure.
14. All activity must be entirely screened from public view and not within 200 feet of a residential use.
15. As a surface parking lot, this use is allowed with a limited use permit, but may eventually convert to a use of higher density and intensity based on development potential.

Permitted Uses for the Convention Overlay District

Table IV-4 below identifies the permitted use provisions within the Convention Overlay District. These permitted use provisions are specific and unique to the CO and supersede and replace the permitted uses of the base district. Similar uses may be determined as identified in the Nonconforming Policy Section of this Chapter. Definitions of each use are established in Chapter IX - Glossary.



PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Permitted use provisions are symbolized in the table as follows:

- P = land use permitted by right
- AUP = land use permitted with approval of an Administrative Use Permit
- L = land use permitted with approval of a Limited Use Permit
- C = land use permitted with approval of a Conditional Use Permit
- N = land use not permitted

Table IV-4 Permitted Uses in the Convention Overlay District

Land Use Category	Convention Overlay District
Residential Uses	
Caretaker Housing	C
Dwelling, Multi-Family	P ¹
Dwelling, Single Family	C
Dwelling, Two-Family	C
Home Occupations	C
Live-Work Facility	C
Recreation, Education, and Public Assembly Uses	
Clubs, Lodges, and Private Meeting Halls	P
Indoor Amusement/Entertainment Facility	P
Indoor Fitness and Sports Facility	C
Libraries and Museums	P
Outdoor Commercial Recreation	C
Parks and Public Plazas	P
Public Safety Facility	P
Religious Institutions	C
Schools, Private and Special/Studios	P
Schools, Public	P
Theaters and Auditoriums	P
Utility, Transportation, and Communication Use Listings	
Heliports	C
Park and Ride Facility	C
Telecommunication Facility	C
Transit Stations and Terminals	C

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Land Use Category	Convention Overlay District
Utility Facility and Infrastructure	C
Retail, Service, and Office Uses	
Alcoholic Beverage Sales	C
Banks and Financial Services	P
Bars and Nightclubs	C
Bed and Breakfast Inns	C
Building Materials Stores and Yards	C
Business Support Services	AUP
Child Day Care Facility	C
Drive-in and Drive-through Sales and Service	N
Home Improvement Supplies	C
Hotels and Motels	P
Medical Services, General	C
Medical Services, Extended Care	C
Medical Services, Hospitals	C
Offices, Business and Professional	P
Offices, Accessory	P
Personal Services	P
Restaurants	P
Retail, Accessory	P
Retail, General	P
Veterinary Facility	C
Automobile and Vehicle Uses	
Auto and Vehicle Sales and Rental	AUP
Car Washing and Detailing	C
Service Stations	C
Vehicle Services, Minor	AUP
Industrial, Manufacturing, and Processing Uses	
Manufacturing – Small Scale	AUP
Printing and Publishing	AUP
Research and Development	AUP

Notes:

1. The use is permitted in conjunction with the predominant use of the underlying Base District. In other words, this use is only allowed as part of an integrated development.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Permitted Uses for Transit-Oriented Development (TOD) Overlay Districts

Permitted uses for properties within a TOD Overlay District are determined by the base district. See Table IV-3 Permitted Uses for Folsom Boulevard Base Districts.

D. DEVELOPMENT STANDARDS

The development standards for the Plan Area are organized into two categories:

- General Development Standards that apply to the areas outside the Pulse Points, and
- Form-Based Development Standards that apply to the areas within the Pulse Points.

GENERAL DEVELOPMENT STANDARDS (OUTSIDE PULSE POINTS)

Properties in the Plan Area that are outside the Pulse Point boundaries are subject to the Development Standards for their base land use designations, as contained in the Citywide Zoning Code. For Urban Reserve 1 (UR-1), Development Standards contained in the Zoning Code for Medium Density Residential (MDR) shall apply. For Urban Reserve 2 (UR-2), Development Standards contained in the Zoning Code for Residential Mixed Use (RMU) shall apply. For Urban Reserve 3 (UR-3), Development Standards contained in the Zoning Code for Office Professional Mixed Use (OPMU) shall apply. Variations on these development standards occur for projects designated Transportation Corridor (T), and projects located within the Convention Overlay District of the Transit Oriented Development (TOD) Overlay District; there variations are expressed in Table IV-7, Table IV-8, and Table IV-9, respectively.

FORM BASED DEVELOPMENT STANDARDS (WITHIN PULSE POINTS)

The Form Based Development Standards contained in this section apply to the properties that are within the Pulse Point boundaries. (The Pulse Point boundaries are designated on the Regulating Plan figures.) Unlike traditional development standards that determine development standards based on land use designation, Form-Based Development Standards are based on a Regulating Plan. Figure IV-4 illustrates the Regulating Plan for the entire Plan Area; Figures IV-5 through IV-9 are more detailed Regulating Plans to focus on each of the Pulse Points.

Implementation of the Regulating Plan has the following advantages:

- Creates an internal street network that reduces vehicular traffic on Folsom Boulevard and the need for individual curb-cuts for each project;
- Allows connectivity between adjacent parcels for multi-modal access (vehicles, bicycles, and pedestrians);
- Creates more connectivity to Light Rail Transit Stations;
- Creates a more pedestrian and bicycle friendly environment; and
- Allows for a greater intensity of development and the potential to reduce surface parking lots.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Regulating Plan

This roadway network identified in the Regulating Plans is critical to the successful revitalization of Folsom Boulevard. It creates the underlying framework for new development to occur, identifies how land uses adjacent to the roadway interface with the street, and reinforces the local street network and multi-modal aspects of the Plan. The Regulating Plan identifies Existing Roadways and Future Roadways that will serve the Folsom Boulevard Area within each Pulse Point. Development is required to be consistent with the Regulating Plan unless circumstances described below justify approval of alternatives or exceptions.

How to Use the Regulating Plans

The purpose of the Regulating Plans is to guide future development, but not to dictate the exact location of all future streets, pedestrian pathways, frontages types or other site planning elements. The following rules apply:

- Roadways and connection points should generally match the locations identified on the Regulating Plan. Specific alignments will be determined within the review of development process.
- Roadways and connection points denoted as “Future Roadways” may be moved and/or consolidated, but generally should not be eliminated. Adjustments to roadways that the Council determines to meet the intent of the FBSP Regulating Plan will not require an amendment to the Regulating Plan.
- In reviewing development proposals and determining Regulating Plan compliance, the City shall consider the scope of the proposed development project. Where feasible due to project scope and scale (size and location of project, demolition of multiple existing buildings, etc.), the City will require implementation of the Regulating Plan. For example, a large-scale project with site control over multiple properties would be required to meet the functional intent of the Regulating Plan. The City may exempt a project from strict compliance with the Regulating Plan if it is found that location, property size or other limiting factors make implementation of the Regulating Plan impracticable. For example, development of a single parcel may be exempt from full compliance with the Regulating Plan. In all cases, even when alternatives and exemptions to the Regulating Plan are approved, projects must still comply with all the provisions of the Regulating Plan and the FBSP that are found to be feasible.
- When compliance with all or portions of the Regulating Plan development standards (Form Based Codes) is determined by the City to be infeasible, the project shall be subject to the Development Standards for the base land use designation, as contained Citywide Zoning Code. For Urban Reserve 1 (UR-1), Development Standards contained in the Zoning Code for Medium Density Residential (MDR) shall apply. For Urban Reserve 2 (UR-2), Development Standards contained in the Zoning Code for Residential Mixed Use (RMU) shall apply. For Urban Reserve 3 (UR-3), Development Standards contained in the Zoning Code for Office Professional Mixed Use (OPMU) shall apply.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

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PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Figure IV-4 Regulating Plan for the Entire Boulevard

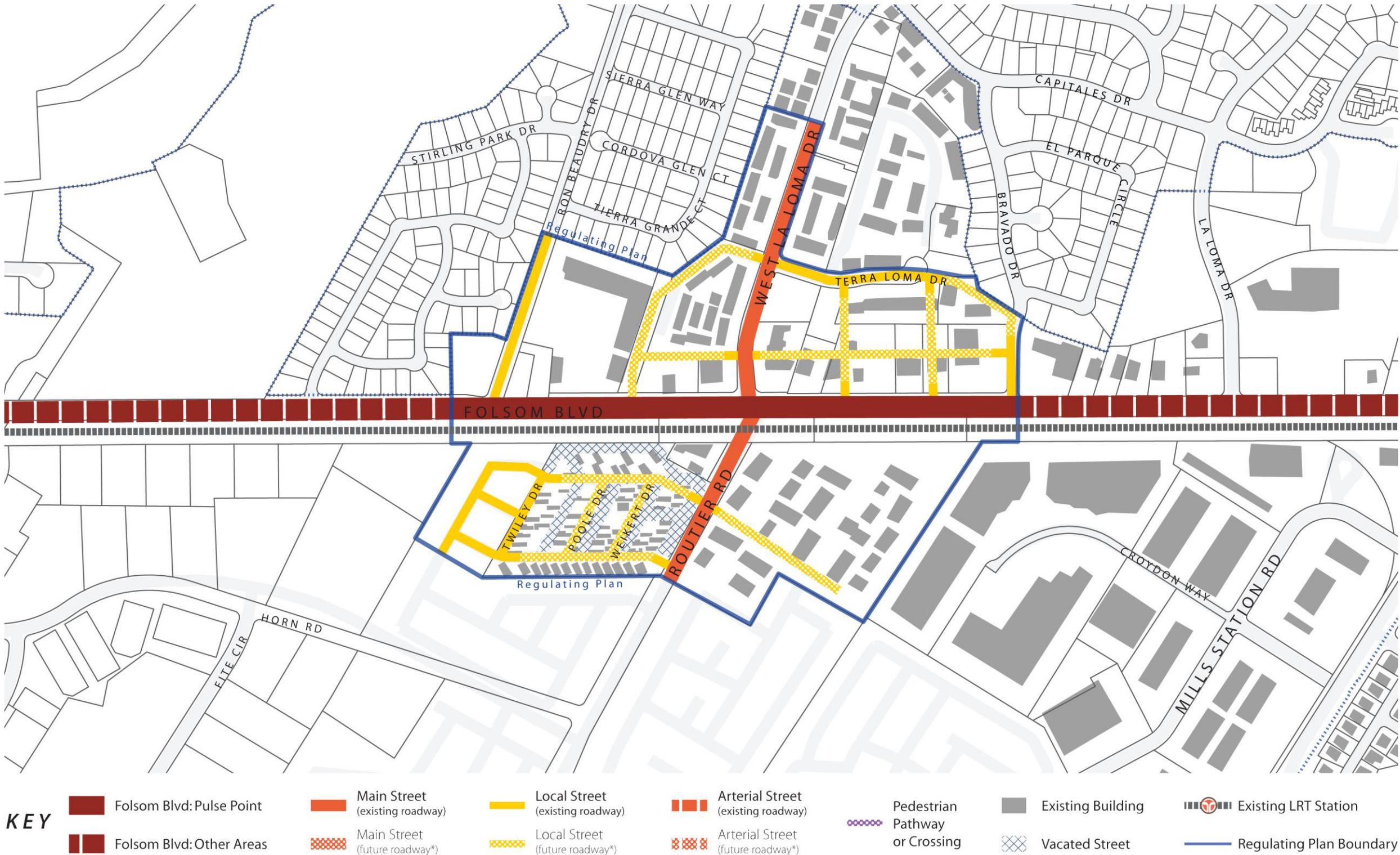


PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

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PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Figure IV-5 Enlarged Regulating Plan Routier/La Loma Pulse Point



*Note: The specific alignments of "Future Roadways" may be adjusted and alternative roadway locations may be evaluated on a case by case basis through the development review process as described on page IV-29 of the FBSP.

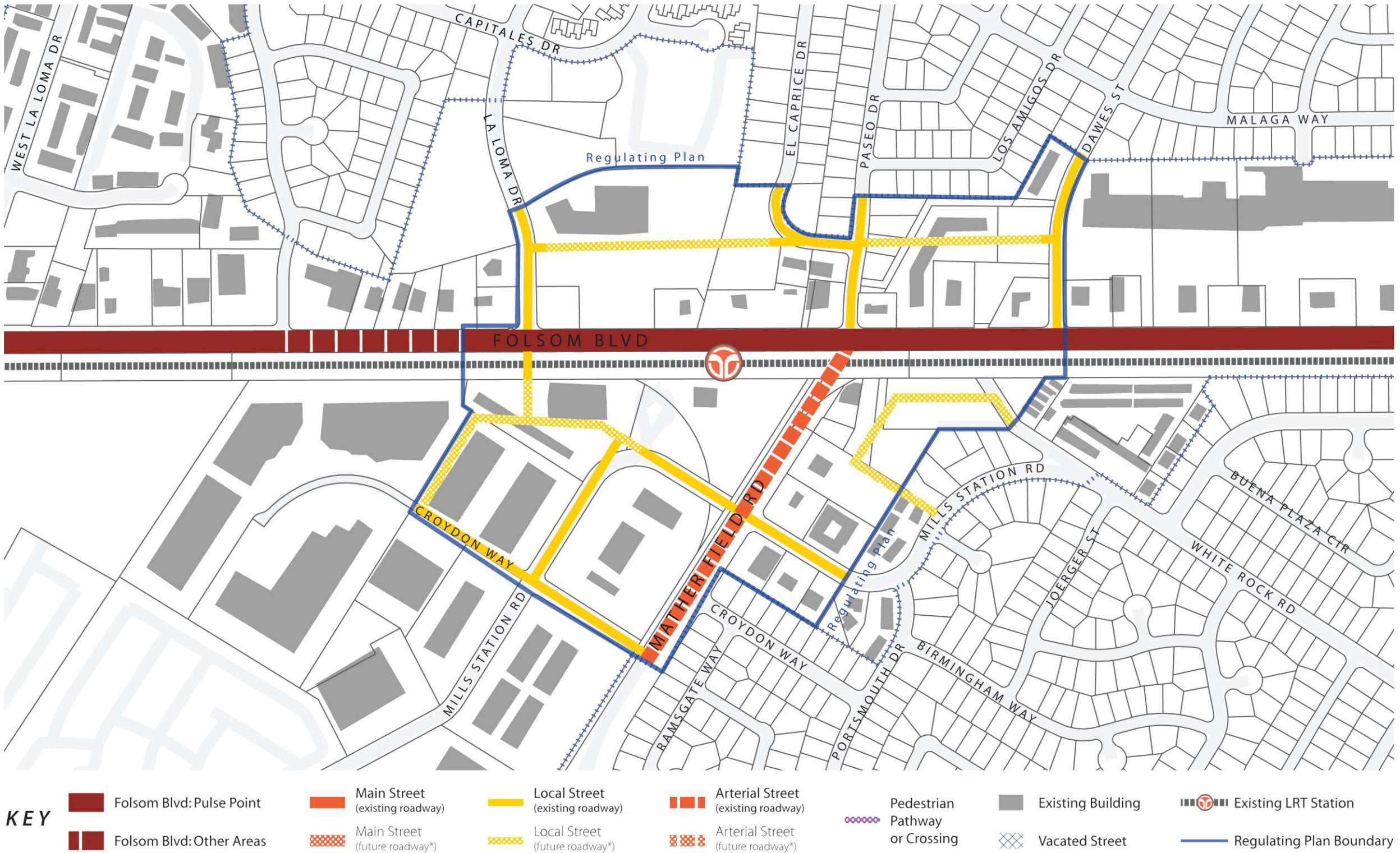


PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

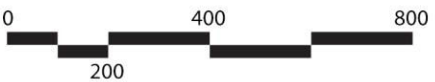
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PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Figure IV-6 Enlarged Regulating Plan Mather/Mills Pulse Point



*Note: The specific alignments of "Future Roadways" may be adjusted and alternative roadway locations may be evaluated on a case by case basis through the development review process as described on page IV-29 of the FBSP.

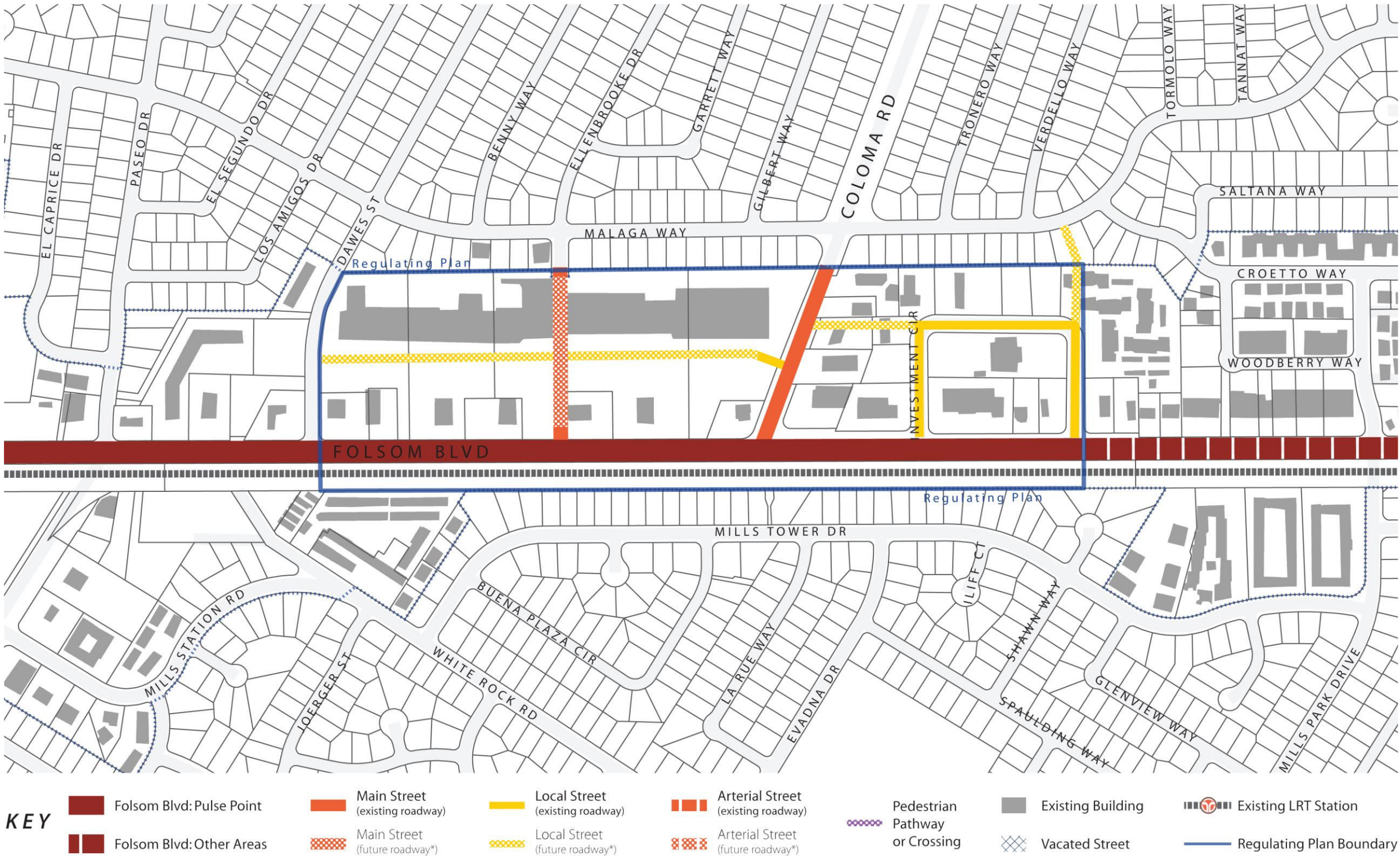


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PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Figure IV-7 Enlarged Regulating Plan Coloma Pulse Point



*Note: The specific alignments of "Future Roadways" may be adjusted and alternative roadway locations may be evaluated on a case by case basis through the development review process as described on page IV-29 of the FBSP.

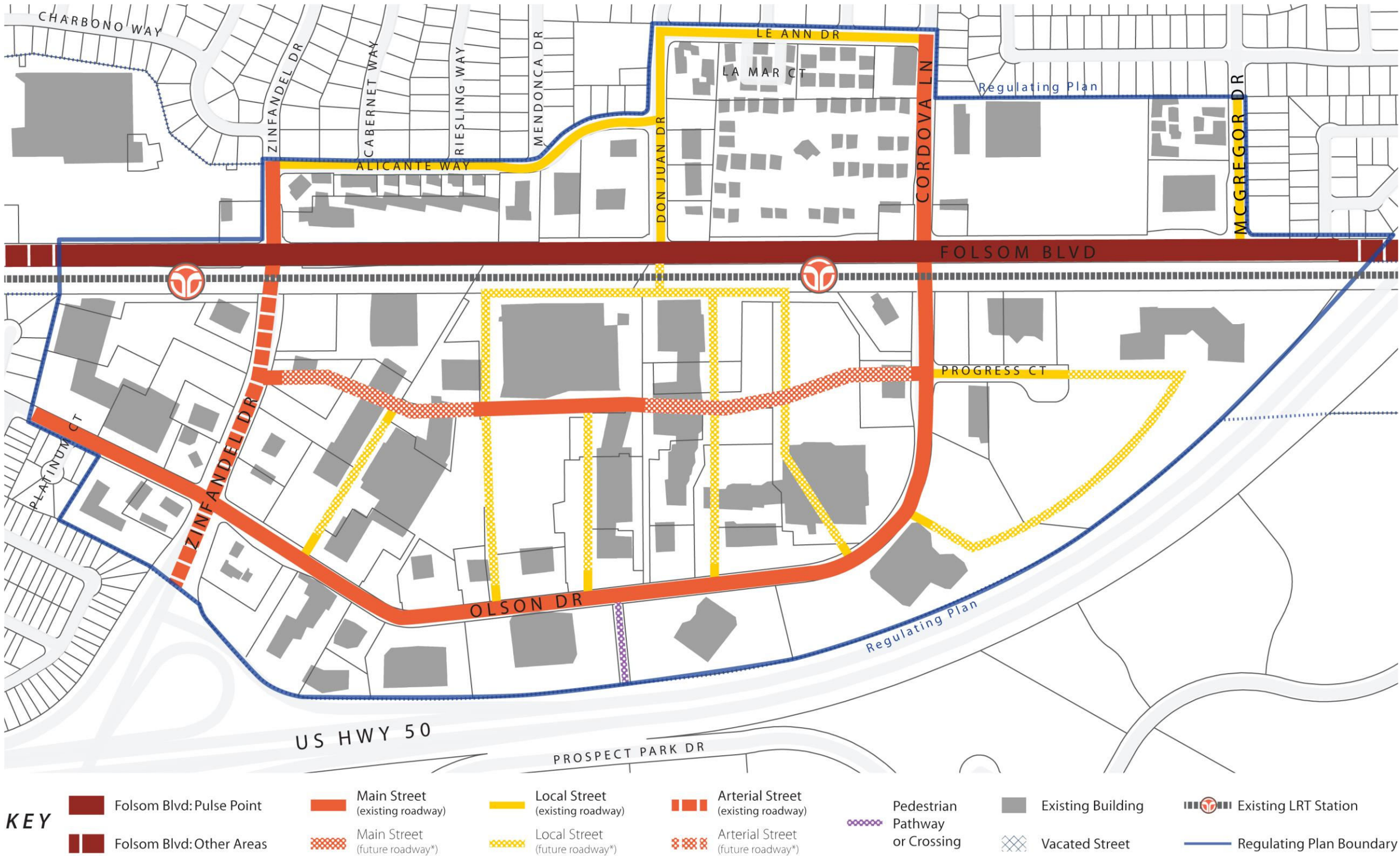


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PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Figure IV-8 Enlarged Regulating Plan Zinfandel Pulse Point



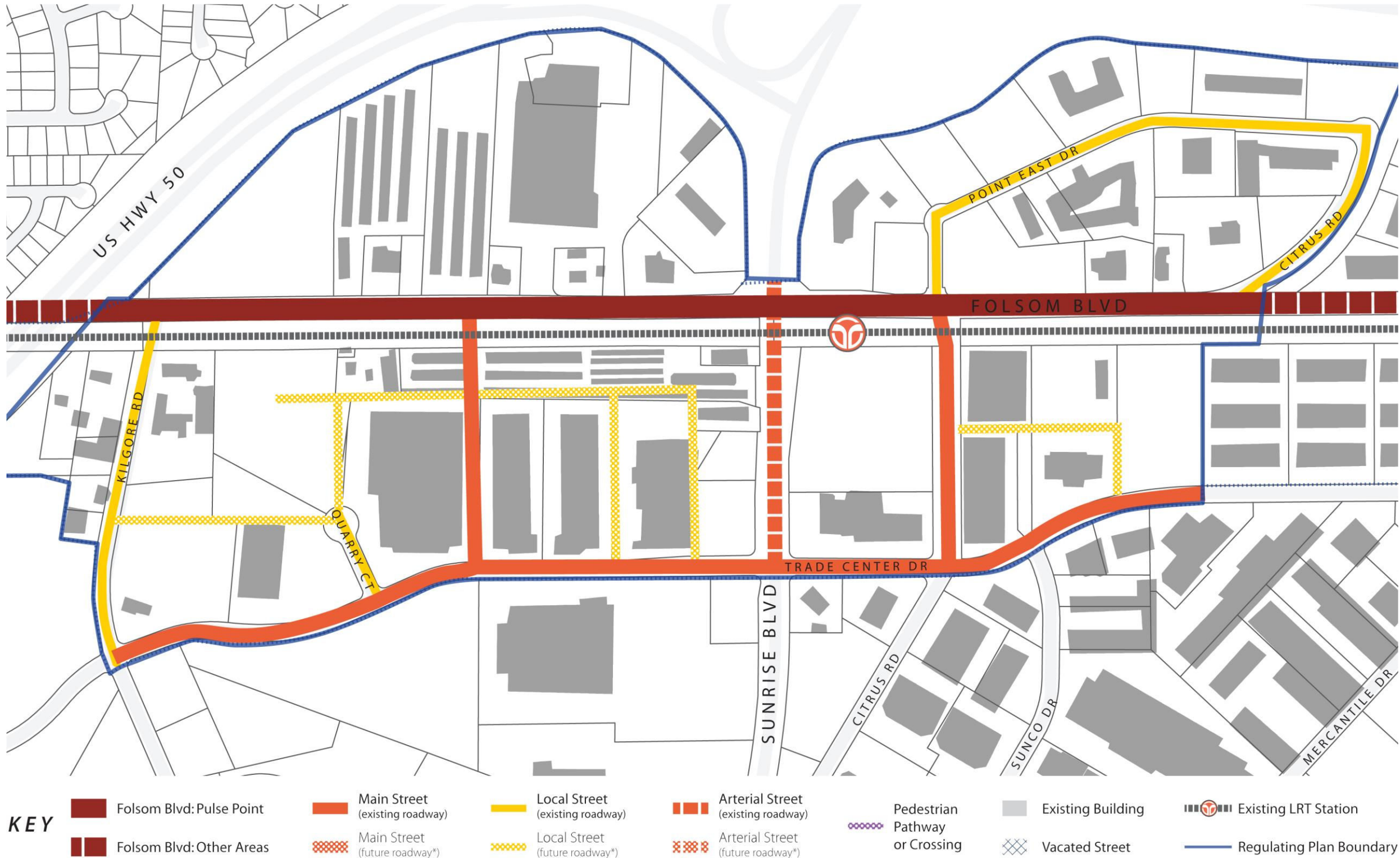
*Note: The specific alignments of "Future Roadways" may be adjusted and alternative roadway locations may be evaluated on a case by case basis through the development review process as described on page IV-29 of the FBSP.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

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PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Figure IV-9 Enlarged Regulating Plan Sunrise Pulse Point



*Note: The specific alignments of "Future Roadways" may be adjusted and alternative roadway locations may be evaluated on a case by case basis through the development review process as described on page IV-29 of the FBSP.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

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PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Form Based Development Standards

The Form Based Development Standards are contained in Tables IV-5 through IV-9 below. All developments within the Pulse Point boundaries of the Plan Area will be subject to the requirements in Table IV-5: Form Based Development Standards, and Table IV-6: Development Standards by Frontage Type. Variations on these development standards occur for projects designated Transportation Corridor (T), and projects located within the Convention Overlay District of the Transit Oriented Development (TOD) Overlay District; there variations are expressed in Table IV-7, Table IV-8, and Table IV-9, respectively.

Table IV-5 Form Based Development Standards

Standard	Requirements by Street Frontage		
	Folsom Boulevard: Pulse Point/Main Street	Local Street	Folsom Boulevard/Arterial Street
Connectivity	Maximum block length/perimeter: 600'/2,000' Through block pedestrian connection: 350 ft minimum Cul de sacs prohibited	Maximum block length/perimeter: 400'/1,500' Through block pedestrian connection 200 ft minimum Cul de sacs prohibited	Maximum block length/perimeter: 660'/2,640' Through block pedestrian connection 350 ft minimum Cul de sacs prohibited
Density	Refer to density ranges of base or overlay district, as applicable.		
Lot Size	NA	1,200 sf minimum	NA
Setbacks			
Front	No minimum Maximum shall be no more than 10 ft. except forecourt frontage may be 20 ft	Minimum of 6 ft for dwelling	No minimum Maximum shall be no more than 10 ft. except forecourt frontage may be 20 ft
Side	No minimum required	Minimum of 5 ft	No minimum required
Rear	No minimum required, except when abutting Single Dwelling Residential Zone where minimum is 20 ft.	Minimum of 10 ft	No minimum required, except when abutting Single Dwelling Residential Zone where minimum is 20 ft.
Parking	NA	Minimum of 20 ft for garage or parking	NA
Lot Coverage	50% minimum	50% maximum	
Building Height	65 ft/ 4 stories maximum 20 ft minimum	45 ft/ 3 stories maximum	65 ft/ 4 stories maximum 20 ft maximum
Parking Standards	[Coordinate with Specific Area Plan]		

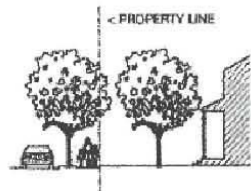
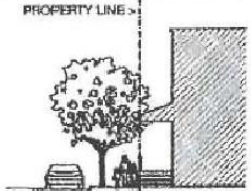
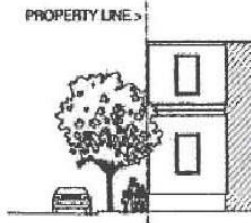
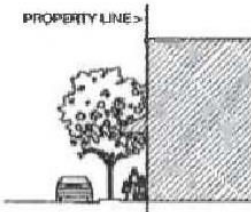
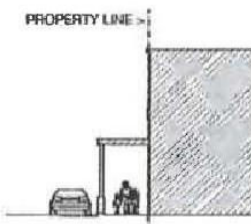
PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Standard	Requirements by Street Frontage		
	Folsom Boulevard: Pulse Point/Main Street	Local Street	Folsom Boulevard/Arterial Street
Parking Lot Perimeter Treatment	All surface parking located between the building and the street must have a landscape buffer not less than five feet in width, consisting of groundcover, trees and shrubs measuring at least 3 feet high. A three foot high wall or planter may be substituted for shrubs. Groundcover and trees must still be provided.	All surface parking located between the building and the street must have a landscape buffer not less than seven feet in width, consisting of groundcover, trees and shrubs measuring at least 3 feet high. A three foot high wall or planter may be substituted for shrubs. Groundcover and trees must still be provided.	
Frontage Types (See Table IV-5)	▪ Stoop ▪ Forecourt ▪ Storefront ▪ Gallery	▪ Front yard & porch ▪ Stoop	▪ Stoop ▪ Forecourt ▪ Storefront ▪ Gallery
Minimum Building Frontage	80%	50%	30%
Street Level Fenestration	The wall area between two and ten feet above grade shall have at least 75% fenestration	The wall area between two and ten feet above grade shall have at least 50 percent fenestration	The wall area between two and ten feet above grade shall have at least 75 percent fenestration
Upper Level Fenestration	The wall area between three and eight feet as measured from that story's finished floor level shall have at least 25 percent fenestration	The wall area between three and eight feet as measured from that story's finished floor level shall have at least 25 percent fenestration	The wall area between three and eight feet as measured from that story's finished floor level shall have at least 25 percent fenestration.
Awnings, Canopies	Awnings, canopies, recesses or similar pedestrian shelters shall be provided along at least 60% of the building's ground floor level where the building abuts a sidewalk, plaza, pedestrian access way or outdoor seating area		

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Development Standards by Frontage Type

Table IV-6 Development Standards by Frontage Type

Frontage Types	
1. Front Yard and Porch. The building façade is set back from the property line (frontage line) as required by the applicable zone, with a front porch providing a covered entry. A fence or wall not more than 36 inches high may define the private space of the year. Porches shall be at least six feet deep and 12 feet wide and may be elevated no more than 36 inches above the surrounding grade.	
2. Stoop. The building façade is placed close to the property line with the ground floor either elevated a minimum of 24 inches (but no more than 36 inches) above the sidewalk, or the façade is up to 10 feet from the back of the sidewalk, with an optional low fence not more than 36 inches at the back of the sidewalk. This type is suitable for ground floor residential uses with minimal setbacks.	
3. Forecourt. Most of the building façade is at the property line with a portion of the façade set back. The resulting forecourt is suitable for gardens, restaurant seating, or an entry plaza. This type should be used sparingly and in conjunction with other Frontage Types, as an extensive setback deters pedestrians. Trees within Forecourts should be placed to have their canopies overhang the street's sidewalk. A low wall of fence no greater than 36 inches high may also be placed at the property line.	
4. Storefront. The building façade is placed at or close to the property line with the building entrance (which may be recessed) at sidewalk grade. This Frontage Type is intended for retail uses and is commonly equipped with an awning. An awning extending over the public sidewalk requires City approval. Transparent windows shall occupy at least 65% of the first floor wall area of each storefront.	
5. Gallery. A gallery is a storefront with an attached colonnade that projects over a sidewalk. This Frontage type is intended for retail use, but only when the sidewalk is fully covered by the arcade so that a pedestrian must walk under it. The City must approve any portion of the structure that extends into the public right of way.	

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Special Development Standards

Transportation Corridor (T) Zone Development Standards

Except as otherwise provided by state and federal law or as otherwise regulated by another governing body recognized by the state as having land use authority over the property, the following development standards are applicable to the T zone.

Table IV-7 Development Standards for Transportation Corridor (T) Zone

Development Standard		T
Setbacks		
Front		25 ft.
Street-side		25 ft.
Interior and Rear		10 ft.
Height Limit		
Primary Structures		45 ft.

Convention Overlay District Development Standards

To supplement the standards set forth in this chapter, the following development standards are applicable to property in the Convention Overlay District.

Table IV-8 Development Standards for the Convention Overlay District

Development Standard		Convention Overlay District
*See Tables IV-4 and IV-5 for all development standards except for height limit as listed below:		
Height Limit		
Primary Structures		No maximum ¹

1. While there is no height maximum, the regulations of the Federal Aviation Administration (FAA) limit the height of structures to between 150 and 350 feet based on location. See the Safety Element of the General Plan for more information. FAA approval is required for all structures over 150 feet in height.

Transit Oriented Development (TOD) Overlay Development Standards

The following development standards are applicable to projects within the TOD Overlays. These standards, along with other development standards (e.g., landscaping requirements, parking standards) in this Specific Plan and Citywide Design Guidelines, are intended to assist property owners and project designers in understanding the City's minimum requirements and expectations for high quality development. Where site development standards listed herein are in conflict with the site development standards in other land use categories of this Plan, these standards shall apply. The Designated Approving Authority will review development applications against these standards to determine compliance with applicable development regulations.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

Table IV-9 Development Standards for TOD Overlay Districts

Development Standard	TOD Overlay	
	Minimum	Maximum
Density¹	20.0 du/ac	80.0 du/ac
Floor Area Ratio²	0.50	3.0
Height	No minimum	No maximum ³

Notes:

1. The minimum and maximum density standards are only applicable to mixed use and integrated developments that include residential uses. Residential projects shall include a minimum of four units.
2. Includes residential uses and square footage. See Chapter IX-Glossary for a definition of Floor Area Ratio (FAR).
3. While there is no height maximum, the regulations of the Federal Aviation Administration (FAA) limit the height of structures to between 150 and 350 feet based on location. See the Safety Element of the General Plan for more information. FAA approval is required for all structures over 150 feet in height approval is required for all structures over 150 feet in height.

PARKING AND LOADING STANDARDS

Parking standards for vehicles and bicycles are provided in Chapter 23.719 of the Zoning Code.

Standards for off-street loading and unloading are provided in the Citywide Zoning Code.

E. NONCONFORMING USES AND STRUCTURES

Purpose and Applicability

This article establishes special regulations for nonconforming land uses and structures that were lawful before the adoption or amendment of this Specific Plan, but which would be prohibited, regulated, or restricted differently under the current terms of this Specific Plan or future amendments. It is the intent of these regulations to allow the continuation of nonconformities under limited conditions outlined herein or due to reconstruction in the event of natural disaster and the potential expansion of nonconformities on a case-by-case basis where specific findings can be made.

These nonconforming regulations apply only within the Folsom Boulevard Specific Plan Area.

Continuation, Reoccupancy and Maintenance of Nonconforming Uses and Structures

- a. A nonconforming use may continue to operate in perpetuity, be transferred, or be sold, provided that the use shall not be enlarged or intensified nor be expanded to occupy a greater area than it lawfully occupied before becoming nonconforming, except as provided in Nonconforming Use Permit Procedures below. Likewise, plans for any use approved as of the date this chapter becomes effective may be carried out as approved. Any extension of such approval, for which the applicant was entitled to apply as of the effective date, may be granted according to the regulations in effect prior to the effective date; if granted, such extension will be considered the same as an approval granted before the effective date.
- b. A nonconforming structure may be maintained or improved as follows:
 1. Maintenance and repair. A nonconforming structure may be maintained and repaired.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

2. Seismic retrofitting and Building Code compliance. Repairs, alterations or reconstruction to reinforce un-reinforced masonry structures or to comply with Building Code requirements shall be allowed, provided that the work is exclusively to comply with applicable earthquake safety standards and the Building Code.
3. Structural alteration of a nonconforming structure to improve safety or to reduce fire hazard.

Modification and Expansion of Nonconforming Uses and Structures

A nonconforming use or structure may, subject to the provisions of the Nonconforming Use Permit section, be modified or expanded as follows:

- a. Structural modification. Addition, enlargement, extension, or relocation of a nonconforming structure may be allowed if the changes to the structure conform to applicable provisions of this Specific Plan. Such modifications may not expand the extent of the nonconforming aspect of the structure or result in any new nonconforming conditions for the subject property.
- b. Expansion of use. Expansion or modification of a nonconforming use may be allowed subject to the Nonconforming Use Permit Procedures section.
- c. Exterior improvements or expansion of structures may also require design review approval in keeping with the City's Zoning Code.

Destruction and Replacement of Nonconforming Uses and Structures

If a nonconforming structure, or a conforming structure occupied by a nonconforming use, is involuntarily damaged or destroyed, the structure may be repaired or rebuilt and reoccupied in the same manner in which it originally existed if the restoration is started within one year of the date of the damage and is diligently pursued to completion.

Loss of Nonconforming Status

If a nonconforming use is discontinued for a continuous period of eighteen months or more, rights to nonconforming status shall terminate. The Planning Director shall base determination of discontinuance on evidence including the removal of equipment, furniture, machinery, structures, or other components of the nonconforming use, disconnected or discontinued utilities, or no business records to document continued operation. Maintenance of a valid business license shall of itself not be considered a continuation of the use. Without further action by the City, any subsequent use of the site or structure shall comply with all of the regulations of the applicable district and all other applicable provisions of this Specific Plan and relevant sections of the Zoning Code.

Extension of Non-Conforming Use Status

A property owner may request of the Planning Director, an additional 6 months extension to the 18 month nonconforming use time period. Such a request must be supported by any of the following:

- a. Evidence of active marketing the tenant space accompanied with regular maintenance of the property in a manner that supports such marketing efforts.
- b. A signed lease agreement and anticipated occupancy within the extension period.
- c. Issuance of a valid building permit for interior or exterior remodel and anticipated occupancy within the extension period.

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Nonconforming Use Permit Procedures

- a. Permit requirements. A Nonconforming Use Permit is required for the expansion or modification of existing nonconforming structures or uses as identified in the Allowed Uses Section. The intent of this permit is to allow for individual review of requests to expand or modify a nonconforming use in a manner that ensures compatibility with surrounding areas and uses.
- b. Approving authority. The City Council shall be the final decision-making body for all Nonconforming Use Permits. The Planning Commission shall hear and provide a recommendation to the City Council for action on each Nonconforming Use Permit.
- c. Required findings. A Nonconforming Use Permit shall be granted only when the designated approving authority determines that the proposed use or activity complies with all of the following findings.
 1. The establishment, maintenance, or operation of the use expansion applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use or to the general welfare of the City.
 2. The benefit to the public health, safety, or welfare exceeds the detriment inherent in the expansion of nonconformity.
 3. The modified or expanded nonconforming structure or use would not be incompatible with reasonably foreseeable uses as allowed under the applicable zoning regulations.
 4. The modified or expanded nonconforming structure or use would be consistent with the General Plan.

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

- d. Conditions/Guarantees. The designated approving authority may impose conditions and/or require guarantees for the Nonconforming Use Permit to ensure compliance with this section and other applicable provisions of this title and to prevent adverse or detrimental impact to surrounding neighborhoods.

F. EXCEPTIONS

The City Council supports the vision and form based development standards established within the Folsom Boulevard Specific Plan and encourages all developers to review and adhere to the strict application of these standards when designing future projects. The City Council also recognizes the real world challenges that form based standards and the vision of the Specific Plan present in a depressed economy and as such, desires to provide additional flexibility for projects that will benefit the community in specific, identified ways. In conjunction with a Major Design Review, project-level CEQA review, and any other required entitlements, an applicant may request that the City Council approve an exception to allow a development project that does not strictly adhere to the Specific Plan or other City development standards.

The City Council may grant an Exception for any development standard for projects that (i) are uses that are allowed in Table IV-2 of the FBSP, and (ii) meet at least 4 of the following 6 conditions:

1. Will fulfill a compelling community need, as indicated by an existing City goal, General Plan policy, budget priority, or other Council adopted policy document
2. Will improve an existing blighted situation by removing 100% of the blight located upon the subject property
3. Will provide unmet services to a currently underserved community
4. Will create at least 15 new permanent full time jobs (or new jobs equivalent to at least 15 FTE) or a minimum of 1 job per 500 square feet
5. Will generate annual sales tax contributions to the City in excess of \$25,000
6. Investments in the property will increase the property tax revenue for the subject parcel(s) by at least 250%

To the extent practical, development projects should comply with Specific Plan development standards. All projects remain subject to design review as established in Sections 23.140 and 23.141 of the Zoning Code. An Exception request must be included and will be reviewed in conjunction with the project's Design Review application. It is the Applicant's responsibility to request relief from specific provisions of the FBSP development standards and provide justifications for why standards cannot be met. It is also the Applicant's responsibility to provide evidence of compliance with at least three of the conditions listed above to support the Exception request. The City Council is the approving authority for all Exception requests.

Under no circumstance shall an Exception result in any of the following:

- Allow a land use not otherwise permitted or conditionally permitted in the zone;
- Allow a detrimental environmental impact not adequately analyzed;
- Waive payment of applicable impact fees;

PRIVATE REALM - LAND USE AND DEVELOPMENT STANDARDS

- Waive a specific prohibition; or
- Waive or modify a procedural requirement.

The procedure for granting Exceptions allowed under this provision is provided in Section 23.110.150(D) of the City's Zoning Code. In granting the Exception, the City Council shall make the following findings:

1. The proposed project qualifies for an exception by meeting at least four (4) of the six (6) conditions required for granting of an exception as defined in this section.
2. The City Council has determined that the proposed project has adhered to the vision of the Folsom Boulevard Specific Plan to the fullest extent practicable.
3. The applicant has provided substantial evidence that the conditions for the Exception will be met following construction and operation of the project. Further, the applicant has agreed to conditions of approval guaranteeing these requirements will be met or exceeded throughout the life of the project.
4. Granting the Exception will not adversely affect the interests of the public or the interests of the residents and property owners in the vicinity of the premises in question, and shall not establish a precedence for other project requests.
5. Granting the Exception will not endanger the public health and safety.

MEMORANDUM



DATE: July 1, 2013

TO: Honorable Mayor and Council Members

FROM: Reed Flory, Housing Services Administrator
Jessica Hayes, Housing Services Assistant

SUBJECT: FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT WITH URBAN HOUSING COMMUNITIES

RECOMMENDATION

It is recommended that the City Council adopt **Resolution 82-2013 (Attachment 1)** authorizing the City Manager to execute a First Amendment (**Attachment 2**) to the existing **Disposition and Development Agreement (DDA) (Attachment 3)** with UHC 00575 Rancho Cordova, L.P., a California limited partnership ("**Developer**").

RESULT OF RECOMMENDED ACTION

Adoption of this resolution will provide the City Manager authorization to execute a First Amendment to the Disposition and Development (DDA) with Developer for the Horizons @ New Rancho, a senior affordable housing development.

BACKGROUND

On February 26 of this year the City Council adopted resolution 27-2013 which approved the DDA with Urban Housing Communities (UHC) and authorized the City Manager to sign. This action included the commitment of funds in the form of a deferred loan of Local City Housing Trust monies, former Redevelopment Agency Low and Moderate Income Housing funds, and non-residential linkage funds for development costs. Site control for this 1.07 acre, affordable, rental development for seniors was also provided to the Developer. The Developer was then able to submit a Tax Credit application for first round 2013 consideration.

UHC was not successful with its round 1 application. Competition was fierce and the application was 2nd in our allocation area losing in a battle of tie-breaker points for a finite amount of tax credit allocation. The developer has amended the application and has requested minor changes to the text and the calculation of City subsidy which result in an even more competitive application. The change is the recalculation of City subsidy which was understated in the original application. Approximately \$254,093 spent for the acquisition of land, structures and ancillary costs had originally been thought to be ineligible costs but have now been added to the City loan amount. This amendment represents a \$254,093 increase in the amount of the City's permanent loan and will have the effect of raising the tie-breaker point total. This increase in the permanent loan amount does not involve any additional funding from the City. With these minor amendments to the DDA, the UHC will resubmit the tax credit application.

ATTACHMENTS

1. Resolution 82-2013.
2. First Amendment to DDA.
3. DDA.

2097370.1

ATTACHMENT 1

CITY OF RANCHO CORDOVA

RESOLUTION NO. 82-2013

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO
CORDOVA AUTHORIZING A FIRST AMENDMENT TO THE EXISTING
DISPOSITION AND DEVELOPMENT AGREEMENT WITH UHC 00575
RANCHO CORDOVA, L.P.**

WHEREAS, the City Council of the City of Rancho Cordova (“**City**”), pursuant to Resolution No. 27-2013, approved a Disposition and Development Agreement (“**DDA**”) with UHC 00575 Rancho Cordova, L.P., a California limited partnership (“**Developer**”) for the development of an affordable senior rental housing project (“**Project**”); and

WHEREAS, Developer thereupon proceeded with the submittal of a Tax Credit application in response to a 2013 Round 1, Request for Proposals from the California Tax Credit Allocation Committee; and

WHEREAS, the Round 1 application was not awarded a Tax Credit allocation; and

WHEREAS, the Developer has made changes to the Tax Credit application which require City Council of the City of Rancho Cordova (“**City Council**”) consideration of certain modifications to the DDA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA AS FOLLOWS:

Section 1 The City Council authorizes the City Manager, on behalf of the City, to execute a First Amendment to the DDA, substantially in the form attached to the accompanying Staff Report, and to execute such other instruments and take such other actions as may be necessary or appropriate to carry out the intent of this Resolution.

Section 2 The City Council authorizes the City Manager, on behalf of the City, to approve expenditure of grant funds and the conversion of appropriate predevelopment funding already spent on the Project for the purpose of providing a deferred, permanent loan for the Project in the amount specified in the First Amendment, provided that the City and Developer execute loan documents in form and content acceptable to the City Attorney.

Section 3 If any provision, sentence, clause, section or part of this Resolution is found to be unconstitutional, illegal or invalid, such finding shall affect only such provision, sentence, clause, section or part, and shall not affect or impair any of the remaining parts.

Section 4 The above recitals are true and correct. The City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the above City Council action.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova this ____ day of _____, 2013, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

Linda Budge, Mayor

ATTEST:

Mindy Cuppy, CMC, City Clerk

2097399.1

ATTACHMENT 2**FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT**

This First Amendment to Disposition and Development Agreement ("**Amendment**") is executed effective _____, 2013 by and between the City of Rancho Cordova, a California municipal corporation ("**City**"), and UHC 00575 Rancho Cordova L.P., a California limited partnership ("**Developer**"), with respect to the following terms and conditions. City and Developer are referred to collectively herein as the "**Parties**."

RECITALS

A. On February 26, 2013, pursuant to Rancho Cordova City Council Resolution No. 27-2013, the Parties executed that certain Disposition and Development Agreement ("**Agreement**") for the development of affordable rental senior housing as described therein. The Agreement is incorporated herein by this reference as if fully set forth. Capitalized terms not defined herein have the meaning ascribed to them in the Agreement.

B. The Parties desire to amend the Agreement to further Developer's submission of an amended tax credit application to TCAC for the Project.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The above recitals are incorporated herein as if fully set forth.
2. Section 6.1 of the Agreement is hereby amended as follows:
 - a. The amount of One Million Eight Hundred Thousand Dollars (\$1,800,000) is deleted and the amount of One Million Eight Hundred Twenty Six Thousand Six Hundred Sixty Six Dollars (\$1,826,666) is substituted therefor;
 - b. The amount of One Million Four Hundred Eighty Five Thousand One Hundred Sixty Six Dollars (\$1,485,166) is deleted and the amount of Two Million Fifty Four Thousand Ninety Three Dollars (\$2,054,093) is substituted therefor;
 - c. The amount of Three Million Two Hundred Eighty Five Thousand One Hundred Sixty Six Dollars (\$3,285,166) is deleted and the amount of Three Million Five Hundred Thirty Nine Thousand Two Hundred Fifty Nine Dollars (\$3,539,259) is substituted therefor; and
 - d. The words "less a reimbursement of Three Hundred Forty One Thousand Five Hundred Dollars (341,500) for land purchase" are added so that Section 6.1 includes the following provision: "All funds identified herewith, less a reimbursement of Three Hundred Forty One Thousand Five Hundred Dollars (\$341,500) for land purchase, will comprise the permanent financing and shall have such terms and conditions as are described in the Regulatory Agreement attached hereto as Exhibit F."
3. Section 8.6 of the Agreement is hereby deleted in its entirety and replaced with the following language:

"8.6 Recovery of City Costs. Developer shall reimburse the City up to Three Hundred Forty One Thousand Five Hundred Dollars (\$341,500) for costs incurred by the City, including

ATTACHMENT 2

but not limited to partial land acquisition costs, if and only if Closing is consummated, within ten (10) days following City's delivery to Developer of an invoice detailing such costs provided that ant such invoices may be delivered only after Closing is consummated."

4. Exhibit D to the Agreement (Financing Plan) is hereby amended by deleting in its entirety the prior Financing Plan and substituting therefor the attached amended Financing Plan, which is incorporated herein by reference.

5. Recital A of Exhibit F to the Agreement (Regulatory Agreement) is hereby amended by deleting the amount of Three Million Two Hundred Eighty Five Thousand One Hundred Sixty Six Dollars (\$3,285,166) and substituting therefor the amount of Three Million Five Hundred Thirty Nine Thousand Two Hundred Fifty Nine Dollars (\$3,539,268).

6. Except as so amended, all of the other terms, conditions and covenants of the Agreement shall remain in full force and effect.

7. This Amendment may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

ATTACHMENT 2

IN WITNESS WHEREOF, the Parties have executed this First Amendment to Disposition and Development Agreement as of the date first written above.

THE CITY OF RANCHO CORDOVA, a California municipal corporation, as Housing Successor to the former Community Redevelopment Agency of the City of Rancho Cordova

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____

Name: _____

Title: _____

DEVELOPER

UHC 00575 Rancho Cordova, L.P.

By: UHC 00575 Rancho Cordova Holdings LLC

By: _____

Name: _____

Title: _____

2097025.2

CITY OF RANCHO CORDOVA**RESOLUTION NO. 27-2013**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO
CORDOVA AUTHORIZING EXECUTION OF A DISPOSITION AND
DEVELOPMENT AGREEMENT WITH UHC 00575 RANCHO CORDOVA,
L.P. WITH REGARD TO CITY PROPERTY AT APN: 057-0221-022 AS
DESCRIBED IN EXHIBIT "A" TO THIS RESOLUTION**

WHEREAS, the City Council of the City of Rancho Cordova ("City") approved and adopted a Redevelopment Plan for the Community Redevelopment Agency of the City of Rancho Cordova ("Redevelopment Plan") covering certain properties within the City ("Project Area"), pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*) (the "CRL"); and

WHEREAS, the Community Redevelopment Agency of Rancho Cordova ("Agency") was a redevelopment agency engaged in activities to execute and implement the Redevelopment Plan pursuant to the CRL; and

WHEREAS, pursuant to California Health and Safety Code Section 34176(a)(1), on January 17, 2012, the City Council of the City of Rancho Cordova ("City Council") adopted Resolution No. 7-2012, whereby the City elected to retain the housing assets and functions of the Community Redevelopment Agency of the City of Rancho Cordova ("Agency") upon the dissolution of the Agency, effective February 1, 2012, pursuant to Assembly Bill x1 26 enacted by the California Legislature and upheld by the California Supreme Court in California Redevelopment Association, et al. v. Ana Matosantos, et al. The City thereby became the designated Housing Successor to the former Agency; and

WHEREAS, the Oversight Board to the Successor Agency of the Community Redevelopment Agency of the City of Rancho Cordova on April 17, 2012 affirmed the transfer of housing functions, assets, and responsibilities to the City in Oversight Board Resolution OB 2-2012. This included the Property which was originally purchased in part with funds from the Agency's Low-Mod Housing Fund; and

WHEREAS, on October 14, 2012, pursuant to Health and Safety Code Section 34176(a)(2), the City submitted to the California Department of Finance ("DOF") a list of housing assets, including that certain real property consisting of approximately 1.07 acres located in the City of Rancho Cordova, identified as Sacramento Assessor's Parcel 057-0221-022, and more particularly described in Exhibit A attached hereto (the "Property"). On November 7, 2012, the DOF responded with an analysis of the housing assets, and did not dispute the City's claim that the real property listed was a housing asset; however the DOF required the remittance of unencumbered Low and Moderate Housing funds, and all requested unencumbered Low and Moderate Housing funds were remitted to the County of Sacramento as per DOF's findings on November 14, 2012; and

WHEREAS, the City, as the holder of title to the Property, has identified UHC 50075 Rancho Cordova, L.P., a California limited partnership (the "Developer") as a potential developer of the Property for development of up to 48 units of affordable senior rental housing (the "Project") on the Property; and

WHEREAS, the UHC intends to seek a Tax Credit award from the California Tax Credit Allocation Committee (CTCAC); and

WHEREAS, CTCAC requirements for a Tax Credits award include acceptable evidence of site control and funding commitments; and

WHEREAS, the City desires to enter into a Disposition and Development Agreement ("DDA") with the Developer for development of the Project on the Property; and

WHEREAS, the Project is subject to compliance with the National Environmental Policy Act ("NEPA"). On December 3, 2010, after reviewing the Project's potential environmental impacts, the Department of Housing and Urban Development ("HUD") published a Finding of No Significant Impact to satisfy NEPA's requirements. Thus, the Project complies with NEPA's requirements; and

WHEREAS, the Project is exempt from the California Environmental Quality Act ("CEQA") under the categorical exemption for in-fill development projects (CEQA Guidelines § 15332). Even if the Project were not exempt from CEQA, no additional environmental review would be required because the Project is consistent with the City's General Plan, the Folsom Boulevard Specific Plan, and the City's Zoning Code, all of which were subject to CEQA review (CEQA § 21083.3 and CEQA Guidelines § 15183). There are no impacts peculiar to this Project that have not already been analyzed in previous environmental documents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA AS FOLLOWS:

Section 1 The City Council finds that the Project is exempt from CEQA under CEQA Guidelines Section 15332, In-Fill Development. The City Council further finds that the Project is consistent with the City's General Plan, the Folsom Boulevard Specific Plan, and the City's Zoning Code. The City certified an Environmental Impact Report ("EIR") for the General Plan and conducted additional environmental review for the Folsom Boulevard Specific Plan and the Zoning Code. The City Council finds that there are no environmental impacts peculiar to the Project that have not been analyzed in previous environmental documents; therefore, no additional environmental review is required.

Section 2 The City Council authorizes the City Manager, on behalf of the City, to execute a DDA with the Developer, substantially in the form on file with the City Clerk, and to execute such other instruments and to take such other actions as necessary to carry out the intent of this Resolution.

Section 3 The City Council also authorizes the City Manager, on behalf of the City, to approve expenditure of grant funds and the conversion of appropriate predevelopment funding already spent on the Project for the purpose of providing a deferred, permanent loan for the Project, provided that the City and Developer execute loan documents in form and content acceptable to the City Attorney.

Section 4 If any provision, sentence, clause, section or part of this Resolution is found to be unconstitutional, illegal or invalid, such finding shall affect only such provision, sentence, clause, section or part, and shall not affect or impair any of the remaining parts.

Section 5 The above recitals are true and correct. The City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the above City Council action.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova this 26th day of February, 2013, by the following votes:

AYES: Budge, McGarvey, Sander, Skoglund, Terry.

NOES: None.

ABSENT: None.

ABSTAIN: None.


Linda Budge, Mayor

ATTEST:


Mindy Cuppy, CMC, City Clerk

DISPOSITION AND DEVELOPMENT AGREEMENT

by and between

THE CITY OF RANCHO CORDOVA

and

UHC 00575 Rancho Cordova L.P.,

A California limited partnership

Horizons at New Rancho

February 26, 2013

Exhibits

- A Legal Description of Property
- B Form of Memorandum of Disposition and Development Agreement
- C Form of Certificate of Completion
- D Financing Plan
- E Development and Performance Schedule
- F Regulatory Agreement
- G Approved Design Review

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (this "**Agreement**") is entered into effective as of February 26, 2013 ("**Effective Date**") by and between the City of Rancho Cordova, a California municipal corporation, ("**City**") and UHC 00575 Rancho Cordova L.P., a California Limited Partnership ("**Developer**"). City and Developer are hereinafter individually referred to as "**Party**" and collectively referred to as the "**Parties**."

RECITALS

A. Pursuant to California Health and Safety Code Section 34176(a)(1), on January 17, 2012, the City Council of the City of Rancho Cordova ("**City Council**") adopted Resolution No. 7-2012, whereby the City elected to retain the housing assets and functions of the Community Redevelopment Agency of the City of Rancho Cordova ("**Agency**") upon the dissolution of the Agency, effective February 1, 2012, pursuant to Assembly Bill x1 26 enacted by the California Legislature and upheld by the California Supreme Court in *California Redevelopment Association, et al. v. Ana Matosantos, et al.* The City thereby became the designated Housing Successor to the former Agency.

B. On April 17, 2012, the Oversight Board of the Rancho Cordova Successor Agency to the Community Redevelopment Agency of the City of Rancho Cordova, adopted Resolution No. OB 2-2012, whereby the Oversight Board acknowledged and approved of the transfer of housing assets, obligations and functions from the former Agency to the City as Housing Successor.

C. On October 14, 2012, pursuant to Health and Safety Code Section 34176(a)(2), the City submitted to the California Department of Finance ("**DOF**") a list of housing assets, including that certain real property consisting of approximately 1.07 acres located in the City of Rancho Cordova, identified as Sacramento Assessor's Parcel 057-0221-022, and more particularly described in Exhibit A attached hereto (the "**Property**"). On November 7, 2012, the DOF responded with an analysis of the housing assets, and did not dispute the City's claim that the real property listed was a housing asset, however the DOF did require the remittance of un-encumbered Low and Moderate Housing funds. All requested un-encumbered Low and Moderate Housing funds were remitted to the County of Sacramento as per DOF's findings on November 14, 2012. As per AB 1484, the remittance of requested funds acts as a finalizing marker in the implementation of AB 1484's housing asset requirements. City owns fee simple title to the Property

E. On July 2, 2012, the Parties executed that certain Exclusive Negotiating Rights Agreement ("**ENRA**") establishing preliminary terms for a possible DDA. The term of the ENRA terminates upon the earlier of execution of the DDA or March 1, 2013, unless extended or earlier terminated. Except with respect to Developer's proposed financing utilizing HOME Investment Partnership Program Funds, the essential terms of the ENRA remain applicable and the ENRA is incorporated by reference herein.

F. City desires to cause the development of the Property with up to forty-eight (48) units of multi-family senior rental housing affordable at very-low income (not to exceed fifty percent (50%) of Area Median Income) and extremely low-income (not to exceed thirty percent (30%) of Area Median Income) levels. Developer has proposed developing same on the

Property, to include Developer's best efforts to develop the housing building as a net zero energy building with the amenities set forth herein (the "**Project**"). The Project particularly described in Section 5.2 herein and in an Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants ("**Regulatory Agreement**"), attached hereto as Exhibit F, that shall be executed substantially concurrently herewith and recorded against the Property and the Project.

G. On November 6, 2006 the City adopted Ordinance 57-2006, establishing the Folsom Boulevard Specific Plan ("FBSP"), amending the Zoning Code, and amending the Zoning Code map designations for the properties within the Sunrise Boulevard South Planning Area, the Downtown Planning Area and Convention Overlay District. It was determined that the certified Environmental Impact Report prepared for the adopted General Plan was found to adequately address all significant environmental impacts associated with the adoption of the FBSP, the Zoning Code amendment, and Zoning Code map amendment, and therefore no additional environmental review was necessary pursuant to California Environmental Quality Act ("CEQA") Guidelines 15183(a) and California Public Resources Code Section 21083.3. Subsequently, amendments to the FBSP were analyzed under a Mitigated Negative Declaration (MND) and a Notice of Determination was filed for the MND on June 19, 2008. The City has completed an environmental review of the project and has determined that the project is consistent with previously prepared environmental review and is also Categorically Exempt under Section 15332, In-Fill Development."

H. Financing for the Project is addressed in Article VI herein.

I. The purpose of this Agreement is to effectuate the Redevelopment Plan for the Rancho Cordova Project Area, the Rancho Cordova General Plan and the Specific Plan. The City has determined that development of the Property with the Project will be of benefit to the Rancho Cordova Project Area and the City as a whole, and will increase the City's supply of affordable housing stock and assist in the elimination of blight.

J. A material inducement to the City to enter into this Agreement is the agreement by Developer to develop the Project within the time periods specified herein and in accordance with the provisions hereof, and the City would be unwilling to enter into this Agreement in the absence of an enforceable commitment by Developer to complete the Project in accordance with such provisions and within such time periods, subject to the terms and conditions set forth herein.

K. In connection with this Agreement, Developer shall execute such documentation as City shall reasonably require in connection with Project financing, and the Regulatory Agreement, which shall require Project rents to be affordable to households whose incomes do not exceed fifty percent (50%) of Area Median Income for a term of not less than fifty-five (55) years. This Agreement, the Memorandum of DDA attached hereto as Exhibit B, all City Project financing documents and the Regulatory Agreement are collectively hereinafter referred to as the "**City Documents**."

NOW, THEREFORE, in consideration of the mutual covenants contained herein and good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

ARTICLE I

DEFINITIONS

1. Definitions. The following terms shall have the meanings set forth in the Sections referenced below whenever used in this Agreement and the Exhibits attached hereto. Additional terms are defined in the Recitals and text of this Agreement.

- 1.1 “**Certificate of Completion**” is defined in Section 5.15.
- 1.2 “**City**” is defined in the Preamble.
- 1.3 “**City Council**” is defined in Recital A.
- 1.4 “**City Documents**” is defined in Recital K.
- 1.5 “**Claims**” is defined in Section 5.17.
- 1.6 “**Conditions of Approval**” is defined in Section 5.2.
- 1.7 “**Construction Plans**” is defined in Section 5.11.
- 1.8 “**Environmental Laws**” is defined in Section 10.4.
- 1.9 “**Financing Plan**” is defined in Section 5.7.
- 1.10 “**Hazardous Materials**” is defined in Section 10.3.
- 1.11 “**Improvements**” is defined in Section 5.2.
- 1.12 “**Indemnitees**” is defined in Section 5.17.
- 1.13 “**Official Records**” means the Official Records of Sacramento County.
- 1.14 “**Project**” is defined in Recital B and further described in Section 5.2.
- 1.15 “**Regulatory Agreement**” is defined in Recital F.
- 1.16 “**Transfer**” is defined in Section 8.2.

ARTICLE II

REPRESENTATIONS; EFFECTIVE DATE; MEMORANDUM.

2.1 Developer’s Representations. Developer represents and warrants to City as follows, and Developer covenants that until the expiration or earlier termination of this Agreement, upon learning of any fact or condition which would cause any of the warranties and

representations in this Section 2.1 not to be true, Developer shall immediately give written notice of such fact or condition to City. Developer acknowledges that City shall rely upon Developer's representations made herein notwithstanding any investigation made by or on behalf of City.

(i) Authority. Developer is a limited partnership, duly organized and in good standing under the laws of the State of California. Developer has the full right, power and authority to undertake all obligations of Developer as provided herein, and the execution, performance and delivery of this Agreement by Developer has been duly authorized by all requisite actions. The persons executing this Agreement on behalf of Developer have been duly authorized to do so. This Agreement and the other City Documents constitute valid and binding obligations of Developer, enforceable in accordance with their respective terms.

(ii) No Conflict. Developer's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Developer is a party or by which it is bound.

(iii) No Litigation or Other Proceeding. No litigation or other proceeding (whether administrative or otherwise) is outstanding or has been threatened which would prevent, hinder or delay the ability of Developer to perform its obligations under this Agreement.

(iv) No Developer Bankruptcy. Developer is not the subject of a bankruptcy or insolvency proceeding.

2.2 Effective Date; Memorandum. The obligations of Developer and City hereunder shall be effective as of the Effective Date. The Parties shall execute a Memorandum of this Agreement substantially in the form attached hereto as Exhibit B which shall be recorded in the Official Records promptly upon execution of this Agreement. The City will not withhold consent to reasonable requests for subordination of the Memorandum to deeds of trust, regulatory agreements and related documents provided for the benefit of Project lenders approved pursuant to the Financing Plan provided that the instruments effecting such subordination include reasonable protections to the City in the event of default.

ARTICLE III

CONDITIONS PRECEDENT TO CONVEYANCE OF LAND

3.1 Conditions Precedent. City shall convey the Property to Developer in accordance with Article IV following Developer's satisfaction of the conditions set forth in this Agreement and within the time limits specified in the Development Schedule attached hereto as Exhibit E, unless such time is extended by the City at the discretion of the City Manager.

3.2 Scope of Development. Developer's proposed Scope of Development includes the Improvements and amenities set forth in Section 5.2. Pursuant to Resolution No. 75-2012, the City Council has approved the Design Review for the Project, attached hereto as Exhibit G. By execution of this Agreement, City hereby approves the Scope of Development.

3.3 Financing Plan. As set forth in the attached Exhibit D and more particularly described in Section 5.7, Developer has provided City with a Financing Plan for the Project ("**Financing Plan**").

ARTICLE IV

DISPOSITION OF THE PROPERTY

4.1 Purchase and Sale. Provided that all conditions precedent set forth in this Agreement have been satisfied, City shall convey to Developer the fee interest in the Property in accordance with and subject to the terms and conditions of this Agreement, free and clear of all title defects, liens and encumbrances except: (a) the provisions and effect of the Rancho Cordova Redevelopment Plan; (b) the provisions and effect of this Agreement; (c) liens for nondelinquent taxes, assessments, and/or bonds; (d) title exceptions set forth in the Preliminary Title Report for the Property issued by Fidelity National Title Company and dated as of February 5, 2013; and (e) such other conditions, liens, encumbrances, restrictions, easements and exceptions as Developer may approve in writing (all of the foregoing collectively referred to as the "**Permitted Exceptions**"). Following the Effective Date, absent the consent of Developer, City shall not cause or voluntarily agree to allow a lien or other encumbrance which would remain effective following conveyance of the Property to attach to the Property.

4.2 Purchase Price. The purchase price for the Property shall be One Million Two Hundred Thirty-Seven Thousand Two Hundred Twenty-Two Dollars And No Cents (\$1,237,222.00) ("**Purchase Price**").

4.3. Escrow. Escrow shall be open at the office of Fidelity National Title Company, 11050 Olson Drive, Suite 200, Rancho Cordova, CA 95670 , attention Paul Avila ("**Title Company**" or "**Escrow Agent**") in order to consummate the conveyance of the Property to Developer and the closing of escrow ("**Closing**") for the transactions contemplated hereby.

4.4 Costs of Closing and Escrow. City shall pay all costs associated with removing any debt encumbering the Property and for all title insurance premiums for policies City may elect to acquire for the Property. All other Closing and Escrow costs, including without limitation all title insurance premiums for policies Developer elects to acquire, shall be paid by Developer.

4.5 Escrow Instructions; Recordation of Documents. City and Developer shall furnish Escrow Agent a copy of this Agreement, which together with such supplemental instructions as City or Developer may agree upon in writing, shall serve as Escrow instructions for the conveyance of the Property. Not later than one day prior to the Closing Date, Developer shall deposit into Escrow the Purchase Price, together with the balance of any other funds Developer is obligated to pay hereunder. Not later than one day prior to the Closing Date, provided that all conditions precedent to conveyance have been satisfied, City shall deposit into Escrow an executed grant deed ("**Grant Deed**") conveying the Property to Developer. On the Closing Date, Escrow Agent shall cause the following documents to be recorded in the Official Records of Sacramento County in the following order: (i) the Regulatory Agreement, (ii) the Memorandum of DDA, and (iii) the Grant Deed.

4.6. City's Conditions to Closing. City's obligation to proceed with the Closing is subject to satisfaction or waiver by the City of all of the following conditions:

a. No Default. Developer shall not be in Default under the terms of this Agreement, and all representations and warranties of Developer shall be true and correct in all material respects.

b. Execution of Documents. Developer shall have executed and acknowledged the Regulatory Agreement, the Memorandum of DDA, and all other documents required hereunder, and shall have delivered all such documents to City or into Escrow.

c. Satisfaction of Conditions Precedent. Developer shall have satisfied the conditions set forth in Article III.

4.7 Developer's Conditions to Closing. Developer's obligation to proceed with the Closing is subject to satisfaction or waiver by Developer of the following conditions:

a. No Default. City shall not be in Default under the terms of this Agreement, and all representations and warranties of City contained herein shall be true and correct in all material respects.

b. Execution of Documents. City shall have executed and acknowledged the Grant Deed, the Regulatory Agreement and the Memorandum of DDA, and all other documents required hereunder, and shall have delivered such documents into Escrow.

c. Developer's Title Policy. The Title Company shall, upon payment of the premium therefor by Developer, be ready to issue an Owner's ALTA title policy for the benefit of Developer, showing title to the Property vested in Developer, subject only to the Permitted Exceptions and including such endorsements as Developer may reasonably request.

d. Consent to Disbursement of Funds. The Developer's receipt of written approval from the City that the Conditions to Disbursement of Funds set forth in Sections 6.4(a)(i) through 6.4(a)(vi) have been met by the Developer.

ARTICLE V

DEVELOPMENT OF THE PROJECT

5.1 The Property. City represents and warrants that as of the Effective Date: (i) City owns a fee simple interest in the Property, and (ii) the Property is subject to no covenant, condition, restriction or agreement that would prevent the development of the Project in accordance with this Agreement. If at any time the foregoing statements become untrue, the City shall have the right to terminate this Agreement upon written notice to Developer.

5.2 Scope of Development. Developer shall develop the Project in accordance with the terms and conditions of this Agreement and in compliance with the terms and conditions of all approvals, entitlements and permits that the City or any other governmental body or entity with jurisdiction over the Project or the Property has granted or issued as of the date hereof or

may hereafter grant or issue in connection with development of the Project, including without limitation, all mitigation measures imposed in connection with environmental review of the Project and all conditions of approval imposed in connection with any entitlements, approvals or permits (all of the foregoing approvals, entitlements, permits, mitigation measures and conditions of approval are hereafter collectively referred to as the **"Conditions of Approval"**).

The Project will consist of a three-story, slab on grade building with an elevator and double loaded corridors. To the maximum extent possible, all Parking will be covered. The forty-eight (48) units shall be comprised of forty-one (41) single bedroom units, six (6) two-bedroom units, and one (1) one-bedroom manager's unit. The building will include laundry facilities on each floor, a community room and common area quiet spaces. The building façade will include architectural features to preclude a manufactured housing appearance and to appear complimentary to the exterior appearance of the contiguous Crossings at New Rancho project. Developer will use best efforts to achieve a net-zero energy building; extensive use of solar panels on parking coverage and building roof; energy recapture technology; energy efficient fixtures and appliances; maximum utilization of LED lighting technology; gardening space; and open outdoor areas that provide residents with a range of activities. All of the foregoing is collectively hereinafter referred to as the **"Improvements"**.

Notwithstanding anything to the contrary contained herein, the construction of the Project is expressly conditioned upon compliance with the California Environmental Quality Act, California Public Resources Code Section 21000 *et seq.*, CEQA guidelines, and implementing regulations, all as amended from time to time (**"CEQA"**) and/or the National Environmental Protection Act of 1969, 42 U.S.C. Section 4321 *et seq.*, NEPA guidelines, and implementing regulations, all as amended from time to time (**"NEPA"**), as the same may be applicable to the Project. Necessary CEQA and NEPA studies and reports have been completed, all necessary NEPA approvals have been obtained, necessary notices have been filed and statute of limitations have expired. No physical activity, not otherwise exempt from CEQA or NEPA, as applicable, shall commence on the Property without such compliance.

5.3 Affordable Housing for Seniors. Developer covenants and agrees for itself, its successors and assigns that Developer's interest in the Property will be subjected to recorded covenants that will restrict use of the Property to development of an affordable multi-family senior rental housing project and that for a term of not less than fifty-five (55) years commencing upon the issuance of a final certificate of occupancy for the Project, not less than one hundred percent (100%) (not including the Manager's unit) of the residential units in the Project shall be rented at an affordable cost to households who qualify at or below fifty percent (50%) of Area Median Income (as defined in the Regulatory Agreement), in accordance with the terms hereof and the Regulatory Agreement . Minimum age restriction for the proposed senior occupancy shall be fifty-five (55) years of age.

5.4 Project Approvals. Developer acknowledges and agrees that execution of this Agreement by City does not constitute approval for the purpose of the issuance of building permits for the construction of the Project, does not limit in any manner the discretion of City in such approval process, and does not relieve Developer from the obligation to apply for and obtain all necessary entitlements, approvals, and permits for the construction of the Project, including without limitation, the approval of architectural plans, the issuance of any certificates

regarding historic resources required in connection with the Project (if any), and the completion of any required environmental review.

Developer covenants that it shall: (i) obtain all necessary permits and approvals which may be required by City, or any other governmental City having jurisdiction over the construction of the Project or the development of the Property, (ii) comply with all Conditions of Approval, (iii) comply with all mitigation measures imposed in connection with any environmental review of the Project, and (iv) not commence construction work on the Project prior to issuance of building permits required for such work.

City staff shall work cooperatively with Developer to assist in coordinating the expeditious processing and consideration of all permits, entitlements and approvals necessary for development of the Project.

5.5 Fees. Subject to the approval of the financing subsidies identified in the Financing Plan, Developer shall be solely responsible for, and shall promptly pay when due, all customary and usual fees and charges of City in connection with obtaining building permits and other approvals for the Project, including without limitation, those related to the processing and consideration of amendments, if any, to the current entitlements, any related approvals and permits, environmental review, design review, architectural review, and any subsequent approvals for the Project or the development of the Property.

5.6 Cost of Construction. Except as expressly set forth herein, after the Effective Date, Developer shall be solely responsible for all direct and indirect costs and expenses incurred in connection with the design, development and construction of the Project and compliance with the Conditions of Approval, including without limitation the installation and construction of all off-site or on-site improvements required by City in connection therewith, except costs and expenses related to initial ALTA survey, land assemblage, relocation, lot-line adjustment, initial market study and environmental clearance including additional environmental studies that may be required.

5.7. Financing Plan. As set forth in the attached Exhibit D, Developer has provided City with a preliminary financing plan for the Project ("**Financing Plan**") which describes (i) the estimated costs of Project development, including acquisition costs, and hard and soft construction costs, (ii) an operating pro forma which describes projected revenue and expenses for the Project, and (iii) identification of sources of construction and permanent financing. The Financing Plan must be in a form and content to provide sufficient detail to satisfy the requirements of Developer's proposed Tax Credit Allocation Committee ("**TCAC**") application. The Financing Plan may be the proposed TCAC proforma to be submitted with the TCAC application. Developer shall update the Financing Plan throughout the term of this Agreement to reflect any changes in the TCAC application proforma. Developer shall provide prior written notice to the City of any material proposed modifications. If the City fails to approve of any such modification within fifteen (15) calendar days following City's receipt of the proposed modifications, then the Financing Plan and the encumbrances which may be recorded against the Property in connection with the financing contemplated by the Financing Plan shall be deemed approved by the City. The City agrees not to unreasonably withhold consent to proposed modifications to the Financing Plan.

Consistent with the Financing Plan, Developer shall apply for an allocation of nine percent (9%) California low-income housing tax credits. Developer shall submit to the City a copy of Developer's application for tax credits for the Project concurrently with Developer's submittal of such applications to TCAC. The TCAC application shall reflect the current City-approved Financing Plan including a current schedule of sources and uses and updated development and operating pro formas, accompanied by evidence that all Project financing has been firmly committed by Developer, or lending institutions, subject only to commercially reasonable conditions or allocation(s) for low-income housing tax credits from TCAC. Additionally, Developer shall provide City with copies of draft and final copies of its Tax Credit Investor Agreement and it will obtain written approval from the City of the pay-in schedule of all tax credit equity proceeds.

Developer agrees to use best efforts to operate and manage the Project so as to maximize residual receipts there from, including without limitation using residual receipts to fund a social services program for Project residents.

Developer shall also cooperate in the resubmittal of the nine percent (9%) application for grant funding. It is anticipated that a competitive application will require that the Developer has completed design review, submitted project plans sufficient for plan check and received a letter from the City stating that "but for the payment of required City, School District, and related fees the City is ready to issue building permits."

5.7.1 Failure of 9% Tax Credit Application to Win Award. Failure of the Developer to receive an allocation of nine percent (9%) tax credit award by June 12, 2013 (or such date as Round #1-2013 TCAC awards are announced) will result in a resubmittal of the nine percent (9%) tax credit application in July of 2013 or later if the schedule changes. If at the end of the second attempt to receive an allocation of nine percent tax credits 9% tax credits there is no award, Developer and City agree to meet and discuss alternative financing options which may include an application for HOME funds. If there is no mutually agreeable alternate grant funding source or sources identified, the City at its sole discretion, may terminate this DDA, retain all rights to the land and take assignment of all work products derived from the City's Predevelopment Funding.

5.8 Development Schedule (9% Tax Credit Scenario). Developer shall commence and complete plan development and construction of the Project and shall satisfy all other obligations of Developer under this Agreement within the time periods set forth herein and as described in the attached Development and Performance Schedule attached as Exhibit E hereto, as such time periods may be extended upon the mutual written consent of the Parties. Subject to force majeure, the availability of financing, and the City's issuance of permits and approvals, Developer shall commence construction of the Project within thirty (30) days of issuance of building permits, but in any event no later than the later of : (i) October 15, 2013, or (ii) the earliest date as may be permitted by TCAC. Developer shall diligently prosecute to completion the construction of the Project in order to allow City to issue a final certificate of occupancy in no event later than twelve (12) months from the commencement of construction or such earlier date as may be required by TCAC. Subject to force majeure, the availability of financing, and

the City's issuance of permits and approvals, Developer's failure to commence or complete construction of the Project in accordance with the time periods specified in this Section 5.8 and Exhibit E shall be an Event of Developer Default hereunder.

5.9 Rights of Access. For the purpose of ensuring that the Project is developed in compliance with this Agreement, Developer shall permit representatives of the City to enter upon the Property to inspect the Project following forty-eight (48) hours written notice, including without limitation inspection for labor standards compliance monitoring as described in Section 5.17 (except in the case of emergency in which case such notice as may be practical under the circumstances shall be provided). Developer shall have the right to accompany any City representative performing an inspection of the Project.

5.10 City Disclaimer. Developer acknowledges that City shall have the right to monitor, review, supervise, or inspect the progress of construction or the operation of the Project. Notwithstanding such right, Developer and all third parties shall rely on its or their own supervision and inspection in determining the quality and suitability of the materials and work, the performance of architects, subcontractors, and material suppliers, and all other matters relating to the construction and operation of the Project. Any review or inspection undertaken by the City is solely for the purpose of determining whether Developer is properly discharging its obligations under this Agreement, and shall not be relied upon by Developer or any third party as a warranty or representation by the City as to the quality of the design or construction of the Improvements or otherwise.

5.11 Construction Plans. Prior to commencement of Project construction, Developer shall submit to City's Building Department detailed construction plans for the development of the Project (the "**Construction Plans**"). As used herein "**Construction Plans**" means all construction documents upon which Developer and Developer's contractors shall rely in constructing the Project (including the landscaping, parking, and common areas) and shall include, without limitation, the site development plan, final architectural drawings, landscaping, exterior lighting and signage plans and specifications, materials specifications, final elevations, and building plans and specifications. The Construction Plans shall be based upon the scope of development set forth herein and upon the approvals issued by the City for the Project, and shall not materially deviate therefrom without the express written consent of City. Provided that the Construction Plans are consistent with the requirements of this Agreement, approval of the Construction Plans by City staff shall be deemed approval thereof by City.

5.12 Construction Pursuant to Plans. Developer shall develop the Project in accordance with the approved Construction Plans, the Conditions of Approval, and all other permits and approvals granted by the City pertaining to construction of the Project. Developer shall comply with all directions, rules and regulations of any fire marshal, health officer, building inspector or other officer of every governmental entity having jurisdiction over the Property or the Project. Each element of the work shall proceed only after procurement of each permit, license or other authorization that may be required for such element by any governmental entity having jurisdiction. All design and construction work on the Project shall be performed by licensed contractors, engineers or architects, as applicable.

5.13 Changes in Construction Plans. If Developer desires to make any material change in the approved Construction Plans, Developer shall submit the proposed change in writing to City in accordance with its standard review process. Approval of changes to the Construction Plans by City shall be deemed approval thereof by City. Nothing in this Section is intended to or shall be deemed to modify the City's standard plan review procedures.

5.14 Defects in Plans. City shall not be responsible to Developer or to any third party for any defect in the Construction Plans or for any structural or other defect in any work done pursuant to the Construction Plans. Subject to the last sentence of this Section 3.14, Developer shall indemnify, defend (with counsel approved by City) and hold harmless the Indemnitees from and against all Claims arising out of, or relating to, or alleged to arise from or relate to defects in the Construction Plans or defects in any work done pursuant to the Construction Plans whether or not any insurance policies shall have been determined to be applicable to any such Claims. Developer's indemnification obligations set forth in this Section shall survive the expiration or earlier termination of this Agreement and the recordation of a Certificate of Completion and shall be assumed by any successor to Developer's interest in this Agreement. It is further agreed that City shall not, waive any rights against Developer which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Developer's deposit with City of any of the insurance policies described in this Agreement. Developer's indemnification obligations pursuant to this Section shall not extend to Claims to the extent arising due to the gross negligence or willful misconduct of the Indemnitees. Developer's indemnification obligations set forth in this Section shall not apply to any Construction Plans that are not used by or on behalf of Developer or any entity affiliated with Developer, including without limitation, a Controlled Affiliate or an entity controlled by or under common control with Developer. In addition, if City uses any of the Construction Plans (or permits a third party to use such Construction Plans), City agrees to release Developer from liability for Claims arising in connection with such use except to the extent any such Claim arises from the gross negligence or willful misconduct of Developer or Developer's employees, agents or representatives.

5.15 Certificate of Completion for Project. Promptly after completion of construction of the Project, issuance of a final Certificate of Occupancy by the City and the written request of Developer, the City will provide an instrument ("**Certificate of Completion**") so certifying, provided that at the time such certificate is requested all applicable components of the Project have been completed. The Certificate of Completion shall be conclusive evidence that Developer has satisfied its obligations regarding the development of the Property.

The Certificate of Completion shall be issued substantially in the form attached hereto as Exhibit C, and at Developer's option, shall be recorded in the Official Records. The Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a deed of trust or mortgage securing money loaned to finance the Project or any part thereof and shall not be deemed a notice of completion under the California Civil Code, nor shall such Certificate provide evidence that Developer has satisfied any obligation that survives the expiration of this Agreement, including without limitation, Developer's obligations pursuant to the Regulatory Agreement.

5.16 Equal Opportunity. During the construction of the Project, there shall be no discrimination on the basis of race, color, religion, creed, sex, sexual orientation, marital status, ancestry or national origin in the hiring, firing, promoting or demoting of any person engaged in construction of the Project, and Developer shall direct its contractors and subcontractors to refrain from discrimination on such basis.

5.17 Prevailing Wage Requirements. To the full extent required by all applicable State and Federal laws, rules and regulations, if any, Developer and its contractors and agents shall comply with California Labor Code Section 1720 *et seq.*, the Davis-Bacon Act, and the regulations adopted pursuant to each of them, as the same may be applicable to the Project (“**Prevailing Wage Laws**”), and shall be responsible for carrying out the requirements of such provisions. Developer, at its own expense, shall prepare and obtain approval from the City of a plan for monitoring, enforcing and reporting on the payment of prevailing wages. This plan shall describe penalties, approved by the City, for the Contractor if it fails to implement said plan and to satisfy on a timely basis the reporting requirements included in said plan.

Subject to the last sentence of this paragraph, Developer shall indemnify, defend (with counsel approved by City) and hold the City, and its respective elected and appointed officers, officials, employees, agents, consultants, and contractors (collectively, the “**Indemnitees**”) harmless from and against all liability, loss, cost, expense (including without limitation attorneys’ fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively “**Claims**”) which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code Sections 1726 and 1781), the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Developer related to this Agreement with respect to the payment or requirement of payment of prevailing wages, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that City does not and shall not waive any rights against Developer which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Developer’s deposit with City of any of the insurance policies described in this Agreement. The provisions of this Section 5.17 shall survive the expiration or earlier termination of this Agreement and the issuance of a Certificate of Completion for the Project and shall be assumed by any successor to Developer’s interest in this Agreement. Developer’s indemnification obligations set forth in this Section shall not apply to Claims to the extent arising from the gross negligence or willful misconduct of one or more of the Indemnitees. Developer’s indemnification obligations set forth in this Section shall only apply to work performed by or on behalf of Developer or any entity affiliated with Developer, including without limitation, a Controlled Affiliate or an entity controlled by or under common control with Developer.

5.18 Compliance with Laws. In connection with development and construction of the Project, Developer shall comply, and shall cause its contractors to comply with all applicable federal, state and local laws, rules, ordinances and regulations, including without limitation, all applicable federal and state labor laws and standards, applicable provisions of the California

Public Contracts Code (if any), the City zoning and development standards, building, plumbing, mechanical and electrical codes, all other provisions of the City's Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation, applicable provisions of the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.* Developer shall indemnify, defend (with counsel approved by City) and hold harmless the Indemnitees from and against any and all Claims arising in connection with the breach of Developer's obligations set forth in this Section whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that City shall not waive any rights against Developer which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Developer's deposit with City of any of the insurance policies described in this Agreement. Developer's indemnification obligations set forth in this Section shall not apply to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees. Developer's defense and indemnification obligations set forth in this Section 5.18 shall survive the expiration or earlier termination of this Agreement and the issuance of a Certificate of Completion for the Project.

5.19 Liens and Stop Notices. Until the expiration of the term of the Regulatory Agreement, if a claim of a lien or stop notice is given or recorded affecting the Project or the Property, Developer shall within thirty (30) days of such recording or service: (a) pay and discharge (or cause to be paid and discharged) the same; or (b) effect the release thereof by recording and delivering (or causing to be recorded and delivered) to the party entitled thereto a surety bond in sufficient form and amount; or (c) provide other assurance satisfactory to City that the claim of lien or stop notice will be paid or discharged. The provisions of this Section 5.19 shall apply from and after Developer's acquisition of a fee simple interest in the Property.

5.20 Right of City to Satisfy Liens on the Property. If Developer fails to satisfy or discharge any lien or stop notice on the Property pursuant to and within the time period set forth in Section 5.19 above, the City shall have the right, but not the obligation, to satisfy any such liens or stop notices at Developer's expense with prior written notice to Developer. In such event Developer shall be liable for and shall immediately reimburse City for such paid lien or stop notice. Alternatively, the City may require Developer to immediately deposit with City the amount necessary to satisfy such lien or claim pending resolution thereof. The City may use such deposit to satisfy any claim or lien that is adversely determined against Developer. Developer shall file a valid notice of cessation or notice of completion upon cessation of construction of the Improvements for a continuous period of thirty (30) days or more, and shall take all other reasonable steps to forestall the assertion of claims or liens against the Property or the Improvements. The City may (but has no obligation to), with prior written notice to Developer, record any notices of completion or cessation of labor, or any other notice that the City deems necessary or desirable to protect its interest in the Property and the Improvements.

5.21 Performance and Payment Bonds.

Prior to commencement of construction work on the Project, Developer shall cause its general contractor to deliver to the City copies of payment bond(s) and performance bond(s) issued by a reputable insurance company licensed to do business in California, each in a penal

sum of not less than one hundred percent (100%) of the scheduled cost of construction of the Project. The bonds shall name the City and the City as co-obligees. In lieu of such performance and payment bonds, subject to City's approval of the form and substance thereof, Developer may submit evidence satisfactory to the City of the contractor's ability to commence and complete construction of the Project in the form of an irrevocable letter of credit, pledge of cash deposit, certificate of deposit, or other marketable securities held by a broker or other financial institution, with signature authority of the City required for any withdrawal, or a completion guaranty in a form and from a guarantor acceptable to City. Such evidence must be submitted to City in approvable form in sufficient time to allow for City's review and approval prior to the scheduled construction start date.

5.22 Insurance Requirements.

Developer shall maintain and shall cause its contractors to maintain all applicable insurance coverage specified in Article XII.

5.23 Shared Operations.

Developer has developed contemporaneously a nearby but separate eighteen (18)-unit low-income housing project (the "**Crossings at New Rancho**") pursuant to that certain Loan Agreement dated December 2, 2010 between City and UHC 00516 Rancho Cordova, L.P. If the Project is completed, Developer agrees to use best efforts to create economies by utilizing shared operations contracts for maintenance, security, property management and related functions for the Project and Crossings at New Rancho.

ARTICLE VI

CITY FINANCIAL ASSISTANCE

6.1 City Permanent Loan. City agrees to provide a permanent loan to Developer from a combination of sources including the City's Local Housing Trust Funds to be used primarily as "gap" financing in an amount not to exceed One Million Eight Hundred Thousand Dollars and No Cents (\$1,800,000.00), and from other sources totaling One Million Four Hundred Eighty-Five Thousand and One Hundred Sixty-Six Dollars and No Cents (\$1,485,166) which monies, as of the Effective Date, have been used exclusively for payment of "predevelopment expenses" incurred by the City. The permanent loan in the amount of Three Million Two Hundred Eighty-Five Thousand One Hundred Sixty-Six Dollars And No Cents (\$3,285,166) is made for development of the Project upon the terms and conditions and for the purposes set forth in this Agreement ("**Permanent Loan**"). All funds identified herewith will comprise the permanent financing and shall have such terms and conditions as are described in the Regulatory Agreement attached hereto as Exhibit F. The Permanent Loan shall be evidenced by a Secured Promissory Note in the amount of Three Million Two Hundred Eighty-Five Thousand One Hundred Sixty-Six Dollars and No Cents (\$3,285,166) ("**Permanent Note**"), dated as of the Closing date for the Permanent Loan and executed by Developer in form satisfactory to City. The Permanent Note shall be secured by a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "**Deed of Trust**") executed by Developer as

Trustor for the benefit of City in form satisfactory to City and recorded against the Property. Provided that Developer has complied with all conditions precedent to disbursement of the Permanent Loan, the proceeds of the Permanent Loan ("**Permanent Loan Proceeds**") shall be disbursed pursuant to this Agreement. The outstanding principal balance of the Permanent Loan shall be due and payable in full in fifty-five (55) years from issuance of the Project Certificate of Completion for the Project, at zero percent (0%) interest. Annual payments shall be due and payable on a residual receipts basis. The entire outstanding principal balance of the City's Permanent Loan Funds shall be payable in full on fifty-fifth (55th) anniversary of the date of issuance of the final certificate of occupancy for the Project. Funds over eligible basis as defined in Section 42 of the Internal Revenue Code will be deemed to be a grant and not a loan. The and the Deed of Trust are referred to collectively as the "**Permanent Loan Documents**."

6.2 City Funds. All funds provided by City to Developer for the Project, whether denominated as Predevelopment Funds, Permanent Financing, or otherwise, are collectively referred to herein as "**City Funds**".

6.3 Use and Disbursement of City Deferred Permanent Loan, Conventional Debt-serviced Permanent Loan, , and Tax Credit Equity Funds (collectively, the "Project Funding"). Project Funding shall be used solely to fund specific development activities associated with the Project (in an amount and for only such development activities as are approved for funding by the City and granting agencies) and to fund construction of the Project consistent with the approved Financing Plan, as it may be updated By Developer with City's approval. . All uses of Project Funding shall follow federal and State procurement rules as required by the City and granting agencies. Developer shall also inform City and TCAC, as applicable, of proposed withdrawals from Project operation accounts thirty (30) days prior to making withdrawals.

6.4 Conditions to Disbursement Funds. City's obligation to disburse remaining City Permanent Loan Funds is conditioned upon the satisfaction of all of the following conditions:

(a) For funding prior to commencement of construction ("**Predevelopment Phase**"):

(i) Developer's execution and delivery to City of this Agreement, the Memorandum of DDA, the Regulatory Agreement, and the Predevelopment Loan Documents, and recordation of the Memorandum of DDA and Regulatory Agreement in the Official Records.

(ii) Developer's delivery to the City of evidence of property and liability insurance coverage in accordance with the requirements set forth herein.

(iii) Developer's delivery to City of each of the following: (i) certificate of good standing, certified by the Secretary of State indicating that Developer is properly organized and authorized to do business in the State of California, (ii) a certified resolution indicating that Developer has authorized the transactions contemplated by this Agreement and that the persons executing the City Documents on behalf of Developer have been duly authorized to do so.

(iv) No material adverse change as determined by City in its reasonable judgment shall have occurred in the condition of the Property or in the financial or other condition of Developer since the date of this Agreement.

(v) City's written agreement to the costs and schedule of products represented in the Predevelopment phase of the Financing Plan attached as Exhibit D. Such costs shall be consistent with and support the initial draft of the total Project Financing Plan.

(vi) City's receipt of a written requisition from Developer specifying the amount and use of the requested funds, accompanied by copies of third-party invoices for services rendered or to be rendered in connection with the Project (accompanied by or to be followed by evidence of payment of such invoices, as applicable), and such other documentation as City shall reasonably require, including without limitation, cost certification as to the expenses incurred. All such requisitions shall be preceded by written request from Developer to City for consideration of the specific Predevelopment cost. For those costs and expenses not included in Predevelopment budget approved by the City, the City must provide written approval before Developer may incur such cost or expense.

(b) For funding during the Construction period ("**Construction Phase**"), in addition to continuing the aforementioned conditions of disbursement, the following are additional requirements for funding requests on or after Commencement of Construction:

(i) Prior to construction loan closing, City's written agreement to the updated Financing Plan to be attached as an amendment to Exhibit D reflecting all Project costs, all sources of Project funding, the operating budget and any other schedules, narratives or products required by the City. The Financing Plan shall reflect the funding and underwriting requirements of all lenders and grant programs funding the costs of the Construction Phase of the Project. The amended Financing Plan shall provide evidence for an orderly transition to the permanent loan phase of the project.

(ii) Prior to construction loan closing, City's written acknowledgement that Developer has maintained the performance as anticipated in the development schedule described in the attached Exhibit E.

(iii) Developer's delivery to City of evidence reasonably satisfactory to City that Developer has obtained all necessary entitlements, permits (including without limitation building permits), licenses, and approvals required to develop the Project, or that the receipt of such permits is subject only to such conditions as City shall reasonably approve; City's approval of the final plans and specifications for the Project; Developer's delivery to City evidence reasonably satisfactory to City that Developer has secured TCAC tax credits and any other binding commitments, subject only to commercially reasonable conditions, for all required Project construction and permanent financing; and in addition to items described in (i) and (ii) above, Developer's delivery to City and City approval of all of the following: (1) performance bonds or other assurance of completion reasonably acceptable to City pursuant to the requirements set forth in Section 3.21; (2) any modification to the construction schedule; and (3) copies of such other documents related to the financing of the Project as City may reasonably request, including cost certification as to the expenses incurred.

6.5 No Obligation to Disburse Proceeds Upon Default. Notwithstanding any other provision of this Agreement, the City shall have no obligation to disburse or authorize the disbursement of any portion of City Funds following:

(i) the failure of any of Developer's representations and warranties made in this Agreement or in connection with the awarded nine percent tax credits to be true and correct in all material respects;

(ii) the termination of this Agreement by mutual agreement of the Parties;

(iii) the occurrence of an Event of Developer Default under any City Document which remains uncured beyond any applicable cure period, or the existence of any condition, event or act which upon the giving of notice or the passage of time or both would constitute an Event of Developer Default under any City Document.

ARTICLE VII

USE OF THE PROPERTY

7.1 Use; Affordable Housing. Developer covenants and agrees for itself and its successors and assigns that the Property shall be used for the development and operation of a multi-family senior residential project, in accordance with the terms and conditions of this Agreement and the Regulatory Agreement.

7.2 Maintenance. Developer, at its own expense, shall maintain the Property, the Improvements and related landscaping and common areas in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the foregoing, Developer agrees to maintain the Project and the Property (including without limitation, the residential units, common areas, landscaping, driveways, parking areas, and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Project. Developer shall prevent and/or rectify any physical deterioration of the Property and the Project and shall make all repairs, renewals and replacements necessary to keep the Property and the improvements located thereon in good condition and repair. Developer shall provide adequate security for occupants of the Project. The provisions of this Section 7.2 shall apply from and after Developer's acquisition of the Property.

7.3 Taxes and Assessments. From and after Developer's acquisition of the Property, Developer shall pay all real and personal property taxes, assessments and charges and all franchise, income, payroll, withholding, sales, and other taxes assessed against the Property or the Improvements and payable by Developer, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property or the Improvements; provided, however, that Developer shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event the Developer exercises its right to contest any tax,

assessment, or charge, the Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

7.4 Obligation to Refrain from Discrimination. From and after Developer's acquisition of the Property, Developer shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or the Improvements, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Developer covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or part thereof, nor shall Developer or any person claiming under or through Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in, of, or for the Property or the Improvements or part thereof. Developer shall include such provision in all deeds, leases, contracts and other instruments executed by Developer, and shall enforce the same diligently and in good faith.

All deeds, leases or contracts made or entered into by Developer, its successors or assigns, as to any portion of the Property or the Improvements shall contain the following language:

(a) In Deeds, the following language shall appear:

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

"(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and

subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).”

- (b) In Leases, the following language shall appear:

“(1) The lessee herein covenants by and for the lessee and lessee’s heirs, personal representatives and assigns, and all persons claiming under the lessee or through the lessee, that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination of segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein leased.

“(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).”

- (c) In Contracts, the following language shall appear:

“There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sublessees or vendees of the land.”

Additionally, City reserves the right to require other mandatory contract language necessary to satisfy existing Federal, State and Local requirements.

ARTICLE VIII

LIMITATIONS ON CHANGE IN OWNERSHIP, MANAGEMENT AND CONTROL OF DEVELOPER

8.1 Change Pursuant to this Agreement. Developer and its principals have represented that they possess the necessary expertise, skill and ability to carry out the

development of the Project on the Property pursuant to this Agreement. The qualifications, experience, financial capacity and expertise of Developer and its principals are of particular concern to the City. It is because of these qualifications, experience, financial capacity and expertise that the City has entered into this Agreement with Developer. No voluntary or involuntary successor, assignee or transferee of Developer shall acquire any rights or powers under this Agreement, except as expressly provided herein.

8.2 Prohibition on Transfer. Prior to the expiration of the term of the Regulatory Agreement, Developer shall not, except as expressly permitted by this Agreement, directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, “**Transfer**”) of the whole or any part of Developer’s interest in the Property, the Project, the Improvements, or this Agreement, without the prior written approval of City, which approval shall not be unreasonably withheld. (The provisions concerning Transfer of the Property, the Project and the Improvements shall apply commencing upon Developer’s acquisition of a fee simple interest in the Property.) Any such attempt to assign this Agreement without the City’s consent shall be null and void and shall confer no rights or privileges upon the purported assignee. In addition to the foregoing, prior to the expiration of the term of the Regulatory Agreement, except as expressly permitted by this Agreement, Developer shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a “significant change of ownership” shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the present ownership and /or control of Developer, taking all transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner, nor the transfer by the investor limited partner to subsequent limited partners shall be restricted by this provision.

8.3 Permitted Transfers. Notwithstanding any contrary provision hereof, the prohibitions set forth in this Article shall not be deemed to prevent: (i) the granting of easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to this Agreement; (iii) the lease of individual residences to tenants for occupancy as their principal residence in accordance with the Regulatory Agreement; (iv) assignments creating security interests for the purpose of financing the acquisition, construction or permanent financing of the Project or the Property in accordance with the approved Financing Plan as it may be updated with City approval, and subject to the requirements of Article VII, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; or (v) a Transfer to a single purpose limited partnership in which at least one of the general partners is an affiliate controlled by Urban Housing Communities LLC, a California limited liability company (“**Controlled Affiliate**”).

8.4 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement, the Improvements, the Property or portion thereof if all of the following requirements are met (provided however, the requirements of this Section 8.4 shall not apply to Transfers described in clauses (i) through (v) of Section 8.3):

(i) The proposed transferee demonstrates to the City’s satisfaction that it has the qualifications, experience and financial resources necessary and adequate as may be

reasonably determined by the City to competently complete construction of the Project and to otherwise fulfill the obligations undertaken by the Developer under this Agreement.

(ii) The Developer and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of this Agreement, the Improvements, the Property or interest therein together with such documentation of the proposed transferee's qualifications and development capacity as the City may reasonably request.

(iii) The proposed transferee shall expressly assume all of the rights and obligations of the Developer under this Agreement and the City Documents arising after the effective date of the Transfer and all obligations of Developer arising prior to the effective date of the Transfer (unless Developer expressly remains responsible for such obligations) and shall agree to be subject to and assume all of Developer's obligations pursuant to the Conditions of Approval and all other conditions, and restrictions set forth in this Agreement and the Regulatory Agreement.

(iv) The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

Consent to any proposed Transfer may be given by the City Manager unless the City Manager, in his or her discretion, refers the matter of approval to the City Council. If a proposed Transfer has not been approved by City in writing within thirty (30) days following City's receipt of written request by Developer, it shall be deemed rejected.

8.5 Effect of Transfer without City Consent.

8.5.1 In the absence of specific written agreement by the City, no Transfer by Developer shall be deemed to relieve the Developer or any other party from any obligation under this Agreement.

8.5.2 Without limiting any other remedy City may have under this Agreement, or under law or equity, it shall be an Event of Developer Default hereunder entitling City to terminate this Agreement if without the prior written approval of the City, Developer assigns or Transfers this Agreement, the Improvements, or the Property prior to the City's issuance of a Certificate of Completion. This Section 8.5.2 shall not apply to Transfers described in clauses (i) through (v) of Section 6.3.

8.6 Recovery of City Costs. Developer shall reimburse the City up to Three Hundred Forty-One Thousand Five Hundred Dollars And No Cents (\$341,500.00) over and above the costs set forth in Exhibit D for all costs incurred by the City, including but not limited to partial land acquisition costs and staffing costs, if and only if Closing is consummated, within ten (10) days following City's delivery to Developer of an invoice detailing such costs provided that any such invoices may be delivered only after the Closing is consummated..

ARTICLE IX

SECURITY FINANCING AND RIGHTS OF MORTGAGEES

9.1 Mortgages and Deeds of Trust for Development. Mortgages and deeds of trust, or any other reasonable security instrument are permitted to be placed upon the Property or the Improvements only for the purpose of securing loans for the purpose of the design and construction of the Improvements, and other expenditures reasonably necessary for development of the Property pursuant to this Agreement. Developer shall not enter into any conveyance for such financing that is not contemplated in the Financing Plan as it may be updated with City approval, without the prior written approval of the City's Chief Executive officer or his or her designee. As used herein, the terms "mortgage" and "deed of trust" shall mean any security instrument used in financing real estate acquisition, construction and land development.

9.1.1 Memorandum and Regulatory Agreement to be Senior to Mortgages. The City agrees that pursuant to Health and Safety Code Section 33334.14(a)(4), City will not withhold consent to reasonable requests for subordination of the Regulatory Agreement to deeds of trust provided for the benefit of Tax Credit equity partners identified in the Financing Plan as it may be updated with City approval, provided that the instruments effecting such subordination include reasonable protections to the City in the event of default consistent with the requirements of Health and Safety Code Section 33334.14(a)(4).

9.2 Holder Not Obligated to Construct. The holder of any mortgage, deed of trust authorized by this Agreement shall not be obligated to complete construction of the Improvements or to guarantee such completion. Nothing in this Agreement shall be deemed to permit or authorize any such holder to devote the Property or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

9.3 Notice of Default and Right to Cure. Whenever City delivers any notice of default hereunder, City shall concurrently deliver a copy of such notice to each holder of record of any mortgage or deed of trust secured by the Property or the Improvements, provided that City has been provided with the address for delivery of such notice. City shall have no liability to any such holder for any failure by the City to provide such notice to such holder. Each such holder shall have the right, but not the obligation, at its option, to cure or remedy any such default or breach within the cure period provided to Developer extended by and additional sixty (60) days. In the event that possession of the Property or the Improvements (or any portion thereof) is required to effectuate such cure or remedy, the holder shall be deemed to have timely cured or remedied the default if it commences the proceedings necessary to obtain possession of the Property or Improvements, as applicable, within sixty (60) days after receipt of the City's notice, diligently pursues such proceedings to completion, and after obtaining possession, diligently completes such cure or remedy. A holder who chooses to exercise its right to cure or remedy a default or breach shall first notify City of its intent to exercise such right prior to commencing to cure or remedy such default or breach. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction of the Project (beyond the extent necessary to conserve or protect the same) without first having expressly assumed in

writing Developer's obligations to City under this Agreement. The holder in that event must agree to complete, in the manner provided in this Agreement, the Project and the Improvements and submit evidence reasonably satisfactory to City that it has the development capability on staff or retainer and the financial capacity necessary to perform such obligations. Any such holder properly completing the Project pursuant to this Section shall assume all rights and obligations of Developer under this Agreement and shall be entitled to a Certificate of Completion upon compliance with the requirements of this Agreement.

9.4 City Right to Cure Defaults. In the event of a breach or default by Developer under a mortgage or deed of trust secured by the Property or the Improvements, City may cure the default, without acceleration of the subject loan, following prior notice thereof to the holder of such instrument and Developer. In such event, Developer shall be liable for, and City shall be entitled to reimbursement from Developer for all costs and expenses incurred by City associated with and attributable to the curing of the default or breach and such sum.

9.5 Holder to be Notified. Developer agrees to use best efforts to ensure that each term contained herein dealing with security financing and rights of holders shall be either inserted into the relevant deed of trust or mortgage or acknowledged by the holder prior to its creating any security right or interest in the Property or the Improvements.

9.6 Modifications to Agreement. City shall not unreasonably withhold its consent to modifications of this Agreement requested by Project lenders or investors provided such modifications do not alter City's substantive rights and obligations under this Agreement.

9.7 Estoppel Certificates. Either Party shall, at any time, and from time to time, within fifteen (15) days after receipt of written request from the other Party, execute and deliver to such Party a written statement certifying that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties (if such be the case), (ii) this Agreement has not been amended or modified, or if so amended, identifying the amendments, and (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, describing the nature of any such defaults.

ARTICLE X

ENVIRONMENTAL MATTERS

10.1 No City Liability; Developer's Covenants. City shall be responsible for the cost of any soil, groundwater or other environmental remediation or other response activities for any Hazardous Materials existing or occurring in, on, under or about the Improvements, the Property or any portion thereof. From and after Developer's acquisition of the Property, upon receipt of any notice regarding the presence, release or discharge of Hazardous Materials in, on or under the Improvements, the Property, or any portion thereof, Developer agrees to timely initiate and diligently pursue and complete all appropriate response, remediation and removal actions for the presence, release or discharge of such Hazardous Materials within such deadlines as specified by applicable Environmental Laws. Developer hereby covenants and agrees that commencing upon Developer's acquisition of the Property:

(i) Developer shall not knowingly permit the Project or the Property or any portion of either to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials or otherwise knowingly permit the presence or release of Hazardous Materials in, on, under, about or from the Project or the Property with the exception of cleaning supplies and other materials customarily used in construction, operation or maintenance of residential property and any commercial uses developed as part of the Project, and used, stored and disposed of in compliance with Hazardous Materials Laws, and

(ii) Developer shall keep and maintain the Project and the Property and each portion thereof in compliance with, and shall not cause or permit the Project or the Property or any portion of either to be in violation of, any Hazardous Materials Laws.

10.2 Environmental Indemnification. Subject to the last sentence of this Section, commencing upon Developer's acquisition of the Property, Developer shall indemnify, defend (with counsel approved by City) and hold the Indemnitees harmless from and against any and all Claims including without limitation any expenses associated with the investigation, assessment, monitoring, response, removal, treatment, abatement or remediation of Hazardous Materials and administrative, enforcement or judicial proceedings resulting, arising, or based directly or indirectly in whole or in part, upon (i) the presence, release, use, generation, discharge, storage or disposal or the alleged presence, release, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Property, or (ii) the failure of Developer, Developer's employees, agents, contractors, subcontractors, or any person acting on behalf of any of the foregoing to comply with Hazardous Materials Laws or the covenants set forth in Section 10.1. The foregoing indemnity shall further apply to any residual contamination in, on, under or about the Property or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws. The provisions of this Section 10.2 shall survive the issuance of a Certificate of Completion for the Project and the expiration or earlier termination of this Agreement. Except for any Claims caused by sole negligence of the Developer or its agents, Developer's indemnification obligations set forth in this Section shall not apply to Claims regarding the Property arising out of or occurring prior to Developer's acquisition of the Property.

10.2.1 No Limitation. Developer hereby acknowledges and agrees that Developer's duties, obligations and liabilities under this Agreement, including, without limitation, under Section 8.2 above, are in no way limited or otherwise affected by any information the City may have concerning the Property and/or the presence in, on, under or about the Property of any Hazardous Materials, whether the City obtained such information from the Developer or from its own investigations. It is further agreed that City does not and shall not waive any rights against Developer that they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

10.3 Hazardous Materials. As used herein, the term "**Hazardous Materials**" means any substance, material or waste which is or becomes regulated by any federal, state or local

governmental authority, and includes without limitation (i) petroleum or oil or gas or any direct or indirect product or by-product thereof; (ii) asbestos and any material containing asbestos; (iii) any substance, material or waste regulated by or listed (directly or by reference) as a "hazardous substance", "hazardous material", "hazardous waste", "toxic waste", "toxic pollutant", "toxic substance", "solid waste" or "pollutant or contaminant" in or pursuant to, or similarly identified as hazardous to human health or the environment in or pursuant to, the Toxic Substances Control Act [15 U.S.C. Section 2601, *et seq.*]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, *et seq.*], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, *et seq.*], the Resource Conservation and Recovery Act [42 U.S.C. Section 6901, *et seq.*], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, *et seq.*], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, *et seq.*], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, *et seq.*], the California Hazardous Waste Act [California Health and Safety Code Section 25100, *et seq.*], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, *et seq.*], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, *et seq.*], as they now exist or are hereafter amended, together with any regulations promulgated thereunder; (iv) any substance, material or waste which is defined as such or regulated by any "Superfund" or "Superlien" law, or any Environmental Law; or (v) any other substance, material, chemical, waste or pollutant identified as hazardous or toxic and regulated under any other federal, state or local environmental law, including without limitation, asbestos, polychlorinated biphenyls, petroleum, natural gas and synthetic fuel products and by-products.

10.4 Environmental Laws. As used herein, the term "**Environmental Laws**" means all federal, state or local statutes, ordinances, rules, regulations, orders, decrees, judgments or common law doctrines, and provisions and conditions of permits, licenses and other operating authorizations regulating, or relating to, or imposing liability or standards of conduct concerning (i) pollution or protection of the environment, including natural resources; (ii) exposure of persons, including employees and agents, to Hazardous Materials (as defined above) or other products, raw materials, chemicals or other substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities; (iv) the manufacture, use or introduction into commerce of chemical substances, including without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal; or (iv) the use, release or disposal of toxic or hazardous substances or Hazardous Materials or the remediation of air, surface waters, groundwaters or soil, as now or may at any later time be in effect, including but not limited to the Toxic Substances Control Act [15 U.S.C. Section 2601, *et seq.*]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, *et seq.*], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, *et seq.*], the Resource Conservation and Recovery Act [42 U.S.C. Section 6901, *et seq.*], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, *et seq.*], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, *et seq.*], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, *et seq.*], the California Hazardous Waste Act [California Health and Safety Code Section 25100, *et seq.*], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section

25249.5, *et seq.*], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, *et seq.*], as each of the foregoing now exist or are hereafter amended, together with any regulations promulgated thereunder.

ARTICLE XI

DEFAULTS, REMEDIES AND TERMINATION

11.1 Event of Developer Default. The following events shall constitute an event of default on the part of Developer ("**Event of Developer Default**"):

(a) Subject to force majeure, the availability of financing and City's issuance of permits and approvals, Developer fails to commence or complete construction of the Project within the times set forth in Section 5.8, or subject to force majeure, abandons or suspends construction of the Project prior to completion for a period of sixty (60) days or more;

(b) A Transfer occurs, either voluntarily or involuntarily, in violation of Article VIII;

(c) Developer fails to maintain insurance as required pursuant to this Agreement, and Developer fails to cure such default within ten (10) days;

(d) Subject to Developer's right to contest the following charges pursuant to Section 7.3, if Developer fails to pay prior to delinquency taxes or assessments due on the Property or the Project or fails to pay when due any other charge that may result in a lien on the Property or the Project, and Developer fails to cure such default within thirty (30) days of date of delinquency, but in all events upon the imposition of any such tax or other lien;

(e) Following Developer's acquisition of the Property, a default arises under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property, the Improvements, or Developer's interest therein, and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerate repayment of such loan;

(f) Any representation or warranty contained in this Agreement or in any application, financial statement, certificate or report submitted to the City in connection with this Agreement or Developer's request for City Funds proves to have been incorrect in any material and adverse respect when made and continues to be materially adverse to the City and Developer fails to cure such default within sixty (60) days after the date upon which City shall have given written notice of the default to Developer;

(g) If, pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors ("**Bankruptcy Law**"), Developer (i) commences a voluntary case or proceeding; (ii) consents to the entry of an order for relief against Developer or any general partner thereof in an involuntary case; (iii) consents to the appointment of a trustee, receiver, assignee, liquidator or similar official for

Developer or any general partner thereof; (iv) makes an assignment for the benefit of its creditors; or (v) admits in writing its inability to pay its debts as they become due;

(h) A court of competent jurisdiction shall have made or entered any decree or order (1) adjudging the Developer to be bankrupt or insolvent, (2) approving as properly filed a petition seeking reorganization of the Developer or seeking any arrangement for Developer under bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (3) appointing a receiver, trustee, liquidator, or assignee of the Developer in bankruptcy or insolvency or for any of its properties, or (4) directing the winding up or liquidation of the Developer;

(i) Developer shall have assigned its assets for the benefit of its creditors (other than pursuant to a mortgage loan) or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within sixty (60) days after such event (unless a lesser time period is permitted for cure under any other mortgage on the Property or the Improvements, in which event such lesser time period shall apply under this subsection as well) or prior to any sooner sale pursuant to such sequestration, attachment, or execution;

(j) The Developer shall have voluntarily suspended its business or Developer shall have been dissolved or terminated;

(k) An event of default arises under any City Document and remains uncured beyond any applicable cure period; or

(l) Developer defaults in the performance of any term, provision, covenant or agreement contained in this Agreement other than an obligation enumerated in this Section 9.1 and unless a shorter cure period is specified for such default, the default continues for ten (10) days in the event of a monetary default or sixty (60) days in the event of a nonmonetary default after the date upon which City shall have given written notice of the default to Developer; provided however, if the default is of a nature that it cannot be cured within sixty (60) days, an Event of Developer Default shall not arise hereunder if Developer commences to cure the default within sixty (60) days and thereafter prosecutes the curing of such default with due diligence and in good faith to completion and in no event later than one hundred twenty (120) days after receipt of notice of the default.

11.2 City Default. An event of default on the part of City ("**Event of City Default**") shall arise hereunder if City fails to keep, observe, or perform any of its covenants, duties, or obligations under this Agreement, and the default continues for a period of thirty (30) days after written notice thereof from Developer to City, or in the case of a default which cannot with due diligence be cured within thirty (30) days, City fails to commence to cure the default within thirty (30) days of such notice and thereafter fails to prosecute the curing of such default with due diligence and in good faith to completion.

11.3 City's Right to Terminate Agreement. If an Event of Developer Default shall occur and be continuing beyond any applicable cure period, then City shall, in addition to other rights available to it under law or this Agreement, have the right to terminate this Agreement. If

City makes such election, City shall give written notice to Developer and to any mortgagee entitled to such notice specifying the nature of the default and stating that this Agreement shall expire and terminate on the date specified in such notice, and upon the date specified in the notice, this Agreement and all rights of Developer under this Agreement, shall expire and terminate.

11.4 City's Remedies and Rights Upon an Event of Developer Default. Upon the occurrence of an Event of Developer Default and the expiration of any applicable cure period, City shall have all remedies available to it under this Agreement or under law or equity, including, but not limited to the following, and City may, at its election, without notice to or demand upon Developer, except for notices or demands required by law or expressly required pursuant to the City Documents, exercise one or more of the following remedies:

- (a) Seek specific performance to enforce the terms of the City Documents;
- (b) Pursue any and all other remedies available under this Agreement or under law or equity to enforce the terms of the City Documents and City's rights thereunder.

11.5 Developer's Remedies Upon an Event of City Default. Upon the occurrence of an Event of City Default, in addition to pursuing any other remedy allowed at law or in equity or otherwise provided in this Agreement, Developer may bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking to obtain any other remedy consistent with the purpose of this Agreement.

11.6 Remedies Cumulative; No Consequential Damages. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different time, of any other rights or remedies for the same or any other default by the other Party. Notwithstanding anything to the contrary set forth herein, a Party's right to recover damages in the event of a default shall be limited to actual damages and shall exclude consequential damages.

11.7 Inaction Not a Waiver of Default. No failure or delay by either Party in asserting any of its rights and remedies as to any default shall operate as a waiver of such default or of any such rights or remedies, nor deprive either Party of its rights to institute and maintain any action or proceeding which it may deem necessary to protect, assert or enforce any such rights or remedies in the same or any subsequent default.

ARTICLE XII

INDEMNITY AND INSURANCE

12.1 Indemnity. Developer shall indemnify, defend (with counsel approved by City) and hold Indemnitees, except third party contractors and consultants, harmless from and against any and all Claims, including without limitation, Claims arising directly or indirectly, in whole or in part, as a result of or in connection with Developer's or Developer's contractors, subcontractors, agents or employees development, construction, improvement, operation,

ownership or maintenance of the Project or the Property, or any part thereof or otherwise arising out of or in connection with Developer's performance under this Agreement. Developer's indemnification obligations under this Section 12.1 shall not extend to Claims resulting solely from the gross negligence or willful misconduct of, or to any breach of a warranty or representation of this Agreement by, one or more Indemnitees. The provisions of this Section 10.1 shall survive the issuance of a Certificate of Completion for the Project and the expiration or earlier termination of this Agreement. It is further agreed that City will not and shall not waive any rights against Developer that they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

12.2 Liability and Workers' Compensation Insurance.

(a) Prior to initiating work on the Project and continuing through the issuance of the Certificate of Completion, Developer and all contractors working on behalf of Developer on the Project shall maintain a commercial general liability policy in the amount of One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) annual aggregate, together with Three Million Dollars (\$3,000,000) excess liability coverage, or such other policy limits as City may require in its reasonable discretion, including coverage for bodily injury, property damage, products, completed operations and contractual liability coverage. Such policy or policies shall be written on an occurrence basis and shall name the Indemnitees as additional insureds.

(b) Until issuance of the Certificate of Completion, Developer and all contractors working on behalf of Developer shall maintain a comprehensive automobile liability coverage in the amount of One Million Dollars (\$1,000,000), combined single limit including coverage for owned and non-owned vehicles and shall furnish or cause to be furnished to City evidence satisfactory to City that Developer and any contractor with whom Developer has contracted for the performance of work on the Property or otherwise pursuant to this Agreement carries workers' compensation insurance as required by law. Automobile liability policies shall name the Indemnitees as additional insureds.

(c) Upon commencement of construction work and continuing until issuance of a Certificate of Completion, Developer and all contractors working on behalf of Developer shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee. Such insurance shall include coverage for risks of direct physical loss or damage, excluding the perils of earthquake, flood, and earth movement.

(d) Upon completion of construction, Developer shall maintain property insurance covering all risks of loss (other than earthquake and flood) for one hundred percent (100%) of the replacement value of the Project with deductible, if any, in an amount acceptable to City, naming City as loss payee.

(e) Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A: VII. The Commercial General Liability and comprehensive

automobile policies required hereunder shall name the Indemnitees as additional insureds. Builder's Risk and property insurance shall name City as loss payees as their interests may appear.

(f) Prior to commencement of construction work, Developer shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage and duly executed endorsements evidencing such additional insured status. The certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination or non-renewal.

(g) If any insurance policy or coverage required hereunder is canceled or reduced, Developer shall, within twenty-one (21) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Developer's expense, and Developer shall promptly reimburse City for such expense upon receipt of billing from City.

(h) Coverage provided by Developer shall be primary insurance and shall not be contributing with any insurance, or self-insurance maintained by City, and the policies shall so provide. The insurance policies shall contain a waiver of subrogation for the benefit of the City. Developer shall furnish the required certificates and endorsements to City prior to the commencement of construction of the Project, and shall provide City with certified copies of the required insurance policies upon request of City.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 No Brokers. Each Party warrants and represents to the other that no person or entity can properly claim a right to a real estate commission, brokerage fee, finder's fee, or other compensation with respect to the transactions contemplated by this Agreement, except as identified in the Financing Plan. Each Party agrees to defend, indemnify and hold harmless the other Party from any claims, expenses, costs or liabilities arising in connection with a breach of this warranty and representation. The terms of this Section shall survive the expiration or earlier termination of this Agreement.

13.2 Enforced Delay; Extension of Times of Performance. Subject to the limitations set forth below, performance by either Party shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended where delays are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions or priority, litigation, including court delays, unusually severe weather, acts or

omissions of the other Party, acts or failures to act of the City or any other public or governmental City or entity (other than the acts or failures to act of City which shall not excuse performance by City), or any other cause beyond the affected Party's reasonable control. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause and such extension is not rejected in writing by the other Party within ten (10) days of receipt of the notice. Neither Party shall unreasonably withhold consent to an extension of time pursuant to this Section.

Times of performance under this Agreement may also be extended in writing by the mutual agreement of Developer and City (acting in the discretion of its City Manager unless he or she determines in his or her discretion to refer such matter to the governing board of the City). City and Developer acknowledge that adverse changes in economic conditions, either of the affected Party specifically or the economy generally, changes in market conditions or demand, and/or inability to obtain financing to complete the work of Improvements shall not constitute grounds of enforced delay pursuant to this Section. Each Party expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Effective Date.

133 Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this Section. All such notices shall be sent by:

- (i) personal delivery, in which case notice is effective upon delivery;
- (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;
- (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;
- (iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a non-business day.

City: City of Rancho Cordova
 2729 Prospect Park Drive
 Rancho Cordova, CA 95670
 Attention: City Manager [or designee]
 Facsimile: (916) 851-8787

Developer: UHC 00575 Rancho Cordova L.P.
2000 E. Fourth Street
Suite 205
Santa Ana, CA 92705
Attn: John Bigley
Facsimile: 714.835.3275

13.4 Attorneys' Fees. If either Party fails to perform any of its obligations under this Agreement, or if any dispute arises between the Parties concerning the meaning or interpretation of any provision hereof, then the prevailing Party in any proceeding in connection with such dispute shall be entitled to the costs and expenses it incurs on account thereof and in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements.

13.5 Waivers; Modification. No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any other covenant or provision hereof, and no waiver shall be valid unless in writing and executed by the waiving Party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the Party granting the extension. This Agreement may be amended or modified only by a written instrument executed by the Parties.

13.6 Binding on Successors. Subject to the restrictions on Transfers set forth in Article VIII, this Agreement shall bind and inure to the benefit of the Parties and their respective permitted successors and assigns. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any permitted successor and assign of such Party who has acquired an interest in compliance with this Agreement or under law.

13.7 Survival. All representations made by Developer hereunder and Developer's obligations pursuant to Sections 5.14, 5.17, 5.18, 10.2, 12.1, 13.1 and 13.18 shall survive the expiration or termination of this Agreement and the issuance and recordation of a Certificate of Completion.

13.8 Construction. The section headings and captions used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since both Parties have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

13.9 Action or Approval. Whenever action and/or approval by City is required under this Agreement, the City Manager or his or her designee may act on and/or approve such matter unless specifically provided otherwise, or unless the City Manager determines in his or her discretion that such action or approval requires referral to the City Council for consideration.

13.10 Entire Agreement. This Agreement, including Exhibits A through G attached hereto and incorporated herein by this reference, together with other City Documents contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements between the Parties with respect to the subject matter hereof.

13.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Party. Any executed counterpart of this Agreement may be delivered to the other Party by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

13.12 Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

13.13 No Third Party Beneficiaries. Nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

13.14 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

13.15 Non-Liability of Officials, Employees and Agents. No officer, official, employee or agent of City shall be personally liable to Developer or its successors in interest in the event of any default or breach by City for any amount which may become due to Developer or its successors in interest pursuant to this Agreement.

13.16 Time of the Essence; Calculation of Time Periods. Time is of the essence for each condition, term, obligation and provision of this Agreement. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a business day, in which event the period shall run until the next business day. The final day of any such period shall be deemed to end at 5:00 p.m., local time at the Property. For purposes of this Agreement, a "business day" means a day that is not a Saturday, Sunday, a federal holiday or a state holiday under the laws of California.

13.17 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed in the Superior Court of Sacramento County, California or in the Federal District Court for the Eastern District of California.

13.18. General Indemnification. Developer shall indemnify, defend (with counsel approved by City) and hold harmless Indemnitees from all Claims (including without limitation, reasonable attorneys' fees) arising in connection with any claim, action or proceeding to attack, set aside, void, or annul any approval by the City or any of its agencies, departments, commissions, agents, officers, employees or legislative body concerning the Project or this Agreement. The City will promptly notify Developer of any such claim, action or proceeding, and will cooperate fully in the defense. The City may, within the unlimited discretion of each, participate in the defense of any such claim, action or proceeding, and if the City chooses to do so, Developer shall reimburse City for reasonable attorneys' fees and expenses incurred.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the date first written above.

CITY

THE CITY OF RANCHO CORDOVA, a California municipal corporation, as Housing Successor to the former Community Redevelopment Agency of the City of Rancho Cordova

By: Ted A. Gaebler

Name: TED A. GAEBLER

Title: CITY MANAGER

ATTEST:

By: Mindy Curry
Mindy Curry, City Clerk

APPROVED AS TO FORM:

By: Adam Lindgren
Adam Lindgren, City Attorney

DEVELOPER

UHC 00575 Rancho Cordova, L.P.

By: UHC 00575 Rancho Cordova Holdings LLC

By: John F. Bigley

Name: JOHN F. BIGLEY

Title: C.D.O.

Exhibit A

LEGAL DESCRIPTION OF PROPERTY
(Attach legal description.)

Exhibit B

FORM OF MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT
(Attach form of Memorandum.)

Exhibit C

FORM OF CERTIFICATE OF COMPLETION
(Attach form of Certificate.)

Exhibit D

FINANCING PLAN
(Attach Financing Plan.)

Exhibit E

DEVELOPMENT AND PERFORMANCE SCHEDULE
(Attach Schedule)

Exhibit F

REGULATORY AGREEMENT
(Attach Regulatory Agreement)

Exhibit G

APPROVED PLANS PER DESIGN REVIEW
(Attach Approved Plans and Conditions)

2044347.3

Exhibit A

LEGAL DESCRIPTION OF SITE

The site for the Horizons @ New Rancho affordable, senior's development has the address of 2738 Woodberry Way, Rancho Cordova, 95670. The parcel number for the site is 057-0221-022. Attached, is a current Preliminary Title Report which includes a legal description of the site as well as a parcel map.



Fidelity National Title Company

PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Fidelity National Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.*

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Fidelity National Title Insurance Company, a California corporation.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

[Signature]
Countersigned



Fidelity National Title Company

BY

[Signature]
President

ATTEST

[Signature]
Secretary

Visit Us on our Website: www.fntic.com



Fidelity National Title Company

ISSUING OFFICE: 11050 Olson Dr., Suite 200 • Rancho Cordova, CA 95670

FOR SETTLEMENT INQUIRIES, CONTACT: Fidelity National Title Company - Sacramento Commercial & Industrial
8950 Cal Center Drive, Bldg. 3, Suite 100 • Sacramento, CA 95826
916 364-4070 • FAX 916 364-4093

PRELIMINARY REPORT

Amended

Title Officer: Craig Donner
Escrow Officer: Paul Avila
Escrow No.: 11-**5011627**-PA

Title No.: 11-**5011627**-G-CD
Locate No.: CAFNT0934-0934-0010-0005011627

TO: Community Redevelopment Agency of the City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova, CA 95670

ATTN: Reed Flory

PROPERTY ADDRESS: Unimproved land

EFFECTIVE DATE: February 5, 2013, 07:30 A.M.

The form of policy or policies of title insurance contemplated by this report is:

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A Fee
2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Successor Agency to the Community Redevelopment Agency of the City of Rancho Cordova, a public body, corporate and politic
3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

CD\CD 06/21/2011

Title No. 11-**5011627**-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RANCHO CORDOVA, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel B of boundary line adjustment recorded in Book 20101025 at Page 0516 of Official Records, County of Sacramento, said Parcel B being the Southeasterly 45.44 feet of Lot 34 as shown on the Plat of Cordova Court Unit No. 2, recorded in Book 53 of Maps, at Page 8, in the Records Office of the County of Sacramento, State of California.

Together with that certain parcel recorded in Document 1003139100 on March 13, 2010 and Document 1009100717 on September 10, 2010 of Official Records in the Records Office of the County of Sacramento, State of California. Said Parcel being the West 170.00 feet of Lot 35 of the plat of Cordova Court Unit No. 2 filed in Book 53 of Maps at Page 8 in the Records Office of the County of Sacramento, State of California. Said West 170.00 feet being measured at right angles from the Southwesterly line of said lot.

Being further described as follows:

Beginning at the most Southerly corner of aforesaid Lot 35 the following five (5) courses:

- 1) North 32° 00' 00" West 287.43 feet to the most Southerly corner of Parcel A of that certain Lot Merger as Recorded in Book 20101025 at Page 0516 of Official Records in the Records Office of the County of Sacramento, State of California.
- 2) Along said Southerly line of Parcel A North 58° 02' 20" East 133.32 feet (133.37 per aforesaid Lot Merger) to the Westerly right of way of Woodberry Way to a non-tangent curve to the left with a radius bearing of North 78° 13' 30" East 50.00 feet to the radius point.
- 3) Along said right of way along said curve to the left with a radius of 50.00 feet having a central angle of 98° 24' 46" with an arc length of 85.88 subtended by a chord of South 60° 58' 53" East 75.70 feet;
- 4) Leaving said right of way South 32° 00' 00" East 221.12 feet to the Southeasterly line of aforesaid Lot 35 said line also being the Northwesterly right of way of Folsom Boulevard;
- 5) Along said Southerly line of said Lot 35 South 58° 00' 00" West 170.00 feet to the point of beginning.

Containing 46,729.00 Square feet or 1.07 acres

Basis of bearings for this description is identical as Cordova Unit No. 2 Recorded in Book 53 of Maps at Page 8, Official Records in the Records Office of the County of Sacramento, State of California.

APN: 057-0221-022

Title No. 11-**5011627**-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. **Property taxes**, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2013-2014.
2. Prior to close of escrow, please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.
3. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.
4. **Any unpaid amounts now owing for municipal services**, of record or not, amounts can be ascertained by contacting the following:

County of Sacramento at (916) 875-5555, **and/or including** :
 City of Sacramento at (916) 808-5454.
 City of Folsom at (916) 355-7200.
 City of Galt at (209) 366-7150.
 City of Elk Grove at (916) 478-3642
 City of Rancho Cordova at (916) 638-9000
 City of Isleton at (916) 777-7770
 City of Citrus Heights at (916) 725-2448, and for waste charges - Allied Waste at (916) 725-9060, and as required, fax request to (916) 463-0297

5. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to:	Pacific Gas and Electric Company
Purpose:	Underground pipeline
Recorded:	April 7, 1955, Book 2806, Page 413, of Official Records
Affects:	The Southeasterly 10 feet adjacent to Folsom Blvd. of Parcel One and Two

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract.

Purpose:	Public utilities
Affects:	Southwesterly 5 feet of Parcel One; the Northwesterly and Southwesterly 5 feet of Parcel Three

7. Covenants, conditions and restrictions as contained in the Deed recorded July 11, 1958, in Book 3544, Page 568, of Official Records.

ITEMS: (continued)

Title No. 11-**5011627**-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

8. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Speedee Mart, Inc.
 Purpose: Road
 Recorded: June 8, 1961, Book 4257, Page 652, of Official Records
 Affects: Parcel Two

9. **Covenants, conditions and restrictions** in the declaration of restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Recorded: June 20, 1961, Book 4263, Page 440, of Official Records

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien of any mortgage or deed of trust made in good faith and for value.

10. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Sacramento Municipal Utility District and Pacific Telephone and Telegraph Company
 Purpose: Electrical and Communication Facilities
 Recorded: October 19, 1961, Book 4329, Page 637, of Official Records
 Affects: The Southeasterly 5 feet of Parcel Three

11. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Sacramento Municipal Utility District and Pacific Telephone and Telegraph Company
 Purpose: Electrical and Communication Facilities
 Recorded: October 19, 1961, Book 4329, Page 639, of Official Records
 Affects: Northwesterly 5 feet

12. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Pacific Telephone and Telegraph Company
 Purpose: Communication facilities
 Recorded: February 22, 1978, Book 780222, Page 960, of Official Records
 Affects: The Southeasterly 5 feet and the Southwesterly 10 feet of the Southeasterly 10 feet of Parcel Three

ITEMS: (continued)

Title No. 11-**5011627**-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

- 13. Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Pacific Telephone and Telegraph Company
 Purpose: Communication facilities
 Recorded: June 15, 1978, Book 780615, Page 814, of Official Records
 Affects: The Southeasterly 16 feet and the Southeasterly 16 feet of the Southwesterly 10 feet of Parcel Three

- 14. Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: County of Sacramento
 Purpose: Sanitary sewer pipeline
 Recorded: April 11, 1986, Book 860411, Page 1602, of Official Records
 Affects: The Southerly 5 feet of Parcel Two

- 15. Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Pacific Bell
 Purpose: Communication facilities and incidental purposes
 Recorded: April 23, 1990, Book 900423, Page 813, of Official Records
 Affects: Northerly 10 feet of the Westerly 15 feet of Parcel One

- 16. Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Sacramento Municipal Utility District
 Purpose: Electrical Facilities and incidental purposes
 Recorded: August 19, 1992, Book 920819, Page 1372, of Official Records
 Affects: the route of said right-of-way shall be within a strip of land 2 feet in width the centerline of which is described as follows:
 Beginning at a point in the Northerly right-of-way of the public road now known as Folsom Blvd. located North 58°00'00" East 4.69 feet from the Southwest corner of said Lot 35; thence from said point of beginning North 12°01'43" East 11.00 feet

Affects: Parcel One

- 17. Matters** contained in that certain document entitled "BOUNDARY LINE ADJUSTMENT" dated February 13, 2012, executed by City of Rancho Cordova recorded February 14, 2012, Book 20120214, Page 985, of Official Records.

Reference is hereby made to said document for full particulars.

ITEMS: (continued)

Title No. 11-5011627-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

- 18.** Any claim that the transaction vesting the Title as shown in Schedule A or creating the lien of the Insured Mortgage, or any other transaction occurring on or prior to Date of Policy in which Community Redevelopment Agency of the City of Rancho Cordova, a public body, corporate and politic or its successors transferred, acquired, or made any agreement affecting the title to or any interest in the Land, is void or voidable, or subject to termination, renegotiation, or judicial review, under California Assembly Bill 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session). and California Assembly Bill 1484 (Chapter 26, Statutes of 2011-12).

- 19.** **Any rights of the parties in possession** of a portion of, or all of, said land, which rights are not disclosed by the public record.

This Company will require, for review, a full and complete copy of any unrecorded agreement, contract, license and/or lease, together with all supplements, assignments and amendments thereto, before issuing any policy of title insurance without excepting this item from coverage. The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.

- 20.** The Company will require the following items to be submitted for review:

1. A resolution by the successor agency preferably that identifies the housing assets.
2. Approval of the oversight board.
3. Notice to the State Department of Finance.
4. Approval of the State Department of Finance.

- 21.** Approval of the Policy or Commitment by the Regional Counsel is required prior to recordation of the instruments required to complete this transaction, and issuance of the Title Insurance Policy. The right is reserved to make additional exceptions and/or requirements upon their review.

END OF ITEMS

- Note 1.** If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.

NOTES: (continued)

Title No. 11-**5011627**-G-CD
Locate No. CAFNT0934-0934-0010-0005011627

Note 2. Wiring instructions for Fidelity National Title Company, Sacramento, CA, are as follows:

Receiving Bank: Citibank (West), F.S.B.
1116 Alhambra Blvd.
Sacramento, CA 95816
ABA Routing No.: 321171184
Credit Account Name: Fidelity National Title Company - Sacramento Commercial & Industrial
8950 Cal Center Drive, Bldg. 3, Suite 100, Sacramento, CA 95826
Credit Account No.: 202125712
Escrow No.: 11-**5011627**-PA

These wiring instructions are for this specific transaction involving the Title Department of the Rancho Cordova office of Fidelity National Title Company. These instructions therefore should not be used in other transactions without first verifying the information with our accounting department. It is imperative that the wire text be exactly as indicated. Any extraneous information may cause unnecessary delays in confirming the receipt of funds.

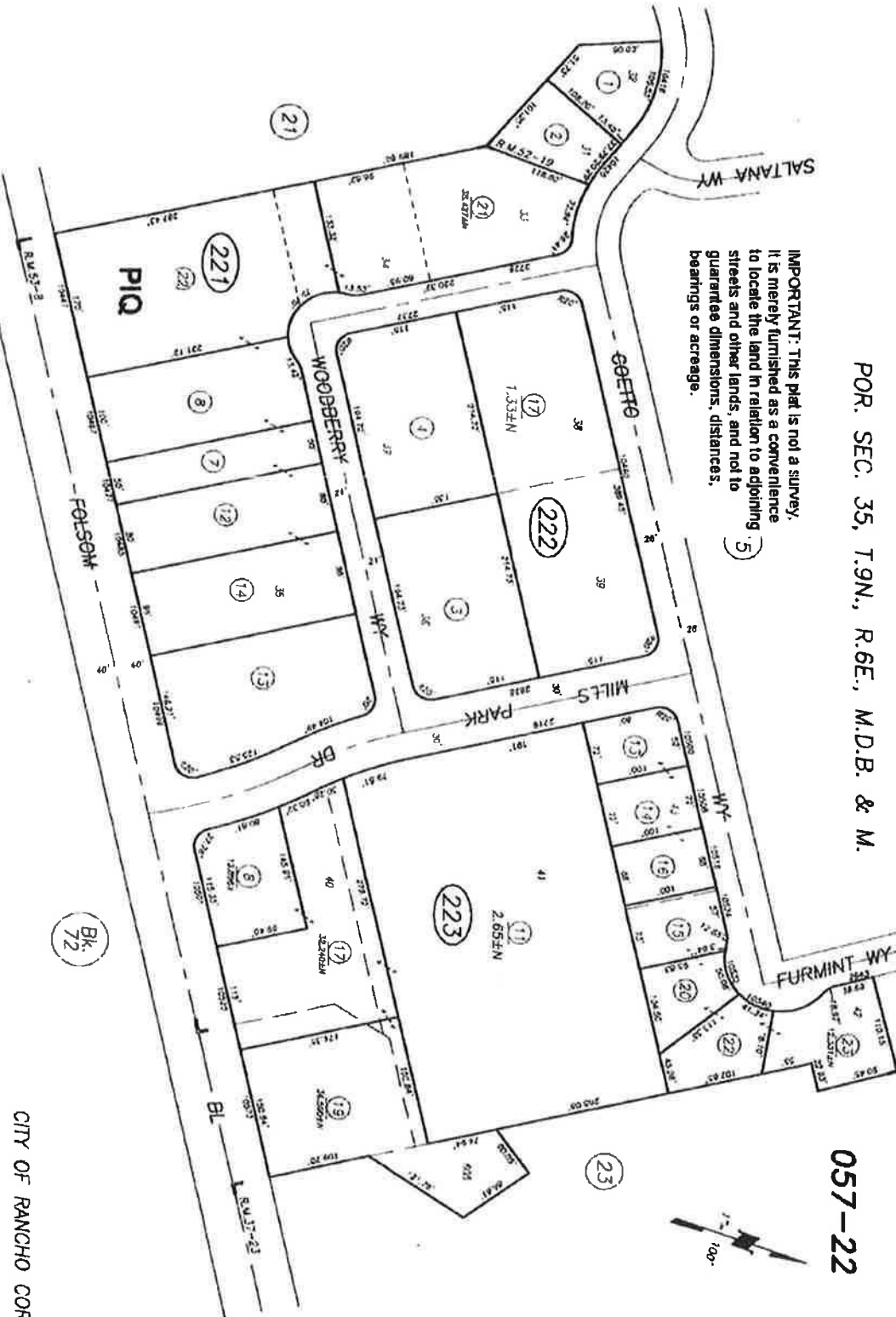
Note 3. Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third-party service. If the above requirements cannot be met, please call the company at the number provided in this report.

END OF NOTES

POR. SEC. 35, T.9N., R.6E., M.D.B. & M.

057-22

IMPORTANT: This plat is not a survey.
It is merely furnished as a convenience
to locate the land in relation to adjoining
streets and other lands, and not to
guarantee dimensions, distances,
bearings or acreage.



Por. Ranch Cordova Court Unit 6, R.M. Bk. 37, Pg.23(6-23-1954)
Por. Cordova Court Unit 1, R.M. Bk. 52, Pg.19(2-19-1959)
Por. Cordova Court Unit 2, R.M. Bk. 53, Pg.8(3-31-1959)

CITY OF RANCHO CORDOVA
Assessor's Map Bk. 057 Pg. 022
County of Sacramento, Calif.

Exhibit B

**FORM OF MEMORANDUM OF DISPOSITION AND
DEVELOPMENT AGREEMENT**

governmental authority, and includes without limitation (i) petroleum or oil or gas or any direct or indirect product or by-product thereof; (ii) asbestos and any material containing asbestos; (iii) any substance, material or waste regulated by or listed (directly or by reference) as a "hazardous substance", "hazardous material", "hazardous waste", "toxic waste", "toxic pollutant", "toxic substance", "solid waste" or "pollutant or contaminant" in or pursuant to, or similarly identified as hazardous to human health or the environment in or pursuant to, the Toxic Substances Control Act [15 U.S.C. Section 2601, *et seq.*]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, *et seq.*], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, *et seq.*], the Resource Conservation and Recovery Act [42 U.S.C. Section 6901, *et seq.*], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, *et seq.*], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, *et seq.*], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, *et seq.*], the California Hazardous Waste Act [California Health and Safety Code Section 25100, *et seq.*], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, *et seq.*], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, *et seq.*], as they now exist or are hereafter amended, together with any regulations promulgated thereunder; (iv) any substance, material or waste which is defined as such or regulated by any "Superfund" or "Superlien" law, or any Environmental Law; or (v) any other substance, material, chemical, waste or pollutant identified as hazardous or toxic and regulated under any other federal, state or local environmental law, including without limitation, asbestos, polychlorinated biphenyls, petroleum, natural gas and synthetic fuel products and by-products.

10.4 Environmental Laws. As used herein, the term "**Environmental Laws**" means all federal, state or local statutes, ordinances, rules, regulations, orders, decrees, judgments or common law doctrines, and provisions and conditions of permits, licenses and other operating authorizations regulating, or relating to, or imposing liability or standards of conduct concerning (i) pollution or protection of the environment, including natural resources; (ii) exposure of persons, including employees and agents, to Hazardous Materials (as defined above) or other products, raw materials, chemicals or other substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities; (iv) the manufacture, use or introduction into commerce of chemical substances, including without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal; or (iv) the use, release or disposal of toxic or hazardous substances or Hazardous Materials or the remediation of air, surface waters, groundwaters or soil, as now or may at any later time be in effect, including but not limited to the Toxic Substances Control Act [15 U.S.C. Section 2601, *et seq.*]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, *et seq.*], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, *et seq.*], the Resource Conservation and Recovery Act [42 U.S.C. Section 6901, *et seq.*], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, *et seq.*], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, *et seq.*], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, *et seq.*], the California Hazardous Waste Act [California Health and Safety Code Section 25100, *et seq.*], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section

25249.5, *et seq.*], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, *et seq.*], as each of the foregoing now exist or are hereafter amended, together with any regulations promulgated thereunder.

ARTICLE XI

DEFAULTS, REMEDIES AND TERMINATION

11.1 Event of Developer Default. The following events shall constitute an event of default on the part of Developer ("**Event of Developer Default**"):

(a) Subject to force majeure, the availability of financing and City's issuance of permits and approvals, Developer fails to commence or complete construction of the Project within the times set forth in Section 5.8, or subject to force majeure, abandons or suspends construction of the Project prior to completion for a period of sixty (60) days or more;

(b) A Transfer occurs, either voluntarily or involuntarily, in violation of Article VIII;

(c) Developer fails to maintain insurance as required pursuant to this Agreement, and Developer fails to cure such default within ten (10) days;

(d) Subject to Developer's right to contest the following charges pursuant to Section 7.3, if Developer fails to pay prior to delinquency taxes or assessments due on the Property or the Project or fails to pay when due any other charge that may result in a lien on the Property or the Project, and Developer fails to cure such default within thirty (30) days of date of delinquency, but in all events upon the imposition of any such tax or other lien;

(e) Following Developer's acquisition of the Property, a default arises under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property, the Improvements, or Developer's interest therein, and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerate repayment of such loan;

(f) Any representation or warranty contained in this Agreement or in any application, financial statement, certificate or report submitted to the City in connection with this Agreement or Developer's request for City Funds proves to have been incorrect in any material and adverse respect when made and continues to be materially adverse to the City and Developer fails to cure such default within sixty (60) days after the date upon which City shall have given written notice of the default to Developer;

(g) If, pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors ("**Bankruptcy Law**"), Developer (i) commences a voluntary case or proceeding; (ii) consents to the entry of an order for relief against Developer or any general partner thereof in an involuntary case; (iii) consents to the appointment of a trustee, receiver, assignee, liquidator or similar official for

Developer or any general partner thereof; (iv) makes an assignment for the benefit of its creditors; or (v) admits in writing its inability to pay its debts as they become due;

(h) A court of competent jurisdiction shall have made or entered any decree or order (1) adjudging the Developer to be bankrupt or insolvent, (2) approving as properly filed a petition seeking reorganization of the Developer or seeking any arrangement for Developer under bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (3) appointing a receiver, trustee, liquidator, or assignee of the Developer in bankruptcy or insolvency or for any of its properties, or (4) directing the winding up or liquidation of the Developer;

(i) Developer shall have assigned its assets for the benefit of its creditors (other than pursuant to a mortgage loan) or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within sixty (60) days after such event (unless a lesser time period is permitted for cure under any other mortgage on the Property or the Improvements, in which event such lesser time period shall apply under this subsection as well) or prior to any sooner sale pursuant to such sequestration, attachment, or execution;

(j) The Developer shall have voluntarily suspended its business or Developer shall have been dissolved or terminated;

(k) An event of default arises under any City Document and remains uncured beyond any applicable cure period; or

(l) Developer defaults in the performance of any term, provision, covenant or agreement contained in this Agreement other than an obligation enumerated in this Section 9.1 and unless a shorter cure period is specified for such default, the default continues for ten (10) days in the event of a monetary default or sixty (60) days in the event of a nonmonetary default after the date upon which City shall have given written notice of the default to Developer; provided however, if the default is of a nature that it cannot be cured within sixty (60) days, an Event of Developer Default shall not arise hereunder if Developer commences to cure the default within sixty (60) days and thereafter prosecutes the curing of such default with due diligence and in good faith to completion and in no event later than one hundred twenty (120) days after receipt of notice of the default.

11.2 City Default. An event of default on the part of City ("**Event of City Default**") shall arise hereunder if City fails to keep, observe, or perform any of its covenants, duties, or obligations under this Agreement, and the default continues for a period of thirty (30) days after written notice thereof from Developer to City, or in the case of a default which cannot with due diligence be cured within thirty (30) days, City fails to commence to cure the default within thirty (30) days of such notice and thereafter fails to prosecute the curing of such default with due diligence and in good faith to completion.

11.3 City's Right to Terminate Agreement. If an Event of Developer Default shall occur and be continuing beyond any applicable cure period, then City shall, in addition to other rights available to it under law or this Agreement, have the right to terminate this Agreement. If

City makes such election, City shall give written notice to Developer and to any mortgagee entitled to such notice specifying the nature of the default and stating that this Agreement shall expire and terminate on the date specified in such notice, and upon the date specified in the notice, this Agreement and all rights of Developer under this Agreement, shall expire and terminate.

11.4 City's Remedies and Rights Upon an Event of Developer Default. Upon the occurrence of an Event of Developer Default and the expiration of any applicable cure period, City shall have all remedies available to it under this Agreement or under law or equity, including, but not limited to the following, and City may, at its election, without notice to or demand upon Developer, except for notices or demands required by law or expressly required pursuant to the City Documents, exercise one or more of the following remedies:

- (a) Seek specific performance to enforce the terms of the City Documents;
- (b) Pursue any and all other remedies available under this Agreement or under law or equity to enforce the terms of the City Documents and City's rights thereunder.

11.5 Developer's Remedies Upon an Event of City Default. Upon the occurrence of an Event of City Default, in addition to pursuing any other remedy allowed at law or in equity or otherwise provided in this Agreement, Developer may bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking to obtain any other remedy consistent with the purpose of this Agreement.

11.6 Remedies Cumulative; No Consequential Damages. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different time, of any other rights or remedies for the same or any other default by the other Party. Notwithstanding anything to the contrary set forth herein, a Party's right to recover damages in the event of a default shall be limited to actual damages and shall exclude consequential damages.

11.7 Inaction Not a Waiver of Default. No failure or delay by either Party in asserting any of its rights and remedies as to any default shall operate as a waiver of such default or of any such rights or remedies, nor deprive either Party of its rights to institute and maintain any action or proceeding which it may deem necessary to protect, assert or enforce any such rights or remedies in the same or any subsequent default.

ARTICLE XII

INDEMNITY AND INSURANCE

12.1 Indemnity. Developer shall indemnify, defend (with counsel approved by City) and hold Indemnitees, except third party contractors and consultants, harmless from and against any and all Claims, including without limitation, Claims arising directly or indirectly, in whole or in part, as a result of or in connection with Developer's or Developer's contractors, subcontractors, agents or employees development, construction, improvement, operation,

ownership or maintenance of the Project or the Property, or any part thereof or otherwise arising out of or in connection with Developer's performance under this Agreement. Developer's indemnification obligations under this Section 12.1 shall not extend to Claims resulting solely from the gross negligence or willful misconduct of, or to any breach of a warranty or representation of this Agreement by, one or more Indemnitees. The provisions of this Section 10.1 shall survive the issuance of a Certificate of Completion for the Project and the expiration or earlier termination of this Agreement. It is further agreed that City will not and shall not waive any rights against Developer that they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

12.2 Liability and Workers' Compensation Insurance.

(a) Prior to initiating work on the Project and continuing through the issuance of the Certificate of Completion, Developer and all contractors working on behalf of Developer on the Project shall maintain a commercial general liability policy in the amount of One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) annual aggregate, together with Three Million Dollars (\$3,000,000) excess liability coverage, or such other policy limits as City may require in its reasonable discretion, including coverage for bodily injury, property damage, products, completed operations and contractual liability coverage. Such policy or policies shall be written on an occurrence basis and shall name the Indemnitees as additional insureds.

(b) Until issuance of the Certificate of Completion, Developer and all contractors working on behalf of Developer shall maintain a comprehensive automobile liability coverage in the amount of One Million Dollars (\$1,000,000), combined single limit including coverage for owned and non-owned vehicles and shall furnish or cause to be furnished to City evidence satisfactory to City that Developer and any contractor with whom Developer has contracted for the performance of work on the Property or otherwise pursuant to this Agreement carries workers' compensation insurance as required by law. Automobile liability policies shall name the Indemnitees as additional insureds.

(c) Upon commencement of construction work and continuing until issuance of a Certificate of Completion, Developer and all contractors working on behalf of Developer shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee. Such insurance shall include coverage for risks of direct physical loss or damage, excluding the perils of earthquake, flood, and earth movement.

(d) Upon completion of construction, Developer shall maintain property insurance covering all risks of loss (other than earthquake and flood) for one hundred percent (100%) of the replacement value of the Project with deductible, if any, in an amount acceptable to City, naming City as loss payee.

(e) Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A: VII. The Commercial General Liability and comprehensive

automobile policies required hereunder shall name the Indemnitees as additional insureds. Builder's Risk and property insurance shall name City as loss payees as their interests may appear.

(f) Prior to commencement of construction work, Developer shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage and duly executed endorsements evidencing such additional insured status. The certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination or non-renewal.

(g) If any insurance policy or coverage required hereunder is canceled or reduced, Developer shall, within twenty-one (21) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Developer's expense, and Developer shall promptly reimburse City for such expense upon receipt of billing from City.

(h) Coverage provided by Developer shall be primary insurance and shall not be contributing with any insurance, or self-insurance maintained by City, and the policies shall so provide. The insurance policies shall contain a waiver of subrogation for the benefit of the City. Developer shall furnish the required certificates and endorsements to City prior to the commencement of construction of the Project, and shall provide City with certified copies of the required insurance policies upon request of City.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 No Brokers. Each Party warrants and represents to the other that no person or entity can properly claim a right to a real estate commission, brokerage fee, finder's fee, or other compensation with respect to the transactions contemplated by this Agreement, except as identified in the Financing Plan. Each Party agrees to defend, indemnify and hold harmless the other Party from any claims, expenses, costs or liabilities arising in connection with a breach of this warranty and representation. The terms of this Section shall survive the expiration or earlier termination of this Agreement.

13.2 Enforced Delay; Extension of Times of Performance. Subject to the limitations set forth below, performance by either Party shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended where delays are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions or priority, litigation, including court delays, unusually severe weather, acts or

omissions of the other Party, acts or failures to act of the City or any other public or governmental City or entity (other than the acts or failures to act of City which shall not excuse performance by City), or any other cause beyond the affected Party's reasonable control. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause and such extension is not rejected in writing by the other Party within ten (10) days of receipt of the notice. Neither Party shall unreasonably withhold consent to an extension of time pursuant to this Section.

Times of performance under this Agreement may also be extended in writing by the mutual agreement of Developer and City (acting in the discretion of its City Manager unless he or she determines in his or her discretion to refer such matter to the governing board of the City). City and Developer acknowledge that adverse changes in economic conditions, either of the affected Party specifically or the economy generally, changes in market conditions or demand, and/or inability to obtain financing to complete the work of Improvements shall not constitute grounds of enforced delay pursuant to this Section. Each Party expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Effective Date.

133 Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this Section. All such notices shall be sent by:

- (i) personal delivery, in which case notice is effective upon delivery;
- (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;
- (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;
- (iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a non-business day.

City: City of Rancho Cordova
 2729 Prospect Park Drive
 Rancho Cordova, CA 95670
 Attention: City Manager [or designee]
 Facsimile: (916) 851-8787

Developer: UHC 00575 Rancho Cordova L.P.
2000 E. Fourth Street
Suite 205
Santa Ana, CA 92705
Attn: John Bigley
Facsimile: 714.835.3275

13.4 Attorneys' Fees. If either Party fails to perform any of its obligations under this Agreement, or if any dispute arises between the Parties concerning the meaning or interpretation of any provision hereof, then the prevailing Party in any proceeding in connection with such dispute shall be entitled to the costs and expenses it incurs on account thereof and in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements.

13.5 Waivers; Modification. No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any other covenant or provision hereof, and no waiver shall be valid unless in writing and executed by the waiving Party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the Party granting the extension. This Agreement may be amended or modified only by a written instrument executed by the Parties.

13.6 Binding on Successors. Subject to the restrictions on Transfers set forth in Article VIII, this Agreement shall bind and inure to the benefit of the Parties and their respective permitted successors and assigns. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any permitted successor and assign of such Party who has acquired an interest in compliance with this Agreement or under law.

13.7 Survival. All representations made by Developer hereunder and Developer's obligations pursuant to Sections 5.14, 5.17, 5.18, 10.2, 12.1, 13.1 and 13.18 shall survive the expiration or termination of this Agreement and the issuance and recordation of a Certificate of Completion.

13.8 Construction. The section headings and captions used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since both Parties have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

13.9 Action or Approval. Whenever action and/or approval by City is required under this Agreement, the City Manager or his or her designee may act on and/or approve such matter unless specifically provided otherwise, or unless the City Manager determines in his or her discretion that such action or approval requires referral to the City Council for consideration.

13.10 Entire Agreement. This Agreement, including Exhibits A through G attached hereto and incorporated herein by this reference, together with other City Documents contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements between the Parties with respect to the subject matter hereof.

13.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Party. Any executed counterpart of this Agreement may be delivered to the other Party by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

13.12 Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

13.13 No Third Party Beneficiaries. Nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

13.14 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

13.15 Non-Liability of Officials, Employees and Agents. No officer, official, employee or agent of City shall be personally liable to Developer or its successors in interest in the event of any default or breach by City for any amount which may become due to Developer or its successors in interest pursuant to this Agreement.

13.16 Time of the Essence; Calculation of Time Periods. Time is of the essence for each condition, term, obligation and provision of this Agreement. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a business day, in which event the period shall run until the next business day. The final day of any such period shall be deemed to end at 5:00 p.m., local time at the Property. For purposes of this Agreement, a "business day" means a day that is not a Saturday, Sunday, a federal holiday or a state holiday under the laws of California.

13.17 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed in the Superior Court of Sacramento County, California or in the Federal District Court for the Eastern District of California.

13.18. General Indemnification. Developer shall indemnify, defend (with counsel approved by City) and hold harmless Indemnitees from all Claims (including without limitation, reasonable attorneys' fees) arising in connection with any claim, action or proceeding to attack, set aside, void, or annul any approval by the City or any of its agencies, departments, commissions, agents, officers, employees or legislative body concerning the Project or this Agreement. The City will promptly notify Developer of any such claim, action or proceeding, and will cooperate fully in the defense. The City may, within the unlimited discretion of each, participate in the defense of any such claim, action or proceeding, and if the City chooses to do so, Developer shall reimburse City for reasonable attorneys' fees and expenses incurred.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the date first written above.

CITY

THE CITY OF RANCHO CORDOVA, a California municipal corporation, as Housing Successor to the former Community Redevelopment Agency of the City of Rancho Cordova

By: Ted A. Gaebler

Name: TED A. GAEBLER

Title: CITY MANAGER

ATTEST:

By: Mindy Curry
Mindy Curry, City Clerk

APPROVED AS TO FORM:

By: Adam Lindgren
Adam Lindgren, City Attorney

DEVELOPER

UHC 00575 Rancho Cordova, L.P.

By: UHC 00575 Rancho Cordova Holdings LLC

By: John F. Bigley

Name: JOHN F. BIGLEY

Title: C.D.O.

Exhibit A

LEGAL DESCRIPTION OF PROPERTY
(Attach legal description.)

Exhibit B

FORM OF MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT
(Attach form of Memorandum.)

Exhibit C

FORM OF CERTIFICATE OF COMPLETION
(Attach form of Certificate.)

Exhibit D

FINANCING PLAN
(Attach Financing Plan.)

Exhibit E

DEVELOPMENT AND PERFORMANCE SCHEDULE
(Attach Schedule)

Exhibit F

REGULATORY AGREEMENT
(Attach Regulatory Agreement)

Exhibit G

APPROVED PLANS PER DESIGN REVIEW
(Attach Approved Plans and Conditions)

2044347.3

Exhibit A

LEGAL DESCRIPTION OF SITE

The site for the Horizons @ New Rancho affordable, senior's development has the address of 2738 Woodberry Way, Rancho Cordova, 95670. The parcel number for the site is 057-0221-022. Attached, is a current Preliminary Title Report which includes a legal description of the site as well as a parcel map.



Fidelity National Title Company

PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Fidelity National Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.*

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Fidelity National Title Insurance Company, a California corporation.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

[Signature]
Countersigned



Fidelity National Title Company

BY

[Signature]
President

ATTEST

[Signature]
Secretary

Visit Us on our Website: www.fntic.com



Fidelity National Title Company

ISSUING OFFICE: 11050 Olson Dr., Suite 200 • Rancho Cordova, CA 95670

FOR SETTLEMENT INQUIRIES, CONTACT: Fidelity National Title Company - Sacramento Commercial & Industrial
8950 Cal Center Drive, Bldg. 3, Suite 100 • Sacramento, CA 95826
916 364-4070 • FAX 916 364-4093

PRELIMINARY REPORT

Amended

Title Officer: Craig Donner
Escrow Officer: Paul Avila
Escrow No.: 11-**5011627**-PA

Title No.: 11-**5011627**-G-CD
Locate No.: CAFNT0934-0934-0010-0005011627

TO: Community Redevelopment Agency of the City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova, CA 95670

ATTN: Reed Flory

PROPERTY ADDRESS: Unimproved land

EFFECTIVE DATE: February 5, 2013, 07:30 A.M.

The form of policy or policies of title insurance contemplated by this report is:

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A Fee
2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Successor Agency to the Community Redevelopment Agency of the City of Rancho Cordova, a public body, corporate and politic
3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

CD\CD 06/21/2011

Title No. 11-5011627-G-CD
Locate No. CAFNT0934-0934-0010-0005011627

LEGAL DESCRIPTION**EXHIBIT "A"**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RANCHO CORDOVA, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel B of boundary line adjustment recorded in Book 20101025 at Page 0516 of Official Records, County of Sacramento, said Parcel B being the Southeasterly 45.44 feet of Lot 34 as shown on the Plat of Cordova Court Unit No. 2, recorded in Book 53 of Maps, at Page 8, in the Recorders Office of the County of Sacramento, State of California.

Together with that certain parcel recorded in Document 1003139100 on March 13, 2010 and Document 1009100717 on September 10, 2010 of Official Records in the Recorders Office of the County of Sacramento, State of California. Said Parcel being the West 170.00 feet of Lot 35 of the plat of Cordova Court Unit No. 2 filed in Book 53 of Maps at Page 8 in the Recorders Office of the County of Sacramento, State of California. Said West 170.00 feet being measured at right angles from the Southwesterly line of said lot.

Being further described as follows:

Beginning at the most Southerly corner of aforesaid Lot 35 the following five (5) courses:

- 1) North 32° 00' 00" West 287.43 feet to the most Southerly corner of Parcel A of that certain Lot Merger as Recorded in Book 20101025 at Page 0516 of Official Records in the Recorders Office of the County of Sacramento, State of California.
- 2) Along said Southerly line of Parcel A North 58° 02' 20" East 133.32 feet (133.37 per aforesaid Lot Merger) to the Westerly right of way of Woodberry Way to a non-tangent curve to the left with a radius bearing of North 78° 13' 30" East 50.00 feet to the radius point.
- 3) Along said right of way along said curve to the left with a radius of 50.00 feet having a central angle of 98° 24' 46" with an arc length of 85.88 subtended by a chord of South 60° 58' 53" East 75.70 feet;
- 4) Leaving said right of way South 32° 00' 00" East 221.12 feet to the Southeasterly line of aforesaid Lot 35 said line also being the Northwesterly right of way of Folsom Boulevard;
- 5) Along said Southerly line of said Lot 35 South 58° 00' 00" West 170.00 feet to the point of beginning.

Containing 46,729.00 Square feet or 1.07 acres

Basis of bearings for this description is identical as Cordova Unit No. 2 Recorded in Book 53 of Maps at Page 8, Official Records in the Recorders Office of the County of Sacramento, State of California.

APN: 057-0221-022

Title No. 11-**5011627**-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. **Property taxes**, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2013-2014.
2. Prior to close of escrow, please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.
3. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.
4. **Any unpaid amounts now owing for municipal services**, of record or not, amounts can be ascertained by contacting the following:

County of Sacramento at (916) 875-5555, **and/or including** :
 City of Sacramento at (916) 808-5454.
 City of Folsom at (916) 355-7200.
 City of Galt at (209) 366-7150.
 City of Elk Grove at (916) 478-3642
 City of Rancho Cordova at (916) 638-9000
 City of Isleton at (916) 777-7770
 City of Citrus Heights at (916) 725-2448, and for waste charges - Allied Waste at (916) 725-9060, and as required, fax request to (916) 463-0297

5. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to:	Pacific Gas and Electric Company
Purpose:	Underground pipeline
Recorded:	April 7, 1955, Book 2806, Page 413, of Official Records
Affects:	The Southeasterly 10 feet adjacent to Folsom Blvd. of Parcel One and Two

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract.

Purpose:	Public utilities
Affects:	Southwesterly 5 feet of Parcel One; the Northwesterly and Southwesterly 5 feet of Parcel Three

7. Covenants, conditions and restrictions as contained in the Deed recorded July 11, 1958, in Book 3544, Page 568, of Official Records.

ITEMS: (continued)

Title No. 11-**5011627**-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

8. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Speedee Mart, Inc.
 Purpose: Road
 Recorded: June 8, 1961, Book 4257, Page 652, of Official Records
 Affects: Parcel Two

9. **Covenants, conditions and restrictions** in the declaration of restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Recorded: June 20, 1961, Book 4263, Page 440, of Official Records

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien of any mortgage or deed of trust made in good faith and for value.

10. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Sacramento Municipal Utility District and Pacific Telephone and Telegraph Company
 Purpose: Electrical and Communication Facilities
 Recorded: October 19, 1961, Book 4329, Page 637, of Official Records
 Affects: The Southeasterly 5 feet of Parcel Three

11. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Sacramento Municipal Utility District and Pacific Telephone and Telegraph Company
 Purpose: Electrical and Communication Facilities
 Recorded: October 19, 1961, Book 4329, Page 639, of Official Records
 Affects: Northwesterly 5 feet

12. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Pacific Telephone and Telegraph Company
 Purpose: Communication facilities
 Recorded: February 22, 1978, Book 780222, Page 960, of Official Records
 Affects: The Southeasterly 5 feet and the Southwesterly 10 feet of the Southeasterly 10 feet of Parcel Three

ITEMS: (continued)

Title No. 11-**5011627**-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

- 13. Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Pacific Telephone and Telegraph Company
 Purpose: Communication facilities
 Recorded: June 15, 1978, Book 780615, Page 814, of Official Records
 Affects: The Southeasterly 16 feet and the Southeasterly 16 feet of the Southwesterly 10 feet of Parcel Three

- 14. Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: County of Sacramento
 Purpose: Sanitary sewer pipeline
 Recorded: April 11, 1986, Book 860411, Page 1602, of Official Records
 Affects: The Southerly 5 feet of Parcel Two

- 15. Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Pacific Bell
 Purpose: Communication facilities and incidental purposes
 Recorded: April 23, 1990, Book 900423, Page 813, of Official Records
 Affects: Northerly 10 feet of the Westerly 15 feet of Parcel One

- 16. Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Sacramento Municipal Utility District
 Purpose: Electrical Facilities and incidental purposes
 Recorded: August 19, 1992, Book 920819, Page 1372, of Official Records
 Affects: the route of said right-of-way shall be within a strip of land 2 feet in width the centerline of which is described as follows:
 Beginning at a point in the Northerly right-of-way of the public road now known as Folsom Blvd. located North 58°00'00" East 4.69 feet from the Southwest corner of said Lot 35; thence from said point of beginning North 12°01'43" East 11.00 feet

Affects: Parcel One

- 17. Matters** contained in that certain document entitled "BOUNDARY LINE ADJUSTMENT" dated February 13, 2012, executed by City of Rancho Cordova recorded February 14, 2012, Book 20120214, Page 985, of Official Records.

Reference is hereby made to said document for full particulars.

ITEMS: (continued)

Title No. 11-5011627-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

- 18.** Any claim that the transaction vesting the Title as shown in Schedule A or creating the lien of the Insured Mortgage, or any other transaction occurring on or prior to Date of Policy in which Community Redevelopment Agency of the City of Rancho Cordova, a public body, corporate and politic or its successors transferred, acquired, or made any agreement affecting the title to or any interest in the Land, is void or voidable, or subject to termination, renegotiation, or judicial review, under California Assembly Bill 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session). and California Assembly Bill 1484 (Chapter 26, Statutes of 2011-12).

- 19.** **Any rights of the parties in possession** of a portion of, or all of, said land, which rights are not disclosed by the public record.

This Company will require, for review, a full and complete copy of any unrecorded agreement, contract, license and/or lease, together with all supplements, assignments and amendments thereto, before issuing any policy of title insurance without excepting this item from coverage. The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.

- 20.** The Company will require the following items to be submitted for review:

1. A resolution by the successor agency preferably that identifies the housing assets.
2. Approval of the oversight board.
3. Notice to the State Department of Finance.
4. Approval of the State Department of Finance.

- 21.** Approval of the Policy or Commitment by the Regional Counsel is required prior to recordation of the instruments required to complete this transaction, and issuance of the Title Insurance Policy. The right is reserved to make additional exceptions and/or requirements upon their review.

END OF ITEMS

- Note 1.** If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.

NOTES: (continued)

Title No. 11-**5011627**-G-CD
Locate No. CAFNT0934-0934-0010-0005011627

Note 2. Wiring instructions for Fidelity National Title Company, Sacramento, CA, are as follows:

Receiving Bank: Citibank (West), F.S.B.
1116 Alhambra Blvd.
Sacramento, CA 95816
ABA Routing No.: 321171184
Credit Account Name: Fidelity National Title Company - Sacramento Commercial & Industrial
8950 Cal Center Drive, Bldg. 3, Suite 100, Sacramento, CA 95826
Credit Account No.: 202125712
Escrow No.: 11-**5011627**-PA

These wiring instructions are for this specific transaction involving the Title Department of the Rancho Cordova office of Fidelity National Title Company. These instructions therefore should not be used in other transactions without first verifying the information with our accounting department. It is imperative that the wire text be exactly as indicated. Any extraneous information may cause unnecessary delays in confirming the receipt of funds.

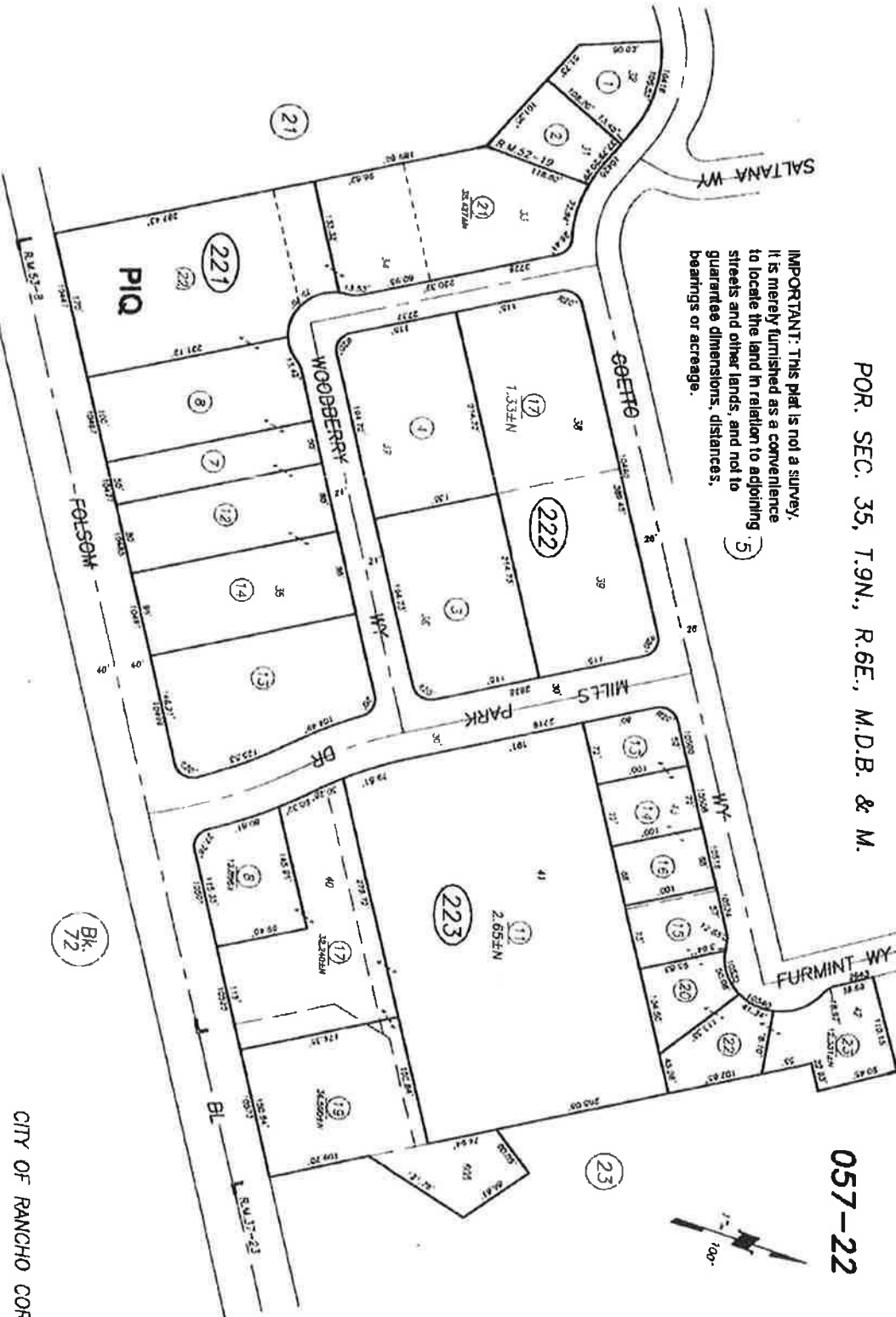
Note 3. Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third-party service. If the above requirements cannot be met, please call the company at the number provided in this report.

END OF NOTES

POR. SEC. 35, T.9N., R.6E., M.D.B. & M.

057-22

IMPORTANT: This plat is not a survey,
it is merely furnished as a convenience
to locate the land in relation to adjoining
streets and other lands, and not to
guarantee dimensions, distances,
bearings or acreage.



Por. Ranch Cordova Court Unit 6, R.M. Bk. 37, Pg.23(6-23-1954)
 Por. Cordova Court Unit 1, R.M. Bk. 52, Pg.19(2-19-1959)
 Por. Cordova Court Unit 2, R.M. Bk. 53, Pg.8(3-31-1959)

CITY OF RANCHO CORDOVA
 Assessor's Map Bk. 057 Pg. 022
 County of Sacramento, Calif.

Exhibit B

**FORM OF MEMORANDUM OF DISPOSITION AND
DEVELOPMENT AGREEMENT**

Recording Requested by
and when Recorded, return to:

The City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova, CA 95670
Attention: City Manager

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT

This Memorandum of Disposition and Development Agreement (this "**Memorandum**") dated as of _____, 2013, is entered into by and between the City of Rancho Cordova, a California municipal corporation ("**City**") and UHC 00575 Rancho Cordova, L.P., a California limited partnership ("**Developer**"). City and Developer are hereinafter collectively referred to as the "**Parties**."

1. The Parties have entered into that certain Disposition and Development Agreement dated as of _____, 2013 (the "**DDA**"), pursuant to which upon Developer's satisfaction of certain conditions precedent City has agreed to convey that certain real property (the "**Property**") located within the City and more particularly described in Exhibit A attached hereto and incorporated herein by this reference, to Developer for the development of up to forty-eight (48) units of multi-family senior rental housing affordable to households whose income does not exceed fifty percent (50%) of Area Median Income, as defined in that certain Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (the "**Regulatory Agreement**") to be executed by the Parties and recorded in the Official Records of Sacramento County substantially concurrently therewith (the "**Project**").

2. Among other conditions, the DDA provides that Developer shall commence construction of the Project, which will be subject to certain maintenance obligations pursuant to the terms of the DDA and the Regulatory Agreement, by the later of October 15, 2013, or the earliest date permitted by the California Tax Credit Allocation Committee ("**TCAC**"), and shall complete construction of the Project in order to allow City to issue a final certificate of occupancy no later than twelve (12) months from the commencement of construction or such earlier date as may be required by TCAC.

3. The DDA further provides that (i) except as permitted by the Loan Agreement, Developer shall not voluntarily or involuntarily make or attempt any total or partial sale, transfer, conveyance, assignment or lease of the whole or any part of Developer's interest in the Property or the improvements located thereon without the prior written approval of the City; and (ii) any transferee of all or part of the Property shall be subject to and shall expressly assume all of the covenants, obligations and restrictions of the DDA which pertain to the portion of the Property transferred, including without limitation, the provisions of the Regulatory Agreement.

Exhibit B – Page 1

4. The Parties have executed and recorded this instrument to give notice of the DDA and the respective rights of the Parties thereunder. Copies of the unrecorded DDA are available at the offices of the City, 2729 Prospect Park Drive, Rancho Cordova, California 95670, and such document is incorporated by reference in its entirety in this Memorandum. This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the DDA. In the event of any inconsistency between this Memorandum and the DDA, the DDA shall control.

5. This Memorandum shall be interpreted and enforced in accordance with California law without regard to principles of conflict of laws. This Memorandum may be executed in counterparts.

6. The DDA shall bind and inure to the benefit of the Parties and their respective successors and assigns.

SIGNATURES ON FOLLOWING PAGE.

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

CITY

The City of Rancho Cordova,
a California municipal corporation

By: _____
City Manager

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

DEVELOPER

UHC 00575 Rancho Cordova, L.P.,
a California limited partnership

By: _____

Its: _____

SIGNATURES MUST BE NOTARIZED.

Attachment A

LEGAL DESCRIPTION OF SITE

The site for the Horizons @ New Rancho affordable, senior's development has the address of 2738 Woodberry Way, Rancho Cordova, 95670. The parcel number for the site is 057-0221-022. Attached, is a current Preliminary Title Report which includes a legal description of the site as well as a parcel map.

Title No. 11-**5011627**-G-CD
 Locate No. CAFNTD934-0934-0010-0005011627

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RANCHO CORDOVA, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel B of boundary line adjustment recorded in Book 20101025 at Page 0516 of Official Records, County of Sacramento, said Parcel B being the Southeasterly 45.44 feet of Lot 34 as shown on the Plat of Cordova Court Unit No. 2, recorded in Book 53 of Maps, at Page 8, in the Records Office of the County of Sacramento, State of California.

Together with that certain parcel recorded in Document 1003139100 on March 13, 2010 and Document 1009100717 on September 10, 2010 of Official Records in the Records Office of the County of Sacramento, State of California. Said Parcel being the West 170.00 feet of Lot 35 of the plat of Cordova Court Unit No. 2 filed in Book 53 of Maps at Page 8 in the Records Office of the County of Sacramento, State of California. Said West 170.00 feet being measured at right angles from the Southwesterly line of said lot.

Being further described as follows:

Beginning at the most Southerly corner of aforesaid Lot 35 the following five (5) courses:

- 1) North 32° 00' 00" West 287.43 feet to the most Southerly corner of Parcel A of that certain Lot Merger as Recorded in Book 20101025 at Page 0516 of Official Records in the Records Office of the County of Sacramento, State of California.
- 2) Along said Southerly line of Parcel A North 58° 02' 20" East 133.32 feet (133.37 per aforesaid Lot Merger) to the Westerly right of way of Woodberry Way to a non-tangent curve to the left with a radius bearing of North 78° 13' 30" East 50.00 feet to the radius point.
- 3) Along said right of way along said curve to the left with a radius of 50.00 feet having a central angle of 98° 24' 46" with an arc length of 85.88 subtended by a chord of South 60° 58' 53" East 75.70 feet;
- 4) Leaving said right of way South 32° 00' 00" East 221.12 feet to the Southeasterly line of aforesaid Lot 35 said line also being the Northwesterly right of way of Folsom Boulevard;
- 5) Along said Southerly line of said Lot 35 South 58° 00' 00" West 170.00 feet to the point of beginning.

Containing 46,729.00 Square feet or 1.07 acres

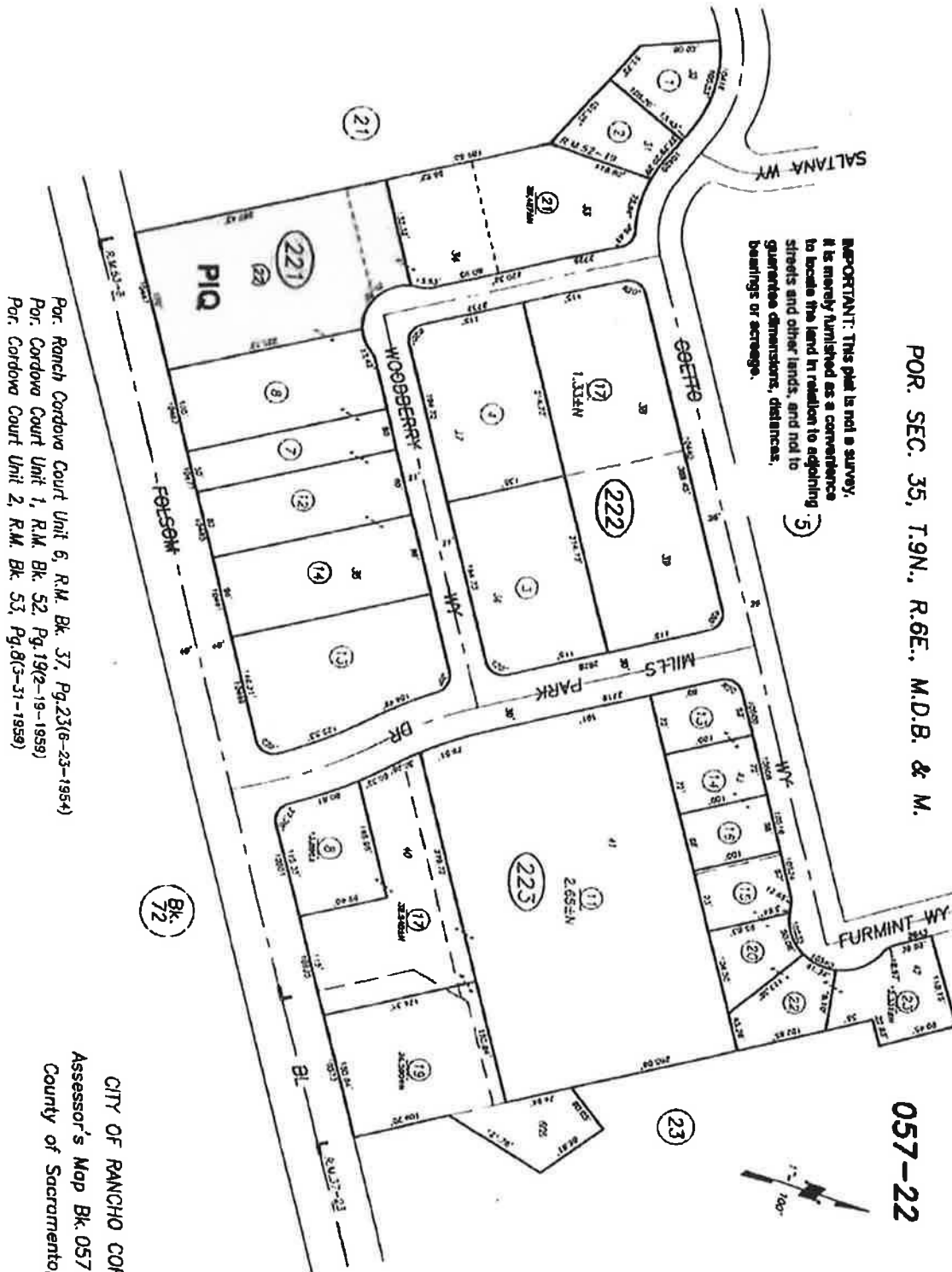
Basis of bearings for this description is identical as Cordova Unit No. 2 Recorded in Book 53 of Maps at Page 8, Official Records in the Records Office of the County of Sacramento, State of California.

APN: 057-0221-022

POR. SEC. 35, T.9N., R.6E., M.D.B. & M.

057-22

IMPORTANT: This plat is not a survey.
It is merely furnished as a convenience
to locate the land in relation to adjoining
streets and other lands, and not to
guarantee dimensions, distances,
bearings or acreage.



Por. Ranch Cordova Court Unit 6, R.M. Bk. 37, Pg. 23(6-23-1954)
Por. Cordova Court Unit 1, R.M. Bk. 52, Pg. 19(2-19-1959)
Por. Cordova Court Unit 2, R.M. Bk. 53, Pg. 8(3-31-1959)

CITY OF RANCHO CORDOVA
Assessor's Map Bk. 057 Pg. 022
County of Sacramento, Calif.

Exhibit C

Form of Certificate of Completion

Exhibit C
FORM OF CERTIFICATE OF COMPLETION
 (Attach form of Certificate of Completion.)

Recording requested by and when recorded mail to:

City of Rancho Cordova
 2729 Prospect Park Drive
 Rancho Cordova, CA 95670
 Attn: City Clerk

EXEMPT FROM RECORDING FEES PER
 GOVERNMENT CODE 6103.27383

Space above this line for Recorder's use.

CERTIFICATE OF COMPLETION

This Certificate of Completion (this "**Certificate**") is made by the City of Rancho Cordova, a California municipal corporation ("**City**") effective as of _____, 20__.

RECITALS

A. City and UHC 00575 Rancho Cordova, L.P., a California limited partnership ("**Owner**") entered into that certain Disposition and Development Agreement (the "**DDA**") dated as of _____, 2013 concerning the construction of an affordable multi-family senior rental residential project (the "**Project**") on certain real property located in the City of Rancho Cordova, California and more particularly described in Exhibit A attached hereto (the "**Property**"). A Memorandum of the DDA was recorded in the Official Records of Sacramento County ("**Official Records**") as Instrument No. _____, Book _____, Page _____. Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the DDA.

B. Pursuant to Section 5.15 of the DDA, the Agency is required to furnish the Owner or its successors with a Certificate of Completion upon completion of construction of the Project in accordance with the DDA.

C. The City has determined that the construction of the Project has been satisfactorily completed in accordance with the DDA.

NOW, THEREFORE, the City hereby certifies as follows:

1. Construction of the Project has been satisfactorily completed in conformance with the DDA.
2. All use, maintenance and nondiscrimination covenants contained in the DDA shall remain in effect and enforceable in accordance with the DDA. This Certificate does not constitute evidence of Owner's compliance

with those covenants in the DDA that survive the issuance of this Certificate, including without limitation, compliance with the Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants entered into pursuant to the DDA and recorded in the Official Records as Instrument No. _____ Book _____, Page _____.

3. This Certificate does not constitute evidence of compliance with or satisfaction of any obligation of Owner to any holder of a deed of trust securing money loaned to finance the Improvements or any part thereof and does not constitute a notice of completion under California Civil Code Section 3093.

4. Nothing contained in this instrument shall modify any provisions of the Loan Agreement or any other document executed in connection therewith.

IN WITNESS WHEREOF, the City has executed and issued this Certificate of Completion as of the date first written above.

THE CITY OF RANCHO CORDOVA

By: **FORM-DO NOT SIGN**

Name: _____
[Title]

ATTEST:

By: **FORM-DO NOT SIGN**
City Clerk

APPROVED AS TO FORM:

By: **FORM-DONOTSIGN**
City Attorney

SIGNATURES MUST BE NOTARIZED.

Exhibit A

PROPERTY
(Attach legal description.)

2049034.1

Exhibit D

FINANCING PLAN

2/14/2013

Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx
Permanent Sources and Uses

SOURCES OF FUNDS	Total	Per Unit
Permanent Loan	\$ 495,000	\$ 10,313
Federal 9% Tax Credit Proceeds	8,263,856	172,164
FHLB (AHP)	470,000	9,792
City Soft Loan	3,285,166	68,441
Soft Loan 2	-	-
Deferred Developer Fee	287,296	5,985
Soft Loan 3	0	0
State Tax Credits	1,721,696	35,869
TOTAL SOURCES OF FUNDS	\$ 14,523,015	\$ 302,563
USES OF FUNDS		
Acquisition Costs	\$ 1,268,153	\$ 26,420
Rehabilitation Costs	-	-
New Construction Costs	8,669,111	180,606
Contingency	433,456	9,030
Relocation	170,755	3,557
Architecture Fees	236,245	4,922
Survey and Engineering	71,143	1,482
Construction Financing	768,595	16,012
Permanent Financing	20,000	417
Legal Fees	329,552	6,866
Reserves	150,000	3,125
Other Soft Costs	1,206,005	25,125
Developer Fees	1,200,000	25,000
TOTAL USES OF FUNDS	\$ 14,523,015	\$ 302,563
SOURCES LESS USES	\$ 0	\$ 0

NOTES:

Tiebreaker

Tiebreaker if no appraisal required

Tax Credit Applicable Rate

9.00

2/14/2013

**Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx
Construction Sources and Uses**

SOURCES OF FUNDS	Total	Per Unit	
City of Rancho Cordova Construction Loan	\$ 7,628,692	\$ 158,931	381,435
Federal 9% Tax Credit Proceeds	\$ 2,065,964		
FHLB (AHP)	-	-	
City Soft Loan	3,626,666	75,556	
Soft Loan 2	-	-	
Deferred Developer Fee	771,268	16,068	
Soft Loan 3	0	0	
State Tax Credits	430,424	8,967	
TOTAL SOURCES OF FUNDS	\$ 14,523,015	\$ 302,563	
USES OF FUNDS			
Acquisition Costs	\$ 1,268,153	\$ 26,420	
Rehabilitation Costs	-	-	
New Construction Costs	8,669,111	180,606	
Contingency	433,456	9,030	
Relocation	170,755	3,557	
Architecture Fees	236,245	4,922	
Survey and Engineering	71,143	1,482	
Construction Financing	768,595	16,012	
Permanent Financing	20,000	417	
Legal Fees	329,552	6,866	
Reserves	150,000	3,125	
Other Soft Costs	1,206,005	25,125	
Developer Fees	1,200,000	25,000	
TOTAL USES OF FUNDS	\$ 14,523,015	\$ 302,563	
SOURCES LESS USES	\$ 0	\$ 0	

NOTES:

2/14/2013
Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx
Development Costs

TCAC Category/Item	Amount	per Unit	per sq ft building	Eligible Basis		
				New	Acq	Not
ACQUISITION COSTS						
Land Cost or Value	\$ 1,237,222	25,775	25.07			\$ 1,237,222
Existing Improvements Value						
Subtotal Land and Improvements	1,237,222	25,775	25.07			1,237,222
Closing Costs	30,931	644	0.63			30,931
Subtotal Closing Costs	30,931	644	0.63			30,931
Total Acquisition Cost	1,268,153	26,420	25.70			1,268,153
NEW CONSTRUCTION						
Demolition	147,918	3,082	3.00			147,918
Off-site Improvements	95,100	1,981	1.93	95,100		
Site Work	908,565	18,928	18.41	908,565		
Structures	4,103,980	85,500	83.17	4,103,980		
Hazardous Materials Remediation						
Footings Elevators Roof and Siding	2,363,008	49,229	47.89	2,363,008		
General Requirements	277,766	5,787	5.63	277,766		
General Overhead/Profit	581,154	12,107	11.78	581,154		
Payment and Performance Bond	71,250	1,484	1.44	71,250		
Other	35,370	737	0.72			35,370
SMUD Allowance	85,000	1,771	1.72	85,000		
Total New Construction	8,669,111	180,606	175.68	8,485,823		183,288
CONTINGENCY	433,456	9,030	8.78	433,456		
RELOCATION EXPENSES	170,755	3,557	3.46			170,755
ARCHITECTURAL FEES						
Design	210,025	4,378	4.26	210,025		
Supervision	26,220	546	0.53	26,220		
Total Architectural Costs	236,245	4,922	4.79	236,245		
SURVEY AND ENGINEERING	71,143	1,482	1.44	71,143		
CONSTRUCTION INTEREST AND FEES						
Construction Loan Interest	365,000	7,604	7.40	235,825		129,375
Origination Fee	59,000	1,229	1.20	59,000		
Credit Enhancement Application Fee						
Payment and Performance Bond Premium						
Taxes	18,558	387	0.38	18,558		
Insurance	130,037	2,709	2.64	130,037		
Title and Recording	15,000	313	0.30	15,000		
Other-Bridge Loan Interest						
Other-Construction Capitalization	136,000	2,833	2.76	136,000		
Other-Due Diligence Fee	45,000	938	0.91	45,000		
Total Construction Interest and Fees	768,595	16,012	15.58	639,220		129,375
PERMANENT FINANCING						
Loan Origination Fee	10,000	208	0.20			10,000
Credit Enhancement Application Fee						
Title and Recording	10,000	208	0.20			10,000
Taxes/Insurance/Other						
Other-Permanent Credit Enhancement						
Total Permanent Financing Costs	20,000	417	0.41			20,000
LEGAL FEES						
Legal Fees Paid by Applicant	90,000	1,875	1.82	90,000		
Other Legal Fees	239,552	4,991	4.85			239,552
Total Legal Fees	329,552	6,866	6.68	90,000		239,552
RESERVES						
Rent Reserves	75,000	1,563	1.52			75,000
Capitalized Replacement Reserves						
Operating Deficit Reserve	75,000	1,563	1.52			75,000
Total Reserve Costs	150,000	3,125	3.04			150,000

2/14/2013
Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx
Development Costs

TCAC Category/Item	Amount	per Unit	per sq ft building	Eligible Basis		
				New	Acq	Not
OTHER PROJECT COSTS						
Application and Compliance Monitoring Fees	91,000	1,896	1.84			91,000
Project Appraisal/Market Study	43,688	910	0.89	43,688	-	-
Phase 1 Reports , SWWP, etc	38,700	806	0.78	38,700	-	-
Payment and Performance Bond	3,000	63	0.06	3,000	-	-
Local Development Impact Fees	491,500	10,240	9.96	491,500	-	-
Permit Processing Fees	63,292	1,319	1.28	63,292	-	-
Capital Fees	-	-	-	-	-	-
Marketing and Sales	52,800	1,100	1.07			52,800
Fixtures Furniture and Equipment	84,000	1,750	1.70	84,000	-	-
Power Plus and Golden State	49,200	1,025	1.00	49,200	-	-
Accounting/Reimbursable	16,800	350	0.34	16,800	-	-
Soft Cost Contingency	137,000	2,854	2.78	137,000	-	-
Other-Soil Tests	43,723	911	0.89	43,723	-	-
Other-Professional Fees	91,302	1,902	1.85	91,302	-	-
Total Other Costs	1,206,095	25,125	24.44	1,062,205	-	143,890
SUBTOTAL PROJECT COSTS	13,323,015	277,563	270.00	11,018,092	-	2,304,923
DEVELOPER COSTS						
Developer Overhead Profit	1,200,000	25,000	24.32	1,200,000	-	-
Consultant/Processing Agent	-	-	-	-	-	-
Project Administration	-	-	-	-	-	-
Broker Fees Paid to a Related Party	-	-	-	-	-	-
Construction Oversight by Developer	-	-	-	-	-	-
Total Developer Costs	1,200,000	25,000	24.32	1,200,000	-	-
TOTAL DEVELOPMENT COSTS	14,523,015	302,563	294.32	12,218,092	-	2,304,923

2/14/2013

Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx
Tax Credits

9% SACRAMENTO County Basis			
Unit Size	Limits	No. of Units	Basis
0 bed	\$140,349	0	-
1 bed	\$161,821	42	6,796,482
2 bed	\$195,200	6	1,171,200
3 bed	\$249,856	0	-
4 bed	\$278,355	0	-
Total Unadjusted Basis Limit		48	7,967,682
(A) 1 Plus 20% basis adjustment for projects required to pay state or federal prevailing wages.		Yes	20%
(A) 2 Plus 7% basis adjustment for new construction projects which are required to provide parking beneath residential units (but not "tuck under" parking).		No	0%
(A) 3 Plus 2% basis adjustment for projects where a day care center is part of the development.		No	0%
(A) 4 Plus 2% basis adjustment for projects where 100 percent of the units are for Special Needs populations.		No	0%
(A) 5 Plus 10% basis adjustment for projects wherein at least 95% of the project's upper floor units are serviced by an elevator.		Yes	10%
Subtotal Category (A) shall not exceed 39%		30%	2,390,305
(B) 1 Project shall have onsite renewable generation estimated to produce 50 percent (50%) or more of annual electricity use (dwelling unit and common area meters combined). If the combined available roof area of the project structures, including carports, is insufficient for provision of 50% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. Five percent (5%)		No	0%
(B) 2 Project shall have onsite renewable generation estimated to produce 75 percent (75%) or more of common area annual electricity. If the combined available roof area of the project structures, including carports, is insufficient for provision of 75% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. Two percent (2%)		Yes	2%
(B) 3 Newly constructed project buildings shall be forty-five percent (45%) or more energy efficient than the current Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24). Four percent (4%)		No	0%
(B) 4 Rehabilitated project buildings shall have eighty percent (80%) decrease (or improvement in energy efficiency) in the building's Home Energy Rating System II estimated annual energy use post rehabilitation, over existing conditions. Four percent (4%)		No	0%

2/14/2013

Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx

Tax Credits

(B) 5	Cooling without refrigerant in climate zones 4, 8, 9, or 10 (excluding direct evaporative cooling) where cooling is required or part of standard local practice. This must be accomplished according to the procedures and protocols of the proposed Los Angeles Housing Department's Natural Cooling Reference Standard. Two percent (2%)	No	0%
(B) 6	Irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens). One percent (1%)	No	0%
(B) 7	Community Gardens of at least 60 square feet per unit. Permanent site improvements that provide a viable growing space within the project including solar access, fencing, watering systems, secure storage space for tools, and pedestrian access. One percent (1%)	No	0%
(B) 8	Install bamboo, cork, salvaged or FSC-Certified wood, natural linoleum, natural rubber, or ceramic tile in all kitchens, living rooms, and bathrooms (where no VOC adhesives or backing is also used. One percent (1%)	Yes	1%
(B) 9	Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, ceramic tile, or natural linoleum in all common areas. Two percent (2%)	Yes	2%
(B) 10	Meet all requirements of the U.S. Environmental Protection Agency Indoor Air Plus Program. Two percent (2%)	Yes	2%
Subtotal Category (B) shall not exceed 10%		7%	557,738
(C) 1	Plus 1% basis adjustment for each 1% of units income-targeted to 50% to 36% of AMI	85%	-
(C) 2	Plus 2% basis adjustment for each 1% of units income targeted to 35% of AMI and below	13%	-
(D)	Projects requiring seismic upgrading of existing structures, and/or projects requiring toxic or other environmental mitigation may be permitted an increase in basis limit equal to the lesser of the amount of costs associated with the seismic upgrading or environmental mitigation or 15% of the project's unadjusted eligible basis to the extent that the project architect certifies in the application to the costs associated with such work.	No	-
(nn)	Local Development Impact Fees. The amount of impact fees, mitigation fees, or capital facilities fees imposed by municipalities, county agencies, or other jurisdictions such as public utility districts, school districts, water agencies, resource conservation districts, etc.	Yes	491,500
TCAC Adjusted Eligible Basis			11,407,224

2/14/2013

Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx

Tax Credits

	Acquisition Basis	New Construction Rehabilitation Basis		Total	
Determination of Credits					
Sum of Eligible Basis Development Costs	-	12,218,092		12,218,092	
Prorated reduction for Non Section 42 Units	-	-	0%	-	
Prorated reduction for Retail Commercial	-	-	0%	-	
Eligible Basis From Development Costs	-	12,218,092		12,218,092	
Prorata Allocation of Excess Basis	-	(810,867)		(810,867)	
TCAC adjusted eligible basis	-	11,407,224		11,407,224	
TCAC Eligible Basis or Actual Eligible Basis	-	11,407,224		11,407,224	MIN
Deduct Grants/Recourse Financing	-	-		-	
Reduction in Basis to Enhance Tiebreaker	-	(1,842,246)		(1,842,246)	
Total Unadjusted Eligible Basis	-	9,564,978		9,564,978	
30% increase in Basis if DDA or QCT	-	-		-	No
Adjusted Eligible Basis	-	9,564,978		9,564,978	
Applicable Percentage	3.15%	9.00%			
Annual Credits Calculated	-	860,848		860,848	
Credits over 10 years	-	8,608,481		8,608,481	
Tax Credit Pricing	\$0.95	\$0.95			
Proceeds From Federal Tax Credit Sales	0	8,178,056		8,178,056	
Investment Partner Share	99.99%	99.99%			
Tax Credits to Syndication	-	8,177,239		8,177,239	
State Credit Eligible Basis Factor		30.00%			
State Credit Eligible Basis		2,869,494			
State Tax Credit Pricing		\$0.60			
Proceeds Raised From State Tax Credits		1,721,696			
Energy Credits		85,800			
Proceeds Raised From Solar Credits	\$1.00	85,800			

2/14/2013
Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx
Rents

Tax Credit Income Level	MHP Income Level	Bed Rooms	Unit Size In SF	Number of Units	Gross HUD Rent	Utility Allow	Market Rent	Net Rent
30% of AMI	-	1	608 SF	5	\$ 407	\$ 27	\$ 1,173	\$ 380
40% of AMI	-	1	608 SF	19	543	\$ 27	1,173	516
50% of AMI	-	1	608 SF	17	678	\$ 27	1,173	651
60% of AMI	-	1	608 SF	-	814	\$ 27	1,173	787
30% of AMI	-	2	828 SF	1	488	33	1,465	455
40% of AMI	-	2	828 SF	3	651	33	1,465	618
50% of AMI	-	2	828 SF	2	813	33	1,465	780
60% of AMI	-	2	828 SF	-	976	33	1,465	943
Manager Unit		1	828 SF	1	-	-	-	-
Community Room								
Common Space								
Totals				48				

Notes:

Points for lowest income pursuant to Section 10325(9): 62.5

2/14/2013
Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx
Cash Flow

	YR 1	YR 2	YR 3	YR 4	YR 5	YR 6	YR 7	YR 8	YR 9
Rental Income	319,680	327,672	335,864	344,260	352,867	361,689	370,731	379,999	389,499
Laundry and Vending	6,720	6,888	7,060	7,237	7,418	7,603	7,793	7,988	8,188
Retail Commercial Net Income	-	-	-	-	-	-	-	-	-
Gross Potential Income	326,400	334,560	342,924	351,497	360,285	369,292	378,524	387,987	397,687
Forecasted Vacancies	16,320	16,728	17,146	17,575	18,014	18,465	18,926	19,399	19,884
Total Vacancies & Reductions	310,080	317,832	325,778	333,922	342,270	350,827	359,598	368,588	377,802
Operating Expenses	196,416	203,291	210,406	217,770	225,392	233,281	241,445	249,896	258,642
Property Management Fee	16,320	16,728	17,146	17,575	18,014	18,465	18,926	19,399	19,884
Service Amenities	10,000	10,350	10,712	11,087	11,475	11,877	12,293	12,723	13,168
Replacement Reserves	19,200	19,776	20,369	20,980	21,610	22,258	22,926	23,614	24,322
Total Annual Operating Expenses & Reserves	241,936	250,145	258,633	267,412	276,491	285,880	295,590	305,632	316,017
NET OPERATING INCOME (LOSS) BEFORE DEBT SERVICE	68,144	67,687	67,144	66,510	65,779	64,947	64,008	62,956	61,786
Permanent Loan	49,645	49,645	49,645	49,645	49,645	49,645	49,645	49,645	49,645
n/a	-	-	-	-	-	-	-	-	-
NET CASH FLOW AVAILABLE BEFORE OTHER CHARGES	18,499	18,042	17,499	16,865	16,134	15,302	14,363	13,311	12,141

2/14/2013
Financial Model 9% 48 Units with 2 bedroom units 2.14.2013.xlsx
Cash Flow

	YR 10	YR 11	YR 12	YR 13	YR 14	YR 15
Rental Income	399,237	409,217	419,448	429,934	440,682	451,699
Laundry and Vending	8,392	8,602	8,817	9,038	9,264	9,495
Retail Commercial Net Income	-	-	-	-	-	-
Gross Potential Income	407,629	417,820	428,265	438,972	449,946	461,195
Forecasted Vacancies	20,381	20,891	21,413	21,949	22,497	23,060
Total Vacancies & Reductions	387,247	396,929	406,852	417,023	427,449	438,135
Operating Expenses	267,695	277,064	286,761	296,798	307,186	317,938
Property Management Fee	20,381	20,891	21,413	21,949	22,497	23,060
Service Amenities	13,629	14,106	14,600	15,111	15,640	16,187
Replacement Reserves	25,052	25,803	26,577	27,375	28,196	29,042
Total Annual Operating Expenses & Reserves	326,757	337,864	349,352	361,232	373,519	386,226
NET OPERATING INCOME (LOSS) BEFORE DEBT SERVICE	60,491	59,064	57,500	55,791	53,930	51,909
Permanent Loan	49,645	49,645	49,645	49,645	49,645	49,645
n/a	-	-	-	-	-	-
NET CASH FLOW AVAILABLE BEFORE OTHER CHARGES	10,846	9,419	7,855	6,146	4,285	2,264

Exhibit E

Development and Performance Schedule

DEVELOPMENT PERFORMANCE SCHEDULE FOR
HORIZONS @ NEW RANCHO
(AP# 057-0221-022)

The following milestones, dates and products, shall constitute performance requirements of the Developer UHC 00575 Rancho Cordova L.P, a California Limited Partnership ("**Developer**") in the application for financing, construction, rent-up and continuing operation of the 48 unit, affordable, senior project known as Horizons @ New Rancho ("**Horizons**").

CONSTRUCTION FINANCING

- Tax Credit Application
 - On or before March 6, 2013 (Rd #1), or July 3, 2013 (Rd #2) If not successful with 3/6/13 application, Developer shall cause the submission of a Tax Credit application satisfactory to the City of Rancho Cordova. This application shall include a construction loan, permanent loan and syndication equity agreement satisfactory to the City of Rancho Cordova.
 - Satisfaction of this requirement shall be met by proof submitted to the City of Rancho Cordova that a Tax Credit application was received by the California Tax Credit Allocation Committee.
- Construction Loan closing
 - On or before the 90th day after the date indicated on the Tax Credit award letter from CTCAC or 30 days from the issuance of building permits whichever occurs first, Developer shall cause a construction loan closing to occur. After the receipt by the City of a written request from the Developer for a construction start beyond the 90 days, the City at its sole discretion may grant an additional time to close. The closing shall include a construction loan satisfactory to the City of Rancho Cordova, a binding permanent loan commitment satisfactory to the City of Rancho Cordova and a Syndication Agreement satisfactory to the City of Rancho Cordova.
 - Satisfaction of this requirement shall be a timely construction loan closing including the delivery to the City of Rancho Cordova of proof of the recordation of documents within 36 hours of the closing.
- Construction Completion
 - Construction shall be completed within 365 days of the Construction loan closing.
 - Satisfaction of this requirement shall be evidenced by the City's delivery to the Developer of a Certificate of Completion. (Note that the delivery of this certificate requires the determination by the City of Rancho Cordova that the following requirements have been satisfied: Labor Standards requirements, Certificate of occupancy, proof of all lien release, recorded AIA Notice of Completion, and an initial draft of the Final Budget.
- Permanent Loan Closing
 - Developer shall cause a Permanent loan closing to occur within 45 days of the satisfaction of all of the following: attaining 95% occupancy, a 1.15 DCR for 3 months, completion of audit and receipt from TCAC of 8609 form plus any other requirements of the City or Conventional Permanent Lender consistent with industry standards.
 - Satisfaction of this requirement shall be a timely permanent loan closing including the delivery to the City of Rancho Cordova of proof of the recordation of documents within 36 hours of the closing.

Exhibit F

Regulatory Agreement

EXEMPT FROM RECORDING FEES
PER GOVERNMENT CODE §§6103, 27383

Recording requesting by:
and when recorded mail to:

City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova, California 95760
Attention:

SPACE ABOVE THIS LINE FOR RECORDER'S USE_____

AFFORDABLE HOUSING REGULATORY AGREEMENT

AND

DECLARATION OF RESTRICTIVE COVENANTS

by and among

THE CITY OF RANCHO CORDOVA,

&

UHC 00575 RANCHO CORDOVA, L.P.

THIS REGULATORY AGREEMENT ("Agreement") is made this _____ day of _____, 2013 ("Effective Date"), by and between UHC 00575 Rancho Cordova, L.P., a California limited partnership (the "**Owner**"); and the City of Rancho Cordova, a California municipal corporation (the "**City**"). The Owner and the City are referred to herein collectively as the "**Parties**."

RECITALS

A. Pursuant to that certain Disposition and Development Agreement dated as of _____, 2013, between the Parties (the "**DDA**"), City has conveyed that certain real property located in the City of Rancho Cordova and more particularly described in Exhibit A attached hereto and incorporated by reference (the "**Property**") for the development by Owner for the construction of a multi-family affordable senior residential rental project (the "**Project**") on the Property, and has further agreed to provide a permanent loan to Owner in the total principal amount not to exceed Three

Million Two Hundred Eighty –Five Thousand, One Hundred Sixty-Six Dollars and No Cents (\$3,285,166.00) (the "**Permanent Loan**"). The Project consists of forty-eight (48) units, of which forty-seven (47) units shall be restricted for occupancy by households with incomes at or below fifty percent (50%) of the Area Median Income ("**AMI**") for a period of fifty-five (55) years from issuance of a final certificate of occupancy for the Project; six (6) units shall be restricted for occupancy by households with incomes at or below thirty percent (30%) of AMI; and one (1) unit shall be an unrestricted, non-revenue producing manager's unit.

B. The Property and the Project are located in the Rancho Cordova Redevelopment Project Area (the "**Project Area**"). Pursuant to California Health and Safety Code Section 34176(a)(1), on January 17, 2012, the City Council of the City of Rancho Cordova ("City Council") adopted Resolution No. 7-2012, whereby the City elected to retain the housing assets and functions of the former Community Redevelopment Agency off the City of Rancho Cordova ("**Agency**"), upon the dissolution of the Agency, effective February 1, 2012. As housing successor to the Agency, City has assumed responsibility for implementing the Project..

C.. As a condition of the conveyance of the Property and the Permanent Loan, Owner agrees to place specified restrictions upon the use and transfer of the Property in order to ensure continued Project affordability..

D. The Parties intend that the covenants set forth in this Agreement shall run with the land and be binding upon Owner and Owner's successors and assigns as further provided herein.

E. Capitalized terms not defined herein, if any, shall have the meaning ascribed to them in the DDA.

NOW THEREFORE, in consideration of the promises herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties covenant and agree as follows:

1. Definitions

"**Actual Household Size**" means the actual number of persons in the applicable household.

"**Adjusted for Family Size Appropriate for the Unit**" shall be determined consistent with Section 50052.5(h) of the California Health and Safety Code and applicable federal rules, if any.

"**Affordable Rent**" means thirty percent (30%) of fifty percent (50%) of Area Median Income, or of thirty percent (30%) of Area Median Income, as applicable to the particular Unit, Adjusted for Family Size Appropriate for the Unit.

"Area Median Income" or "AMI" means the median income for Sacramento County, adjusted for Actual Household Size, as published from time to time by the U.S. Department of Housing and Urban Development ("HUD") pursuant to Section 8 of the United States Housing Act of 1937.

"Eligible Household" means a household for which household income upon initial occupancy does not exceed the maximum income level for a Restricted Unit, and in which at least one (1) member is age fifty-five (55) or older.

"Extremely Low-Income Household" means a household whose gross income does not exceed thirty percent (30%) of the Area Median Income, Adjusted for Actual Household Size.

"Rent" means all charges, other than deposits, paid by a tenant for the use and occupancy of a Restricted Unit and any mandatory charge for direct or supportive tenant services in a rental housing development, including a utility allowance in an amount determined by the local Housing Authority with jurisdiction over the Project.

"Restricted Unit" means one of the forty-seven (47) dwelling units in the Project that are reserved for occupancy by a Very Low-Income Household or Extremely Low-Income Household, as applicable..

"Term of this Agreement" means the period through the fifty-fifth (55th) anniversary of the issuance of the final certificate of occupancy for the Project.

"Very Low-Income Household" means a household whose gross income does not exceed fifty percent (50%) of the Area Median Income, adjusted for Actual Household Size.

2. Affordability Restrictions and Unit Schedule

Upon issuance of a final certificate of occupancy and for the entire Period of Affordability (as defined in Section 8, below), the Project shall be rented to, at a Rent no greater than Affordable Rent, and occupied by (or if vacant, available for occupancy by) Very Low-Income Households or Extremely Low-Income Households, according to the following schedule of Restricted Units:

	1 bedroom	2 bedroom	3 bedroom	4 bedroom
At or Below 50% AMI	41	6	0	0

3. Tenant Selection Standards

During the Period of Affordability the Owner shall select tenants in conformance with the requirements of California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 19, Section 8305.

- a. Owner shall rent vacant Restricted Units only to Eligible Households in accordance with a Management Plan approved by City. Such Management Plan may be periodically altered and such alteration must be submitted to and approved by City prior to use. The Management Plan shall include:
 - (1) Reasonable criteria for selection or rejection of tenant applications which shall not discriminate in violation of any federal, state or local law governing discrimination, or any other arbitrary factor;
 - (2) Prohibition of local residency preferences, except where accompanied by an equal preference for employment in the local area and applied to areas not smaller than municipal jurisdictions or recognized communities within unincorporated areas;
 - (3) Tenant selection procedures that include the following components, and that are available to prospective tenants upon request:
 - (A) Selection of tenants based on order of application, lottery or other reasonable method approved by City;
 - (B) Prompt written notification to tenant applicants of eligibility for residency and, based on turnover history for Restricted Units, the approximate date when a Restricted Unit may be available;
 - (C) Prompt written notification of tenant applicants who are found ineligible to occupy a Restricted Unit of their ineligibility and the reason for the ineligibility, and of their right to appeal this determination;
 - (D) Maintenance of a waiting list of applicant households eligible to occupy Restricted Units designated for various tenant income levels, which shall be made available at no charge to prospective tenants upon request;
 - (E) Targeting specific special needs populations in accordance with this Agreement and applicable laws; and

- (F) Affirmative fair housing marketing procedures as specified in the Affirmative Fair Housing Marketing Plan Compliance Regulations of HUD, 24 CFR Part 200.620(a)-(c), or similar affirmative fair marketing housing plan as approved by City.

4. Certification of Tenant Income, Household Size and Age Qualifier

- a. The income and household size of all households occupying Restricted Units, and evidence that at least one (1) member of the household is age fifty-five (55) or older, shall be certified by Owner prior to occupancy and recertified annually thereafter in a manner approved by City and specified in the Project's Management Plan.
- b. If the income of a tenant upon recertification exceeds the upper limit for households at or below fifty percent (50%) of AMI, the tenant must pay as rent the lesser of the amount payable by the tenant under state or local law or thirty percent (30%) of the household's adjusted monthly income for rent and utilities; except that the rent may not exceed the market rent for comparable, unassisted units in the neighborhood; provided however, that pursuant to 24 CFR § 92.252(i)(2), Restricted Units subject to a California Tax Credit Allocation Committee ("CTCAC") Regulatory Agreement shall be governed by such agreement with respect to tenants who upon recertification no longer qualify as Very Low-Income Households.
- c. If at the time of recertification a tenant's household size has changed and no longer meets the occupancy standards pursuant to Section 3b, Owner may require the tenant to move to the next available appropriately sized unit.

5. Marketing Plan

- a. Not later than thirty (30) days prior to the anticipated date of issuance of a certificate of occupancy for the Project, Owner shall prepare a Marketing Plan for City's review and approval, and shall implement such plan as approved by the City. The Marketing Plan shall specify how Owner intends to market the Project to prospective tenants in the Project's market area in accordance with fair housing laws and this Agreement. The Marketing Plan shall specifically address how Owner intends to market the Project to underserved populations in the Project's market area and the frequency of marketing efforts. City agrees that Owner may utilize the HUD 935.2 Affirmative Fair Housing Marketing Plan for these purposes.

- b. Owner agrees to evaluate the effectiveness of the Marketing Plan in reaching underserved populations on an annual basis and to revise it as necessary to better reach underserved populations that are not being reached. Any revised Marketing Plan shall be submitted to City for approval prior to implementation.

6. Unit Standards

For the full Permanent Loan term, the number, size, type, and amenity level of Restricted Units shall not be fewer than the number nor different from the size, type and amenity level described in Section 2 and Recital A, above.

7. Rental Agreement and Grievance Procedures

The rental agreement and grievance procedures shall be in accordance with California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 19, Section 8307.

- a. Term Rental or occupancy agreements may be for a term of one (1) year but tenants must also be offered the option of a six (6) month term.
- b. City Approval All rental or occupancy agreements are subject to City approval; and shall include the following:
 - 1. Provisions requiring good cause for termination of tenancy;
 - 2. A provision requiring that the facts constituting the grounds for any eviction be set forth in the notice provided to the tenant pursuant to state law;
 - 3. A notice of grievance procedures for hearing complaints of tenants and appeal of management action; and
 - 4. A requirement that the tenant annually recertify household income and size.
- c. Termination of Tenancy Owner shall not terminate the tenancy or refuse to renew the lease of a tenant except for serious or repeated violations of the terms and conditions of the lease; for violation of applicable federal, state, or local law; or for other good cause.
- d. Written Notice To terminate or refuse to renew tenancy, Owner must serve written notice upon the tenant in compliance with State law, specifying the grounds for the action, and served at least thirty (30) days prior to the termination of the tenancy.

- e. "Good Cause" One or more of the following, without limitation, may constitute "good cause":
1. Failure by the tenant to maintain applicable eligibility requirements as imposed by City or other state or federal funding sources or tax credits;
 2. Material noncompliance by the tenant with the lease, including one or more substantial violations of the lease or habitual minor violations of the lease which:
 - A. Adversely affect the health and safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related Project facilities;
 - B. Substantially interfere with the management, maintenance, or operation of the Project; or
 - C. Result from the failure or refusal to pay, in a timely fashion, Rent or other permitted charges when due. Failure or refusal to pay in a timely fashion is a minor violation if payment is made during the three- (3-) day notice period;
 3. Material failure by the tenant to carry out obligations under federal, State, or local law;
 4. Subletting by the tenant of all or any portion of any Project Unit;
 5. Any other action or conduct of the tenant constituting significant problems which can be reasonably resolved only by eviction of the tenant, provided Owner has previously notified the tenant that the conduct or action in question would be considered cause for eviction. Examples of action or conduct in this category include the refusal of a tenant, after written notice, to accept reasonable rules or any reasonable changes in the lease or the refusal to recertify income or household size.
 6. Notwithstanding the foregoing, if any part of this Section 7(e) is determined to not be "good cause" pursuant to Section 42 of the Internal Revenue Code of 1986, Section 42 of the Internal Revenue Code of 1986 shall control
- f. Prohibited Lease Provisions The lease may not contain any of the following provisions:

1. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of Owner or Owner's agent in a lawsuit brought in connection with the lease;
 2. Agreement by the tenant that Owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, shall not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. Owner may dispose of this personal property in accordance with State law;
 3. Agreement by the tenant not to hold Owner or Owner's agent(s) legally responsible for any action or failure to act, whether intentional or negligent;
 4. Agreement of the tenant that Owner or Owner's agent may institute a lawsuit without notice to the tenant;
 5. Agreement by the tenant that Owner or Owner's agent may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
 6. Agreement by the tenant to waive any right to a trial by jury;
 7. Agreement by the tenant to waive tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
 8. Agreement by the tenant to pay attorneys' fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- g. Rules of Conduct Owner shall establish reasonable rules of conduct and occupancy. Such rules shall be consistent with state law and regulations. Said rules shall be in writing and shall be given to each tenant upon occupancy. Any changes shall become effective no fewer than thirty (30) days after giving written notice thereof to each tenant household.
- h. Appeal & Grievance Procedures Owner shall adopt an appeal and grievance procedure to resolve grievances filed by tenants and appeals of actions taken by Owner with respect to tenants' occupancy in the Project,

and prospective tenants' applications for occupancy. Owner's appeal and grievance procedures shall be subject to City's approval and, at a minimum, shall include the following:

1. A requirement for delivery to each tenant and applicant of a written copy of the appeal and grievance procedure;
2. Procedures for informal dispute resolution;
3. A right to a hearing before an impartial body, which shall consist of one or more persons with the power to render a final decision on the appeal or grievance; and
4. Procedures for the conduct of an appeal or grievance hearing and the appointment of an impartial hearing body.

8. Period of Affordability

Owner acknowledges that the Permanent Loan is being made to Owner under the terms and conditions of the DDA to ensure affordable housing for Project tenants. To preserve affordability of the Restricted Units, Owner covenants that the Restricted Units shall remain affordable for a period of fifty-five (55) years (hereinafter referred to as the "**Period of Affordability**") from the date of "Project Completion" as specified at 24 CFR 92.2. It is intended by the parties to this Agreement, that this covenant shall run with the land in accordance with the provisions of 24 CFR 92.252, with the benefit of this covenant running to the City, in order to preserve the public interest in maintaining the affordability of the Restricted Units. The Period of Affordability will remain without regard to the term of any mortgage or the transfer of the Property ownership, other than by foreclosure or deed in lieu of foreclosure.

9. Restrictions on Sale, Transfer or Conversion

- a. Upon any sale or transfer, including transfer by gift, devise, descent, foreclosure, assignment, deed in lieu of foreclosure, condemnation, or voluntary or involuntary bankruptcy, of the Property without the prior written approval of City, all principal, interest and costs then owing upon the Permanent Loan) will become immediately due and payable to City.
- b. City may approve a sale, transfer or conveyance of the Property provided that all of the following conditions are met: (i) the existing Owner is in compliance with this Agreement or the sale, transfer or conveyance will result in the cure of any existing violations of this Agreement; (ii) the successor-in-interest to Owner agrees to assume all obligations of the existing Owner pursuant to this Agreement; (iii) the successor-in-interest demonstrates to City's satisfaction that it can own and operate the Project

in full compliance with all City requirements; and (iv) City determines, in the sole exercise of its reasonable discretion, that no terms of the sale transfer or conveyance threaten City's security or the successor's ability to comply with all requirements of this Agreement.

- c. Owner shall not convert the Project to condominium or cooperative ownership or sell condominium or cooperative rights to the Project or any part thereof during the Period of Affordability.
- d. Nothing contained in this Section 9 shall prohibit the transfer of the Property or Owner's interest therein that is permitted under Article VIII of the DDA..

10. Restrictions on Encumbrances.

Owner covenants that Owner has not, and shall not enter into or execute any other agreement with provisions contrary to the provisions of this Agreement, or contrary to the intent of maintaining the affordability of the Property for the full Period of Affordability described in Section 8, above; provided, however, that Owner may, without the written consent of City, enter into a Regulatory Agreement with CTCAC with regard to tax credits. In all cases, the provisions of 24 CFR 92.252(e) shall continue to apply to the Project. Owner further covenants that it has not, and shall not, otherwise encumber the Property, including without limitation by way of mortgage or deed of trust, or by judgment, mechanic's, tax or other lien without City's prior written consent.

11. Reserve Accounts

In compliance with the Tax Credit Program, capitalized reserve accounts totaling One Hundred Fifty Thousand Dollars And No Cents (\$150,000.00), including a Permanent Operating Reserve Account in the amount of not less than Seventy-Five Thousand Dollars And No Cents (\$75,000.00), and a Replacement Reserve Account in the amount of Seventy-Five Thousand Dollars And No Cents (\$75,000.00), shall be established, funded and maintained by Owner. Reserves for replacement shall be in accordance with the requirements of the Tax Credit Program and as required by any senior lender. In Years 1 through 5, the annual deposit to the Replacement Reserve Account shall be in the amount of Five Hundred Dollars (\$300) per unit per year. The annual deposit amount for Years 6 through 55 shall be based on a third-party physical needs assessment to be prepared at the Owner's expense every five (5) years from the Effective Date, assessing the replacement needs of the Project. The Parties acknowledge that HCD may adjust the amount of monthly deposits in the Replacement Reserve Account as provided in the Standard Agreement.

12. Non-Discrimination; Compliance with Fair Housing Laws

a. Fair Housing. Owner shall comply with State and Federal fair housing laws in the marketing and rental of the units in the Project.

b. Non-Discrimination. Owner shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Owner covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or part thereof, nor shall Owner or any person claiming under or through Owner establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in, of, or for the Property or part thereof. Owner shall include such provision in all deeds, leases, contracts and other instruments executed by Owner, and shall enforce the same diligently and in good faith.

All deeds, leases or contracts made or entered into by Owner, its successors or assigns, as to any portion of the Property or the Improvements shall contain the following language:

(1) In Deeds, the following language shall appear:

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

Notwithstanding the above paragraph, with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With

respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(2) In Leases, the following language shall appear:

"The lessee herein covenants by and for the lessee and lessee's heirs, personal representatives and assigns, and all persons claiming under the lessee or through the lessee, that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein leased."

Notwithstanding the above paragraph, with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(3) In Contracts

"There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sublessees or vendees of the land."

Additional language may be required by City staff.

13. Default and Remedies

a. Events of Default The occurrence of any one or more of the following events shall constitute an event of default ("**Event of Default**") hereunder:

(1) The occurrence of a transfer, sale or conversion in violation of Section 9 hereof or an encumbrance in violation of Section 10 hereof;

(2) If, pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors ("Bankruptcy Law"), Owner or any general partner thereof (i) commences a voluntary case or proceeding; (ii) consents to the entry of an order for relief against Owner or any general partner thereof in an involuntary case; (iii) consents to the appointment of a trustee, receiver, assignee, liquidator or similar official for Owner or any general partner thereof; (iv) makes an assignment for the benefit of its creditors; or (v) admits in writing its inability to pay its debts as they become due;

(3) A court of competent jurisdiction shall have made or entered any decree or order (1) adjudging the Owner to be bankrupt or insolvent, (2) approving as properly filed a petition seeking reorganization of the Owner or seeking any arrangement for Owner under bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (3) appointing a receiver, trustee, liquidator, or assignee of Owner in bankruptcy or insolvency or for any of its properties, or (4) directing the winding up or liquidation of the Owner;

(4) Owner shall have assigned its assets for the benefit of its creditors (other than pursuant to a mortgage loan) or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within sixty (60) days after such event (unless a lesser time period is permitted for cure under any other mortgage on the property or the improvements thereon, in which event such lesser time period shall apply under this subsection as well) or prior to any sooner sale pursuant to such sequestration, attachment, or execution;

(5) Owner shall have voluntarily suspended its business or Owner shall have been dissolved or terminated; or

(6) Any material breach by Owner or any of its successors of any representation, warranty or covenant hereunder, which is not cured within thirty (30) days after notice thereof given by the City or Agency, or, if a cure is not possible within thirty (30) days, where cure is not commenced within thirty (30) days and thereafter diligently prosecuted to completion.

b. Remedies If an Event of Default occurs under the DDA, this Agreement or documents for the Permanent Loan, City may give written notice to the Owner by certified mail or any express delivery service with a delivery receipt requested. If the breach or violation is not cured to the satisfaction of the Party so notifying Owner within the time period specified in the notice, which shall not be fewer than thirty (30) days, the notifying Party may declare a default and may seek legal remedies including the following:

(1) Collect all rents and income in connection with the operation of the Project and use the same and the reserve funds for the operation and maintenance of the Project.

(2) Take possession of the Project and bring any action necessary to enforce any rights of the Owner arising from the operation of the Project, and operate the Project in accordance with the terms of this Agreement until such time as the City, in its sole discretion, shall determine that the Owner is again in a position to operate the Project in accordance with the terms of this Agreement.

(3) Apply to the applicable state or federal court for an order of specific performance of this Agreement, or for the appointment of a receiver to take over and operate the Project in accordance with the terms of this Agreement, or for such other relief as may be appropriate. It is agreed by the Owner that the injury to the City arising from a default under any of the terms of this Agreement would be irreparable, and that the amount of compensation which would provide adequate relief to the City, would be impossible to ascertain.

(4) Accelerate all amounts, including outstanding principal and interest, due under the Permanent Loan, and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, the City may proceed with a foreclosure in accordance with the provisions of the Deed of Trust and State law regarding foreclosures.

(5) The City may seek such other remedies as may be available under law or equity.

(6) In the event that the breach or violation involves the rents to tenants or other charges in excess of those permitted under this Agreement, the City may demand, and seek as an additional remedy, the return of such excess rents or other charges to the affected households.

c. Remedies Cumulative The remedies of the City hereunder are cumulative, and the exercise of one or more of such remedies shall not be deemed an election of remedies and shall not preclude the exercise by the City of any one or more of its other remedies.

d. Rights of Limited Partners. Owner's limited partners shall have the right to cure any default of Owner hereunder upon the same terms and conditions afforded to Owner. Whenever City delivers any notice of default hereunder, City shall concurrently deliver a copy of such notice to Developer's limited partner(s) at the following address (or such alternate address designated by such limited partner(s) from time to time in a written notice to City):

14. Recordkeeping and Reports

Owner or the management agent designated by Owner, as approved by City, will be responsible for recordkeeping and reports, including those required to comply with Fair Housing and Equal Opportunity requirements, as may be required by City. The management agent will establish and maintain a comprehensive system of records, books, and accounts in a manner conforming to the directives of Owner in order to assist City in meeting Federal and State recordkeeping and reporting requirements, as applicable. All records, books, and accounts will be subject to examination at reasonable hours by any authorized representative of City. All such records and books shall be kept for a period of at least seven (7) years in a manner designed to protect them from destruction or tampering, and shall be subject to inspection and audit by the City, or its authorized agents.

15. Maintenance & Management

- a. Owner is solely and specifically responsible for all maintenance, repair, and management functions for the Project, including without limitation, selection of tenants, certification and recertification of household income and size, evictions, collection of rents, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. Owner shall maintain units and common areas in a safe and sanitary manner in accordance with local health, building, and housing codes, HUD housing quality standards pursuant to 24 CFR 882.109. City shall not have any responsibility for management or maintenance of the Property or the Project, but shall have the remedies provided for in Section 13 hereof, which they may exercise at their option as applicable.
- b. Owner may contract with a management agent for the performance of the services or duties required in Section 15a above. However, doing so shall not relieve Owner of responsibility for proper performance of said duties. Any such contract shall contain a provision allowing Owner to terminate the contract without penalty with no more than thirty (30) days' notice. Upon determination by City and notice to Owner that the contracted management agent has failed to operate the Project in accordance with this Agreement, Owner shall exercise such right of termination forthwith.

and shall immediately make arrangements, subject to City approval, for continuing performance of the requirements of this Agreement.

- c. If Owner operates the Project directly without contracting with a management agent and City determines that the Project is not being operated in accordance with this Agreement, City may provide notice to Owner thereof, and may require Owner to contract with a management agent to operate the Project, or to make such other arrangements as City deems necessary to ensure performance of the requirements of this Agreement.

16. Inspections

- a. Owner shall allow City access to the Project to conduct inspections on an annual basis, or more frequently, with fourteen (14) days written notice to Owner.
- b. Owner shall provide tenants with a minimum of twenty-four (24) hours written notice prior to seeking access to a tenant unit for inspection purposes. In said notice, Owner shall clearly inform tenant of the purposes of the inspection.

17. Hazard & Liability Insurance

- a. Owner shall at all times keep the development insured against loss by fire, flood (as required pursuant to 24 CFR 92.358), and other such hazards, casualties, liabilities and contingencies, and in such amounts and for such periods as set forth in the DDA. All insurance policies and renewals thereof shall be issued by a carrier and in a form acceptable to City. Property insurance policies shall name City as an additional insured in a manner approved by City.
- b. Insurance proceeds and condemnation awards for any loss to or taking of the Project, or any portion thereof, shall be applied or utilized by Owner as provided in the Deed of Trust for the Permanent Loan..

18. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

19. Successors and Assigns

This Agreement and all the covenants, promises, and agreements contained in it shall be binding on and inure to the benefit of the Parties and their respective legal and personal representatives, devisees, heirs, successors, and assigns.

20. Severability

If any provision of this Agreement shall be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby unless, in the sole discretion of City, the invalidity, or unenforceability of the provision negates the purpose of this Agreement and/or threatens the security for the City's Permanent Loan.

21. Venue

If either Party to this Agreement initiates any legal or equitable action to enforce the terms of this Agreement, to declare the rights of the parties under this Agreement, or which relates to this Agreement in any manner, the Parties agree that the proper venue for any such action is the Superior Court of the State of California of and for the County of Sacramento or in the United States District Court for the Eastern District of California, as applicable.

22. Costs of Enforcement

Owner agrees to pay any and all of City's costs with respect to enforcement of this Agreement, including City's reasonable attorneys' fees, costs and expenses.

23. Counterparts/Originals

This Agreement may be executed in counterparts, each of which shall be an original and all of which together shall constitute one (1) entire Agreement.

24. Amendment

This Agreement shall not be altered or amended except in a writing executed by the Parties.

25. No Waiver

No waiver by the City of any breach of or default under this Agreement shall be deemed to be a waiver of any other or subsequent breach or default hereunder.

26. Captions

The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this

Agreement.

27. Parties Not Co-Venturers

Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

28. Notice

Written notices and other written communications between the Parties shall be addressed to their principal place of business unless or until a Party communicates in writing to the other party that a different address should be used.

29. Hold Harmless

Except to the extent arising from the City's willful misconduct, Owner agrees to indemnify, defend and hold harmless the City and its agents, employees and officers (collectively, "**Indemnitees**") from and against any and all claims, losses, liabilities, causes of action or costs (including reasonable attorneys' fees) arising from or in connection with Owner's development, management, maintenance or operation of the Project.

30. Affordability Protocols

To the extent that State, Federal and local laws and regulations may conflict with respect to household income levels, rent levels, or similar provisions relating to affordability of the Project, the Parties acknowledge and agree that the intent of this Agreement is to provide the maximum affordability restrictions.

SIGNATURES ON FOLLOWING PAGE.

By signing below, Owner accepts and agrees to the terms and covenants contained in this Agreement.

CITY:

The City of Rancho Cordova,
a California municipal corporation

By: _____

Name: _____

Title: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

OWNER:

UHC 00575 Rancho Cordova, L.P.,
a California limited partnership

By: _____

Its: _____

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 2013, before me, _____
personally appeared _____ who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

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

WITNESS my hand and official seal.

Signature _____(Seal)

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 2013, before me, _____
personally appeared _____ who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

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

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit A

LEGAL DESCRIPTION OF SITE

The site for the Horizons @ New Rancho affordable, senior's development has the address of 2738 Woodberry Way, Rancho Cordova, 95670. The parcel number for the site is 057-0221-022. Attached, is a current Preliminary Title Report which includes a legal description of the site as well as a parcel map.

Title No. 11-5011627-G-CD
 Locate No. CAFNT0934-0934-0010-0005011627

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RANCHO CORDOVA, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel B of boundary line adjustment recorded in Book 20101025 at Page 0516 of Official Records, County of Sacramento, said Parcel B being the Southeasterly 45.44 feet of Lot 34 as shown on the Plat of Cordova Court Unit No. 2, recorded in Book 53 of Maps, at Page 8, in the Recorders Office of the County of Sacramento, State of California.

Together with that certain parcel recorded in Document 1003139100 on March 13, 2010 and Document 1009100717 on September 10, 2010 of Official Records in the Recorders Office of the County of Sacramento, State of California. Said Parcel being the West 170.00 feet of Lot 35 of the plat of Cordova Court Unit No. 2 filed in Book 53 of Maps at Page 8 in the Recorders Office of the County of Sacramento, State of California. Said West 170.00 feet being measured at right angles from the Southwesterly line of said lot.

Being further described as follows:

Beginning at the most Southerly corner of aforesaid Lot 35 the following five (5) courses:

- 1) North 32° 00' 00" West 287.43 feet to the most Southerly corner of Parcel A of that certain Lot Merger as Recorded in Book 20101025 at Page 0516 of Official Records in the Recorders Office of the County of Sacramento, State of California.
- 2) Along said Southerly line of Parcel A North 58° 02' 20" East 133.32 feet (133.37 per aforesaid Lot Merger) to the Westerly right of way of Woodberry Way to a non-tangent curve to the left with a radius bearing of North 78° 13' 30" East 50.00 feet to the radius point.
- 3) Along said right of way along said curve to the left with a radius of 50.00 feet having a central angle of 98° 24' 46" with an arc length of 85.88 subtended by a chord of South 60° 58' 53" East 75.70 feet;
- 4) Leaving said right of way South 32° 00' 00" East 221.12 feet to the Southeasterly line of aforesaid Lot 35 said line also being the Northwesterly right of way of Folsom Boulevard;
- 5) Along said Southerly line of said Lot 35 South 58° 00' 00" West 170.00 feet to the point of beginning.

Containing 46,729.00 Square feet or 1.07 acres

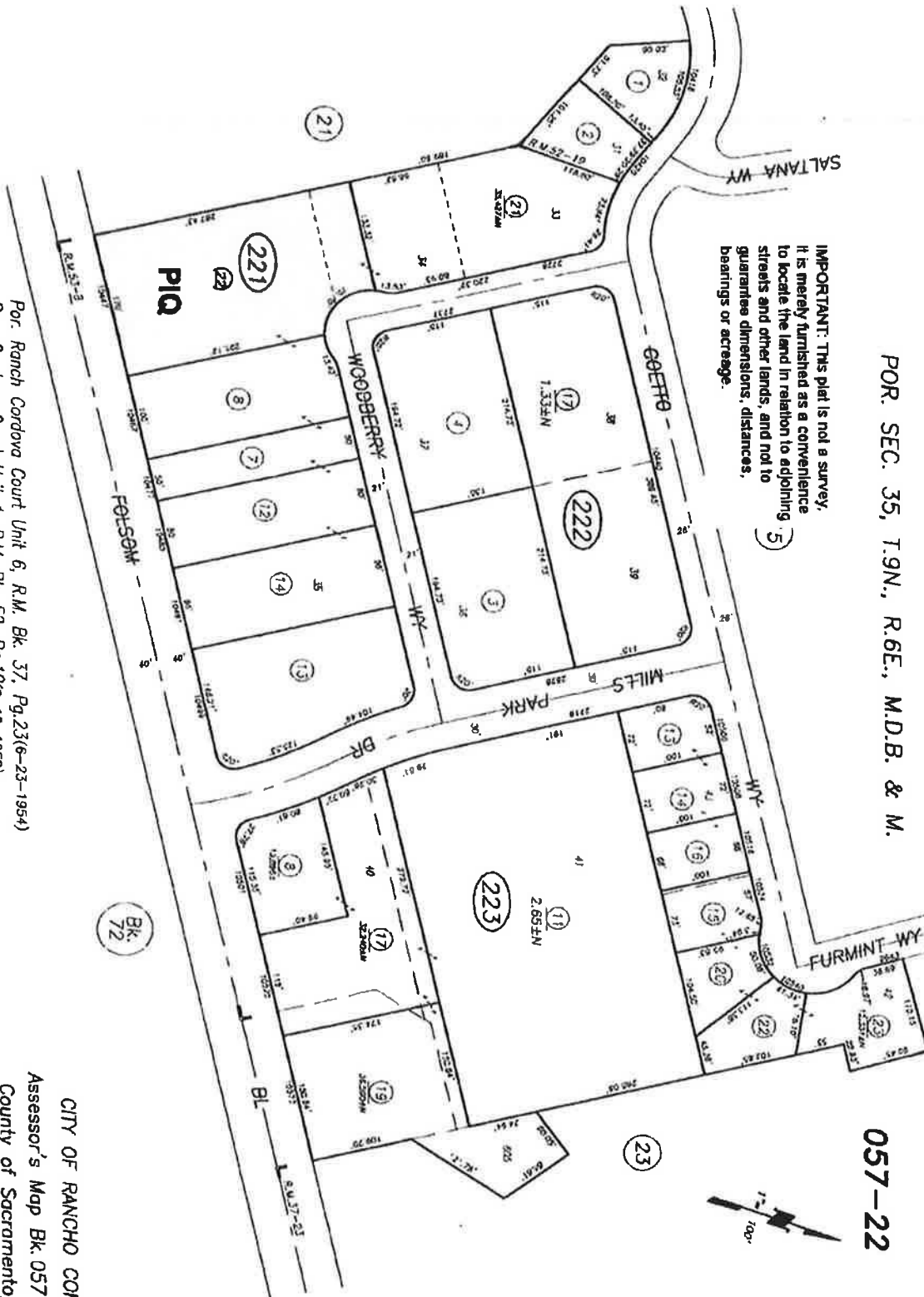
Basis of bearings for this description is identical as Cordova Unit No. 2 Recorded in Book 53 of Maps at Page 8, Official Records in the Recorders Office of the County of Sacramento, State of California.

APN: 057-0221-022

POR. SEC. 35, T.9N., R.6E., M.D.B. & M.

057-22

IMPORTANT: This plat is not a survey,
it is merely furnished as a convenience
to locate the land in relation to adjoining
streets and other lands, and not to
guarantee dimensions, distances,
bearings or acreage.



Por. Ranch Cordova Court Unit 6, R.M. Bk. 37, Pg. 23(6-23-1954)
Por. Cordova Court Unit 1, R.M. Bk. 52, Pg. 19(2-19-1959)
Por. Cordova Court Unit 2, R.M. Bk. 53, Pg. 8(3-51-1959)

CITY OF RANCHO CORDOVA
Assessor's Map Bk. 057 Pg. 022
County of Sacramento, Calif.

Exhibit G

Approved Plans per Design Review

MEMORANDUM



DATE: July 24, 2012

TO: Honorable Mayor and Council Members

FROM: Reed Flory, Housing Services Administrator
William Campbell, Principal Planner

SUBJECT: RESOLUTION APPROVING A DESIGN REVIEW FOR HORIZONS @ NEW RANCHO – PROJECT NO. DD7563; LOCATED AT 2738 WOODBERRY WAY

APPLICANT/DEVELOPER: UHC 00516 Rancho Cordova, L.P. 2000 E Fourth Street, Suite 205 Santa Ana, CA 92705	ARCHITECTS: KTG Architecture + Planning 17992 Mitchell South Irvine, CA 92614 Stricker Cato Murphy Architects, P.S. 311 First Avenue South, Suite 300 Seattle, WA 98104
---	--

PROJECT: FILE: LOCATION: APN: PLANNER:	Horizons @ New Rancho Design Review- Design Review approval for a 48 unit age restricted senior housing project. The City of Rancho Cordova and Urban Housing Communities will sponsor the development of this modular, three-story apartment project, consisting of 42 one-bedroom, 608 square feet, units and 6 two-bedroom, 828 square feet units. DD7563- Major Design Review 2738 Woodberry Way 057-0221-022 William Campbell, Principal Planner
---	---

RECOMMENDATION

Adopt Resolution 75-2012

RESULT OF RECOMMENDED ACTION

The proposed project is the second phase of the "New Rancho" project (the first phase being Crossings @ New Rancho) and will provide a total of 48 affordable units in an area close to transit and existing commercial establishments. The two projects, Crossings and Horizons, replace several severely deteriorated structures that negatively impacted the immediate area. The Horizons project will provide residential development on Folsom Boulevard, and will promote one of the major goals of the Folsom Boulevard Specific Plan to reduce substandard buildings along Folsom Boulevard.

ADVANCES GOALS: 1 and 2**BACKGROUND**

The City and Rancho Cordova Redevelopment Agency, before its demise, assisted its developer partner, Urban Housing Communities, to acquire seven properties which comprised the New Rancho Redevelopment Project. These actions were necessary in order to clear the old, deteriorated, and foreclosed housing units and commercial structures. The developer subsequently received approval for the construction of the first phase of the project plan – Crossings @ New Rancho. This development has been completed and is now fully occupied. With this application, Urban Housing Communities has initiated the second phase of the overall development plan, Horizons @ New Rancho. The City and Developer have entered into an Exclusive Negotiation Rights Agreement and plan to enter into a Development Disposition Agreement in November of this year to fully improve the remaining 1.07 acres. The Horizons will supply housing for 48 senior households and ultimately will be totally financed through private investment, State and Federal Grant funds and Tax Credit monies.

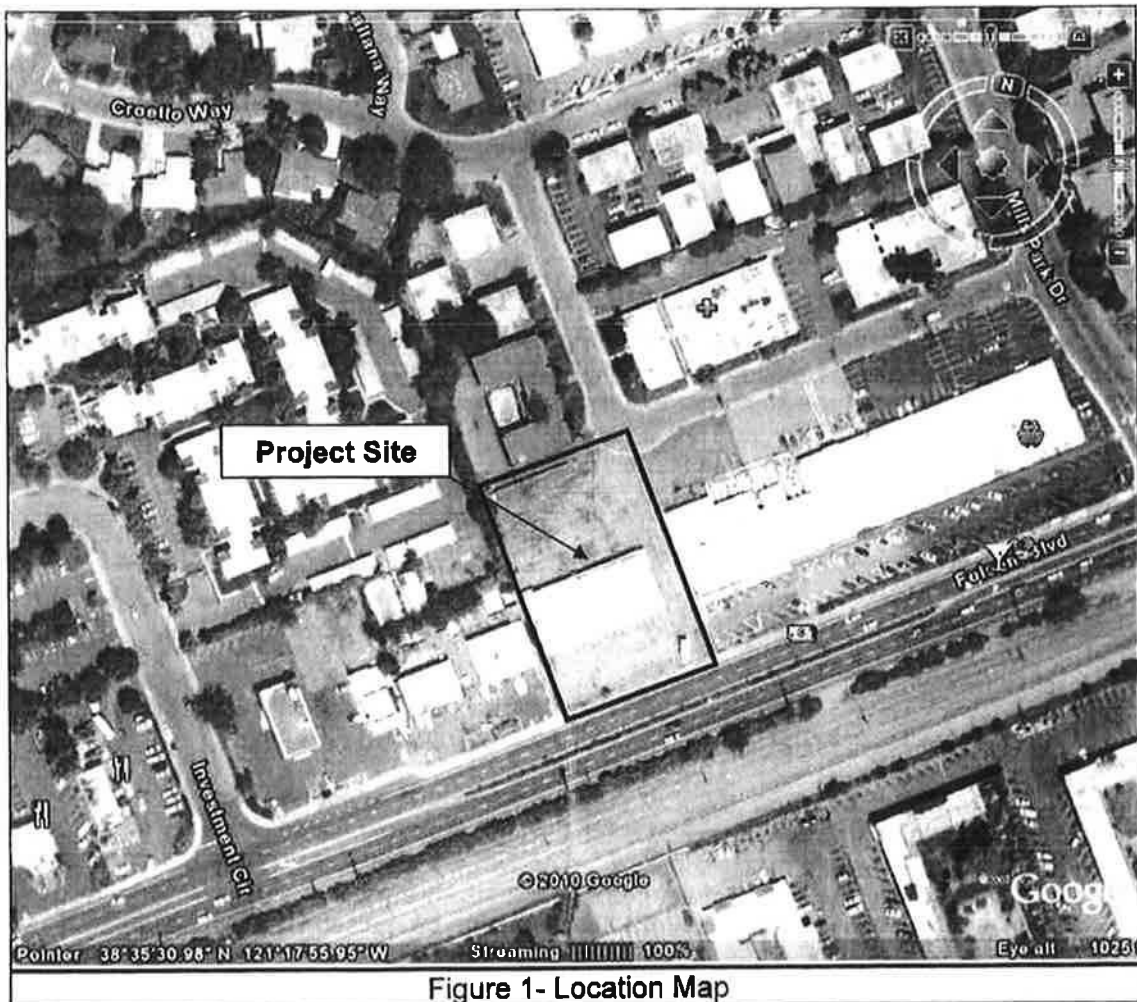
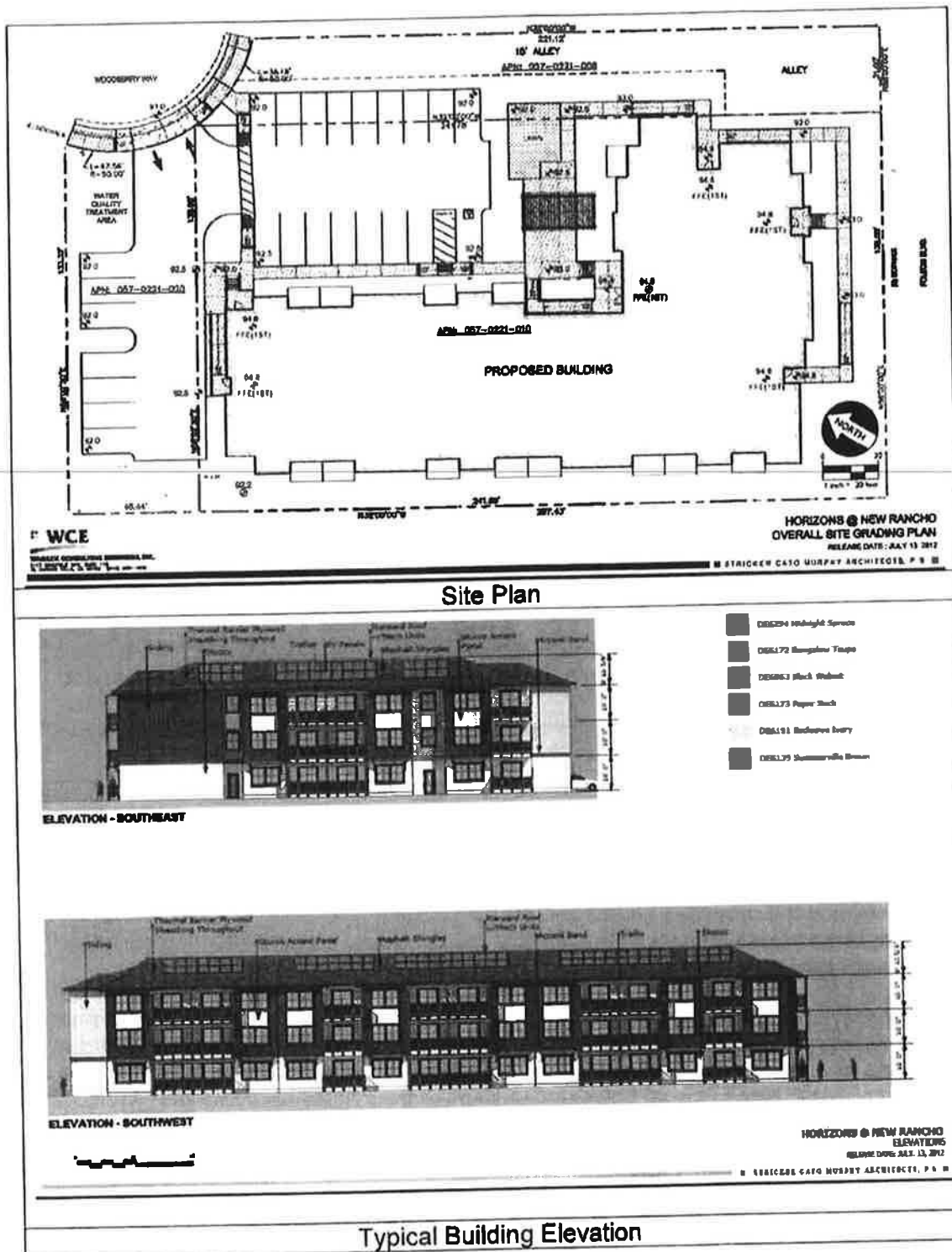


Figure 1- Location Map



The project is designed to be a single, three-story, apartment building served by an elevator and interior corridors. This project is unique for the City, in that the unit modules will be manufactured off-site, transported to the site, and then stacked. As such, the units provide

City Council Staff Report
July 24, 2012

3 of 5

Major Design Review
Horizons @ New Rancho

an interesting design option by allowing greater offsets to the building walls over conventional stick framing. The merits of the design are addressed in the finding and evidence section of the accompanying resolution. Staff believes the design will provide an attractive new concept for the area that can be used as a template for other new developments. The project design will incorporate energy saving features with the goal of a "Net Zero" electric use rating. The project will provide solar water heating and solar photovoltaic arrays to offset the energy needs of the units and the common area. The panels are proposed to be installed on the roof and on the top surface of the parking carports.

FOLSOM BOULEVARD SPECIFIC PLAN CONSISTENCY

The Folsom Boulevard Specific Plan is the regulatory document that guides development of the proposed project site. The Specific Plan includes both high level expectations for revitalizing Folsom Boulevard and specific development regulations that apply to individual projects.

Overall Specific Plan Goals

The Folsom Boulevard Specific Plan includes 11 specific goals that guide the transformation of development along the Boulevard. The following six goals from the Specific Plan pertain to the proposed project.

- *Create a Boulevard that will serve as the high-intensity development center of the City.*
- *Develop transit-oriented activity nodes strategically located at light rail stations and freeway interchanges; these nodes will serve as catalyst sites for redevelopment.*
- *Provide additional housing opportunities and developments that support transit ridership.*
- *Ensure development will take advantage of the proximity and availability of light rail to and from the Area.*
- *Create opportunity for identifiable project design that contributes to the enhanced character of the City.*
- *Enrich the pedestrian environment along the Boulevard through well designed and appropriately scaled/articulated projects.*

Staff has evaluated the proposed project against the relevant Specific Plan goals and found the project to be consistent with the intent of these goals. However, as initially proposed, the project does not appear to have an adequately strong relationship to Folsom Boulevard. The project should create a strong relationship and connection to Folsom Boulevard that would enhance pedestrian circulation, promote light rail ridership and encourage shopping at adjacent businesses. Therefore, staff has proposed conditions of approval to address improvements of the south face of the proposed building, adjacent landscape improvements and the fencing/gates along Folsom Boulevard to improve the connection between the project and Folsom Boulevard.

Consistency with Development Standards

The project is located within the UR-2 zone of the Folsom Boulevard Specific Plan and the development standards that apply to the UR-2 zone are listed in the RMU Residential Mixed Use category of the Zoning Code, they include:

1. *Building Setbacks:*
 - *Front- 10 ft minimum*
 - *Interior side- 0 ft.*
 - *Rear- 10 ft. minimum*
2. *Building Height- 50 feet maximum*
3. *Floor Area Ratio- (na)*
4. *Density- 6 (min.) to 40 (max.) units/acre- current project is 44.85 units/acre.* City Council approved a density bonus for this site by Resolution 15-2010.
5. *Parking Standards:* The Specific Plan defers to the Rancho Cordova Zoning Code for determining required on-site parking. Consistent with Zoning Code requirements, the project is providing a total of 24 onsite parking spaces that provides approximately .5 parking spaces per unit. 18 of the 24 spaces are covered and the structures will support some of the solar panels.

The proposed project will meet the minimum development standards.

CONCLUSION

The approval of this project will allow the Developer to submit for State grant funding and to receive tax credits for the development. This project will also contribute to the stated goals and policies of the Housing Element in meeting the targeted objectives towards providing housing for all economic groups while satisfying certain City obligations for the timely replacement of substandard housing demolished within the Redevelopment area.

ENVIRONMENTAL ANALYSIS

This project is Categorically Exempt under Section 15332, In-Fill Development, of the California Environmental Quality Act Guidelines. A full Environmental Assessment has been conducted and updated that fulfills the NEPA requirements for this project and it has been approved by both the Federal Department of Housing and Urban Development and the California Department of Housing and Community Development.

RECOMMENDED MOTION

"Move the City Council adopts Resolution 75-2012 approving the design of the 48 unit senior housing project as submitted, subject to the design package, Exhibit A and the Conditions of Approval, Exhibit B."

ATTACHMENTS

1. Resolution 75-2012, including Design Package (Exhibit A) and Conditions of Approval (Exhibit B).
2. 500' radius map
3. Mailing labels used for Public Hearing Notice

CITY OF RANCHO CORDOVA

RESOLUTION NO. 75-2012

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA
APPROVING A DESIGN REVIEW FOR THE HORIZONS @ NEW RANCHO,
PROJECT DD7563**

WHEREAS, UHC 00575 Rancho Cordova, L.P. (hereinafter referred to as Applicant) filed an application with the City of Rancho Cordova to approve a Design Review for a new three story 48 unit affordable housing senior project, known has the Horizons @ New Rancho; and

WHEREAS, The City Council previously approved a density bonus for the development of this site by Resolution 15-2010; and

WHEREAS, the City Council is the appropriate authority to hear and take action on this project; and

WHEREAS, the City Council of the City of Rancho Cordova has conducted a properly noticed public hearing pursuant to Government Code section 65090 and has duly considered all written and verbal testimony presented during the hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA HEREBY RESOLVES AS FOLLOWS:

1. Determine the project assessment is adequate and complete according to the Guidelines of the California Environmental Quality Act.
 - a) ***Finding:** The project site has been analyzed in compliance with the California Environmental Quality Act. **Evidence:** The City of Rancho Cordova adopted an Environmental Impact Report for the Folsom Boulevard Specific Plan, and issues of aesthetics of the development for the project site were adequately addressed within the document. The project has further been determined to be categorically exempt, according to Section 15332 and the project will not create any significant adverse impact on the environment.*
2. Approve the Major Design Review, subject to the Project Plans (Exhibit A) and the Conditions of Approval (Exhibit B); supported by the following Findings and Evidence, as required by Zoning Code Section 23.141.050:
 - a) ***Finding:** The proposed project is consistent with the objectives of the General Plan, complies with applicable zoning regulations, Specific Plan provisions, and Special Planning Area provisions, and is consistent with the applicable Rancho Cordova Design Guidelines. **Evidence:** The General Plan designation and Folsom Boulevard Specific Plan designation for this property is Urban Reserve-2, wherein high density multi-family residential units are consistent with both designations. The proposed project has been designed to meet the applicable regulations of the Specific Plan and Design Guidelines, including setbacks, height regulations, and density for this site.*
 - b) ***Finding:** The proposed architecture, site design, and landscape are suitable for the purposes of the building and the site and will enhance the character of the neighborhood and community. **Evidence:** The Developer has provided a design package that clearly illustrates the composition and form of the new units. The basic structure is composed of modular units stacked to create the building form. A roof structure has been*

designed to give the appearance of a full roof, however a mechanical equipment well has been provided to hide the A/C units (see roof plan, Exhibit A). The new plan emulates characteristics of the Craftsman style and uses complementary materials and colors to coordinate with the "Crossings" project to the north. The three story structure is treated with a veneer of stucco on the ground floor and a combination of horizontal siding and stucco panels to accent the wall panels. The unit floor plans provide an opportunity to create offsets to the exterior walls of the building and the projecting balcony structure adds to the articulation of the structure. The Applicant has submitted preliminary landscape plans with the Design Review package (Exhibit A). A condition has been placed on the project that will require approval from the Planning Director, in order to accommodate refinements to the site improvement plans, prior to building permits are issued.

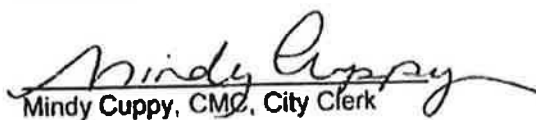
- c) Finding: The architecture, including the character, scale, and quality of the design, relationship with the site and other buildings, building materials, screening of exterior appurtenances, exterior lighting and signing, and similar elements establishes a clear design concept and is compatible with the character of existing or anticipated buildings on adjoining and nearby properties. Evidence: The architectural style is distinctive in mass and in its details for a structure that is modular and stacked. The color and material palettes are complementary to the Crossings project, which include stucco, horizontal sidings, and heavy timber balcony railings and support structure to add to the overall design of the building. The building wall mass is offset to provide greater articulation to the vertical mass, along with changing roof sheds to break the monotony of a single ridge roof system. The southern elevation, facing Folsom Blvd will be an attractive addition to the street front by incorporating the conditions of approval to that elevation and provide a better pedestrian connection to the boulevard.
- d) Finding: The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation. Evidence: The units and site configuration have been designed to provide dedicated pedestrian walkways from the units to the public sidewalk. The on-site parking lot is appropriately configured to serve the units and reduce the conflict between vehicle and pedestrian movement. The project will also be linked to a more accessible path to Folsom Boulevard and the commercial businesses and transit opportunities along the corridor.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the 24th day of July, 2012 by the following vote:

AYES: McGarvey, Cooley, and Vice Mayor Budge
NOES: None
ABSENT: Sander and Skoglund
ABSTAIN: None


 Linda Budge, Vice Mayor

ATTEST:


 Mindy Cuppy, CMC, City Clerk

Resolution No. 75-2012

Page 2 of 2

STRICKER CATO MURPHY ARCHITECTS
311 1st AVE. S., STE. 300 SEATTLE, WA 98101 TEL (206) 224-4800 FAX (206) 322-2875 WWW.SCM-ARCH.COM

EXHIBIT A

DATE: 10/1/01

BY: JCM

PROJECT: HORIZONS @ NEW RANCHO

SCALE: 1/8" = 1'-0"

FIG. NO.: A2.01

URBAN HOUSING COMMUNITIES

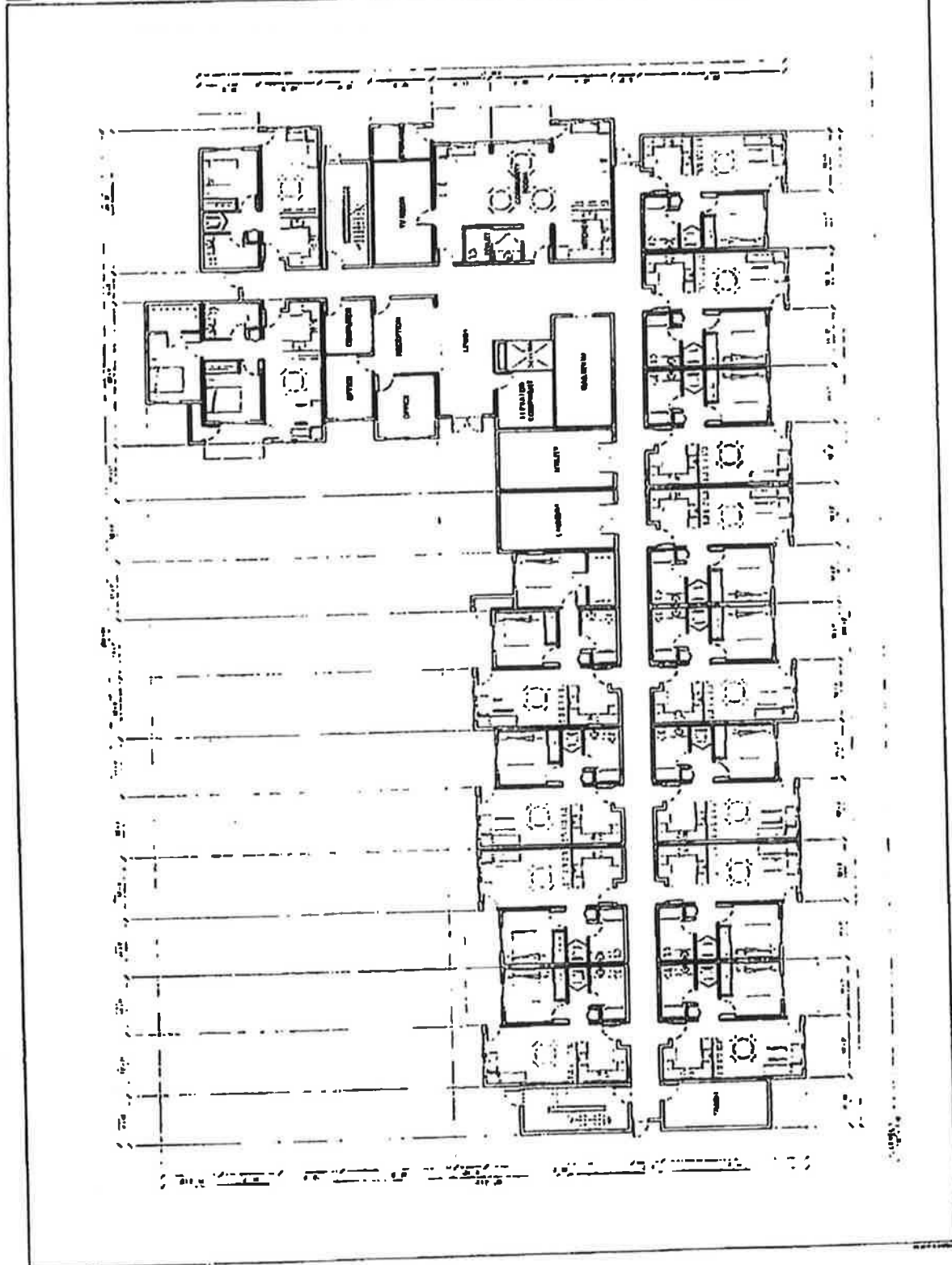


EXHIBIT A

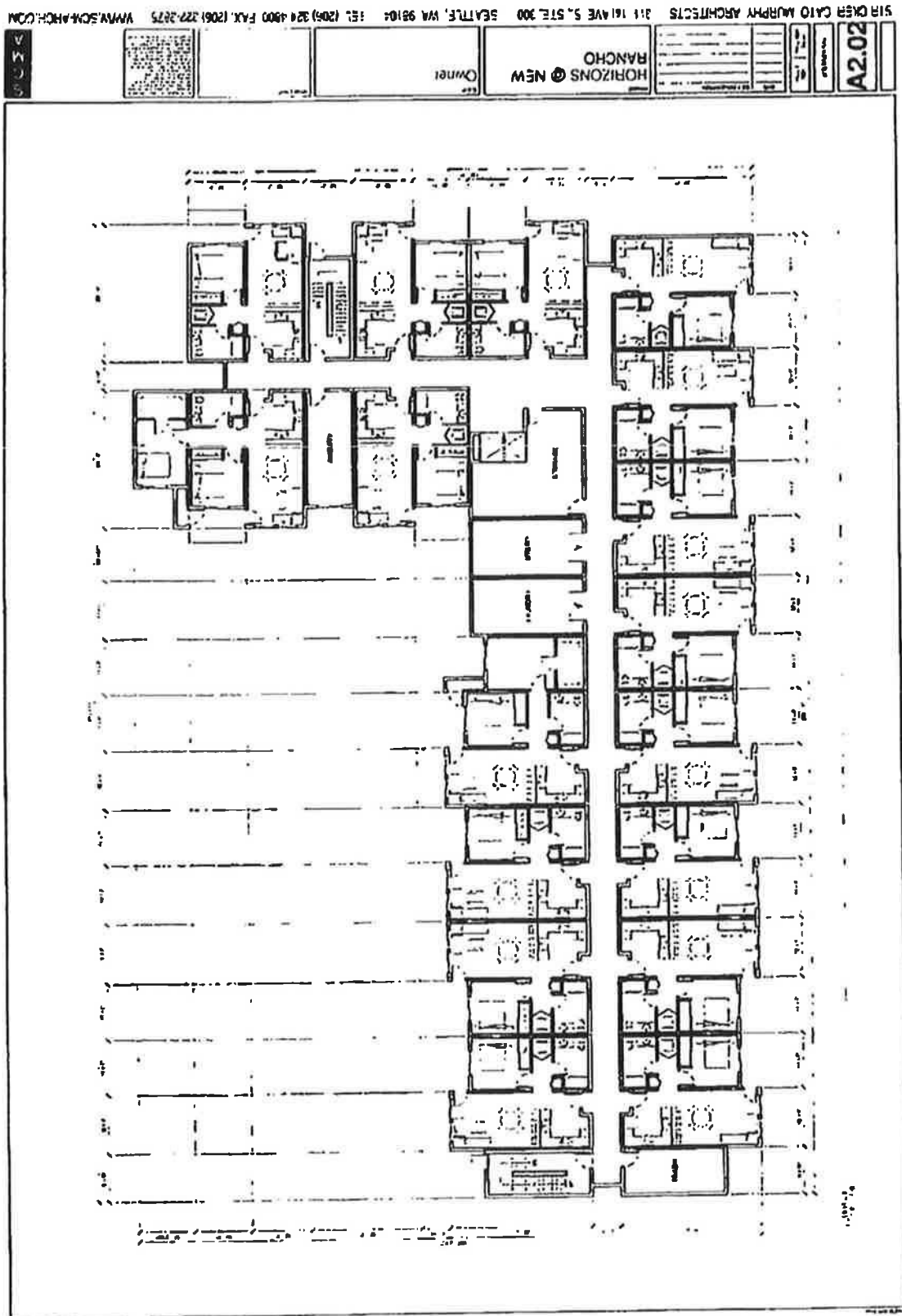
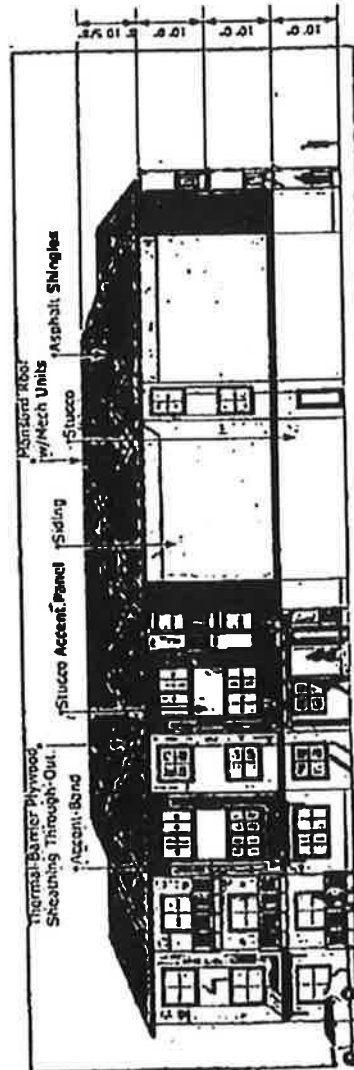


EXHIBIT A

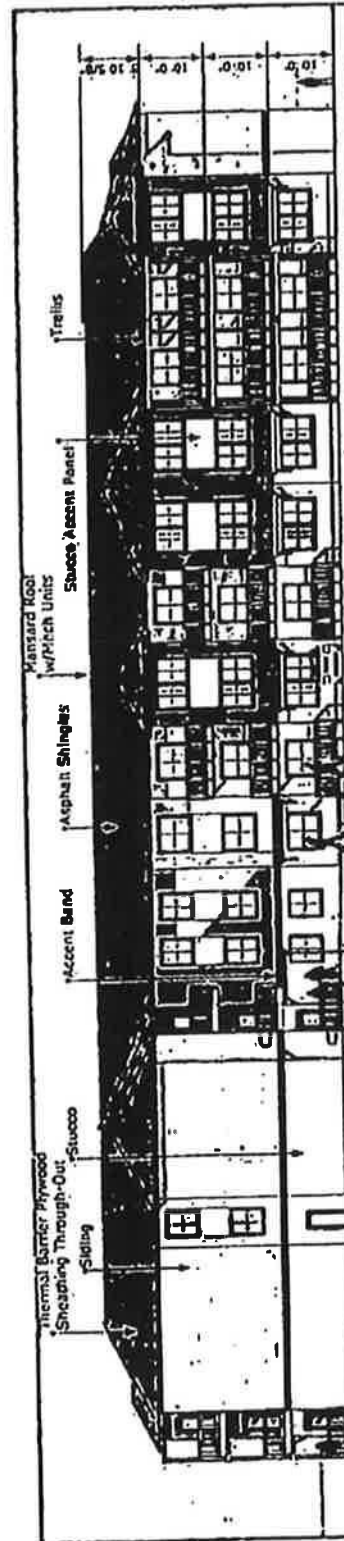
HORIZONS • NEW RANCHO
ELEVATIONS
DATE: MAY 13, 2012

BY: STRICKER CATO MURPHY ARCHITECTS, P.A.

- DES194 Midnight Spruce
- DES172 Bungalow Taupe
- DES063 Black Walnut
- DES173 Paper Sack
- DES191 Ecstacy Ivory
- DES139 Sunnyside Brown



ELEVATION - NORTHWEST



ELEVATION - NORTHEAST

EXHIBIT A

HORIZONS • NEW RANCHO
ROOF PLAN
RELEASE DATE: MAY 13, 2012

• STRICKER CATO MURPHY ARCHITECTS, P.C. •

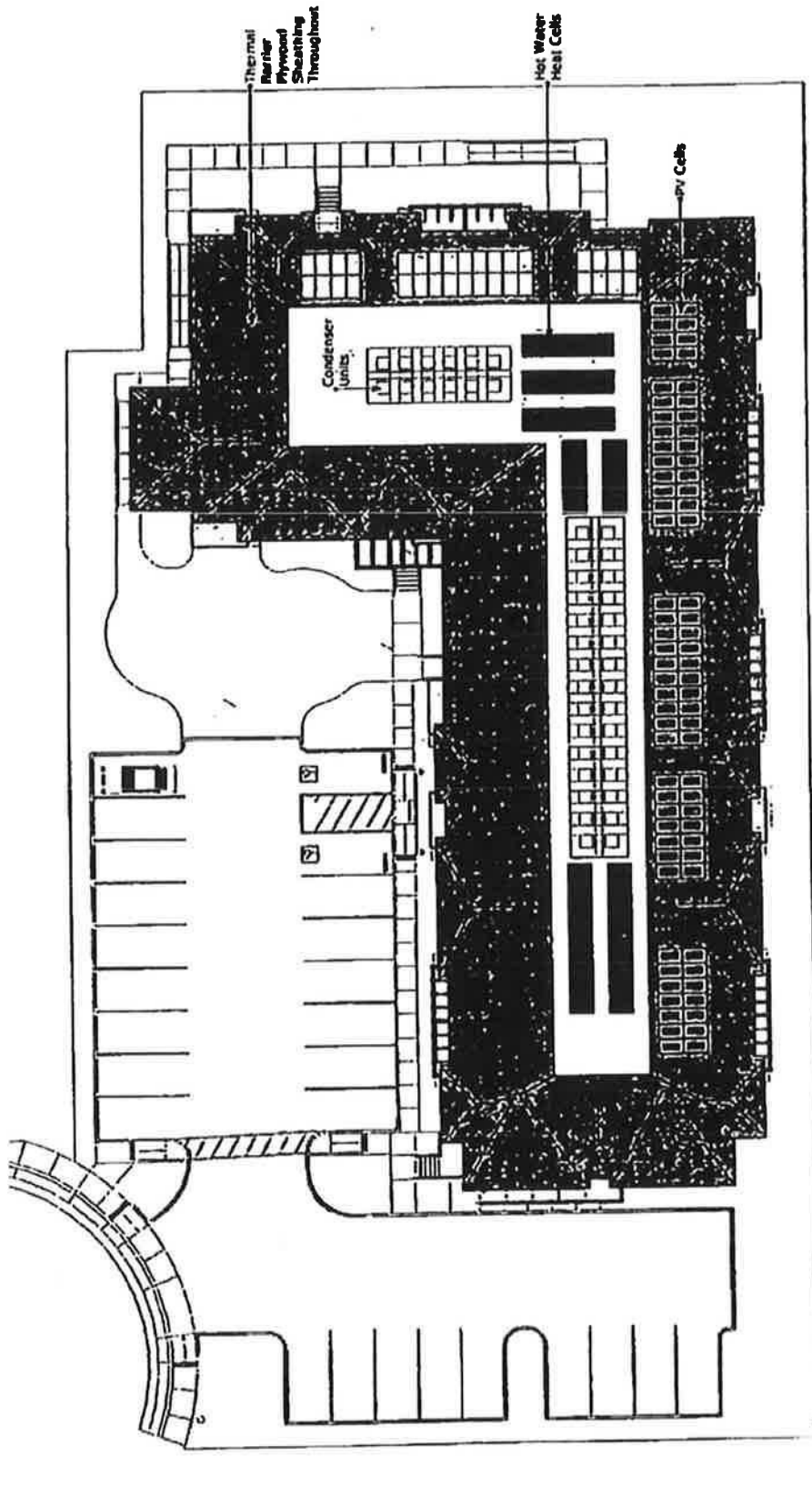


EXHIBIT B

Conditions of Approval

	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and signature)</u>
1.	On-Going	Planning	
2.	On-Going	Planning	
3.	On-Going	Finance	
4.	On-Going	Public Works	

1. The project shall be constructed in substantial compliance with the approved Design Review Package (Exhibit A) for the three story 48 unit senior housing project, located on Woodberry Way, north of Folsom Blvd. This Design Review approval applies to the following APN's: 057-0221-022.

2. The Applicant shall hold harmless the City, its Council Members, its Planning Commission, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.

3. Applicant shall not carry a negative account balance with the City for the processing of the project. If a negative account balance occurs, it will be the developer's responsibility to pay the balance due, in order to avoid delays in the processing of future permits or recordation of maps. Please email the Finance Department at billings@cityofranchocordova.org for the status of your account with the City.

4. Applicant shall be responsible for all damage to City streets associated with construction of the project and shall repair any damage as soon as possible.

Horizons @ New Rancho – Design Review
Project No. DD7563

City Council-FINAL
July 24, 2012

EXHIBIT B

Conditions of Approval

Prior to Issuance of Improvement Plans			
	Prior to Issuance of Improvement Plans	Prior to Approval of Improvement Plans	Public Works
5.	Applicant shall photo-document the condition of adjacent streets, sidewalks and infrastructure to the satisfaction of the Public Works Department.		
6.	Enter into a frontage agreement for those portions of Woodberry Way and Folsom Blvd the project is adjacent and bond for construction of public improvements to the satisfaction of the Public Works Department.	Prior to Approval of Improvement Plans	Public Works
7.	Provide drainage easements as needed and pay any fee required by the Sacramento County Water Agency Code. Install facilities pursuant to the Sacramento County Floodplain Management Ordinance, Sacramento County Water Agency Code, and City of Rancho Cordova Improvement Standards. If the system is to be a private system, then it shall be labeled as such on the improvement plans and a copy of an approved and executed private maintenance agreement shall be provided to the City of Rancho Cordova.	Prior to Approval of Improvement Plans	Public Works
8.	Incorporate into the site improvement plans storm water quality measures in conformance with applicable County ordinances & standards, and state and federal law. The project may implement low impact development design pursuant to and consistent with <i>The Storm Water Quality Design Manual for the Sacramento & South Placer Regions</i> . Such implementation may be able to reduce the storm water quality treatment requirement.	Prior to Approval of Improvement Plans	Public Works
9.	Annex to the Storm Water Utility District.	Prior to Approval of Improvement Plans	Public Works
10.	Applicant shall submit improvement plans to the satisfaction of the Public Works Department. Improvement plans shall include, but shall not be limited to: - All onsite civil improvements. - Civil plan shall include an ADA access plan.	Prior to Approval of Improvement Plans	Public Works

Horizons @ New Rancho – Design Review
Project No. DD7563

EXHIBIT B

Conditions of Approval

	- All property frontage on Woodberry Way and Folsom Blvd, including but not limited to: sidewalk, driveways, curb & gutter, etc. shall be removed and replaced to meet current ADA requirements and City Standards. The current improvements do not meet ADA guidelines. - Indicate the size and location of all driveways. - Location of all utility laterals to the site. - Public improvement plans shall clearly delineate all transitions to existing improvements. - All improvements to be designed and constructed to the satisfaction of the Public Works Department.			
11	If the total area of the developed or redeveloped impervious surfaces (building rooftop, flat work, and parking areas) equals or exceeds 1.0 acres, incorporate into the site improvement plans permanent storm water quality treatment measures in conformance with applicable County ordinances & standards, and state and federal law.	Prior to approval of improvement plans	Public Works	
	Prior to Issuance of Building Permits			
12.	Property Owner/Applicant shall participate in a funding mechanism for maintenance services for the fair share of existing and all new public improvements associated with the project including but not limited to streets, bridges/culverts, traffic signals, traffic signs, striping and legends, ITS operations, and street lights. This may be accomplished through annexation to the City Road Maintenance Community Facilities District. All costs associated with the annexation shall be borne by the Property Owner/Applicant. Contact: Elizabeth Sparkman at (916) 851-8714 as there may be a 2-3 month lead time to satisfy this condition.	Prior to Issuance of Building Permits	Public Works	

Horizons @ New Rancho – Design Review
Project No. DD7563

3

City Council-FINAL
July 24, 2012

EXHIBIT B

Conditions of Approval

13.	The buildings and site development shall be reviewed for architectural consistency with the approved plans by the Planning Director. The following items shall be included to improve the Folsom Blvd frontage, in the following areas: • Develop a prominent entry features, including building articulation, architectural elements, walkways and prominent gate entry to access the site directly from Folsom Blvd. • Provide a formal patio area, adjacent to the Community Room with garden walls and a shade structure, according to the provisions of the Front Yard and Porch standards of Table IV-6 of the FBSP. • Provide a perimeter fence detail for the property that promotes pedestrian access to Folsom Blvd.	Prior to Issuance of Building Permits	Planning
14.	Submit final site landscaping and fence detail plans for review and approval by the Planning Director.	Prior to Issuance of Building Permits	Planning
15.	Applicant shall prepare a site security plan, including, but not limited to surveillance cameras, perimeter fence, locking gates and card activated entrance gate to be reviewed and approved by the Planning Department, in coordination with the Police Department.	Prior to Issuance of Building Permits	Planning
	Prior to Final Inspection and Utility Release		
16.	The building, security system and landscaping shall be inspected, prior to requesting final inspection from the Building Department.	Prior to Final Building Inspection	Planning
17.	All street trees shall be approved by the City's Engineer and Planning Director.	Prior to Final Building Inspection	Planning
18.	Install improvements per the approved Public Works plans and to the satisfaction of the Public Works Department.	Prior to Final Building	Public Works

City Council-FINAL
July 24, 2012

EXHIBIT B

Conditions of Approval

19	As-Built reproducible grading and improvement plans, as well as a compact disc containing said plans in AutoCAD format, shall be submitted and approved by the Public works Department.	Inspection Prior to Final Building Inspection	Public Works
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City Council-FINAL
July 24, 2012

5

Horizons @ New Rancho -- Design Review
Project No. DD7563

MEMORANDUM

DATE: July 1, 2013
TO: Honorable Mayor and Council Members
FROM: Cyrus Abhar, Public Works Director
SUBJECT: APPROVAL OF FINAL MAP OF SUNRIDGE PARK PHASE II VILLAGE 5B



RECOMMENDATION

Approval of Final Map of Sunridge Park Phase II Village No. 5B Subdivision No. RC-04-096.05B being all of lot 3 and 5 of Sunridge Park Phase II recorded in Book 348 of Maps, at Page 1; located on the east side of Timberland Drive between Borderlands Drive and Canyonlands Drive.

RESULT OF RECOMMENDED ACTION

Approval of this recommendation will result in the recording of the final map creating 24 new residential lots.

BACKGROUND

The map has been examined and checked for compliance with Title 22 of the city code and the California State Map Act. The Planning Commission approved the Tentative Map on August 25, 2005. A large lot map was recorded at that time. This action creates the small lot map for Village 5B. A copy of the final map (**Attachment 1**) and a vicinity map (**Attachment 2**) are included with this report.

There are no delinquent taxes against the property and the Tax Collector has so certified. The 2013/2014 estimated taxes have been secured with the Sacramento County Tax Collector.

Public street improvements, utilities and grading were completed with previous villages.

Wood Rodgers Engineering has waived the requirement for a bond to guarantee payment for setting the survey monuments with the subdivision. The soil report requirement has been fulfilled by Wallace-Kuhl & Associates.

ATTACHMENTS

1. 8 ½ X 11 Copy of Final Map.
2. Vicinity Map.

OWNER'S STATEMENT

THE UNDERSIGNED HEREBY CONSENTS TO THE PREPARATION AND RECORDATION OF THIS FINAL MAP OF SUNRIDGE PARK PHASE II VILLAGE NO. 5B, THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES, THE UNDERSIGNED OFFERS FOR DEDICATION AND DOES HEREBY DEDICATE TO ANY AND ALL PUBLIC USES THE PUBLIC DRIVE AND WAY SHOWN HEREON, AS TIMBERLAND DRIVE AND GREAT PLAINS WAY AND ALSO OFFERS FOR DEDICATION AND DOES HEREBY DEDICATE FOR SPECIFIC PURPOSES THE FOLLOWING:

- A. AN EASEMENT FOR CONSTRUCTING AND MAINTAINING CENTRALIZED MAIL DELIVERY BOXES, PEDESTALS AND SLABS, TOGETHER WITH ANY AND ALL APPURTENANCES PERTAINING THERETO, INCLUDING PEDESTRIAN ACCESS FOR DELIVERY AND RECEIPT OF MAIL ON, OVER, UNDER AND ACROSS STRIPS OF LAND FIVE (5.00) FEET IN WIDTH, LYING CONTIGUOUS TO THE PUBLIC DRIVES AND WAYS SHOWN HEREON.

WOODSIDE O&N, LP**A CALIFORNIA LIMITED PARTNERSHIP**

NAME: _____ DATE: _____

TITLE: _____

NAME: _____ DATE: _____

TITLE: _____

NOTARY'S ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

ON THE _____ DAY OF _____, 2013, BEFORE ME, _____, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, _____, SS

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(ES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND: _____

PRINTED NAME: _____

MY PRINCIPAL PLACE OF BUSINESS IS THE
COUNTY OF: _____

MY COMMISSION EXPIRES: _____

MY COMMISSION NO.: _____

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF WOODSIDE O&N, LP A CALIFORNIA LIMITED LIABILITY PARTNERSHIP ON MAY 14, 2013. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE POSITIONS BEFORE MAY 2013, AND THAT THE MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

WOOD RODGERS, INC.



MICHAEL E. LONG
P.L.S. 6815 EXP. 09-30-14

DATE: _____

NOTARY'S ACKNOWLEDGMENT

STATE OF _____ } SS
COUNTY OF _____

ON THE _____ DAY OF _____, 2013, BEFORE ME, _____, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, _____

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(ES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

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WITNESS MY HAND: _____

PRINTED NAME: _____

MY PRINCIPAL PLACE OF BUSINESS IS THE
COUNTY OF: _____

MY COMMISSION EXPIRES: _____

MY COMMISSION NO.: _____

BENEFICIARY'S STATEMENT

WELLS FARGO BANK, NATIONAL ASSOCIATION AS BENEFICIARY UNDER DEED OF TRUST DATED _____ AND RECORDED ON _____ IN BOOK _____ AT PAGE _____, THE OFFICIAL RECORDS OF SACRAMENTO COUNTY HEREBY CONSENTS TO THE PREPARATION OF THIS MAP.

DATE: _____

NAME: _____

TITLE: _____

NOTARY'S ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

ON THE _____ DAY OF _____, 2013, BEFORE ME, _____, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, _____

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(ES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

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WITNESS MY HAND: _____

PRINTED NAME: _____

MY PRINCIPAL PLACE OF BUSINESS IS THE
COUNTY OF: _____

MY COMMISSION EXPIRES: _____

MY COMMISSION NO.: _____

CITY ENGINEER'S STATEMENT

I, HEREBY STATE THAT I HAVE EXAMINED THIS MAP OF SUNRIDGE PARK PHASE II VILLAGE NO. 5B, AND FIND IT TO BE SUBSTANTIALLY THE SAME AS THE TENTATIVE MAP APPROVED BY THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA, AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND ALL APPLICABLE CITY ORDINANCES HAVE BEEN COMPLIED WITH AND THAT I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

CITY ENGINEER
CYRUS E. ABHAR
DATE: _____
L.S. 7723/R.C.E. 45424
EXPIRATION DATE: 12/31/2013

CITY CLERK'S STATEMENT

I, HEREBY STATE THAT THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA HAS APPROVED THIS FINAL MAP AND HAS ACCEPTED ON BEHALF OF THE PUBLIC, ALL LANDS, EASEMENTS AND RIGHTS-OF-WAY, SHOWN HEREON AS THE PUBLIC DRIVES AND WAYS, TOGETHER WITH ANY AND ALL APPURTENANCES PERTAINING THERETO, SUBJECT TO THE IMPROVEMENT THEREOF.

DATE: _____ CITY CLERK
CITY OF RANCHO CORDOVA

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2013, AT _____ M. IN BOOK _____ OF MAPS, AT PAGE _____, AT THE REQUEST OF WOOD RODGERS, INC., TITLE TO THE LAND INCLUDED IN THIS SUBDIVISION BEING VESTED AS PER CERTIFICATE NO. _____ ON FILE IN THE OFFICE.

FEE \$ _____

BY: _____ COUNTY RECORDER
COUNTY OF SACRAMENTO

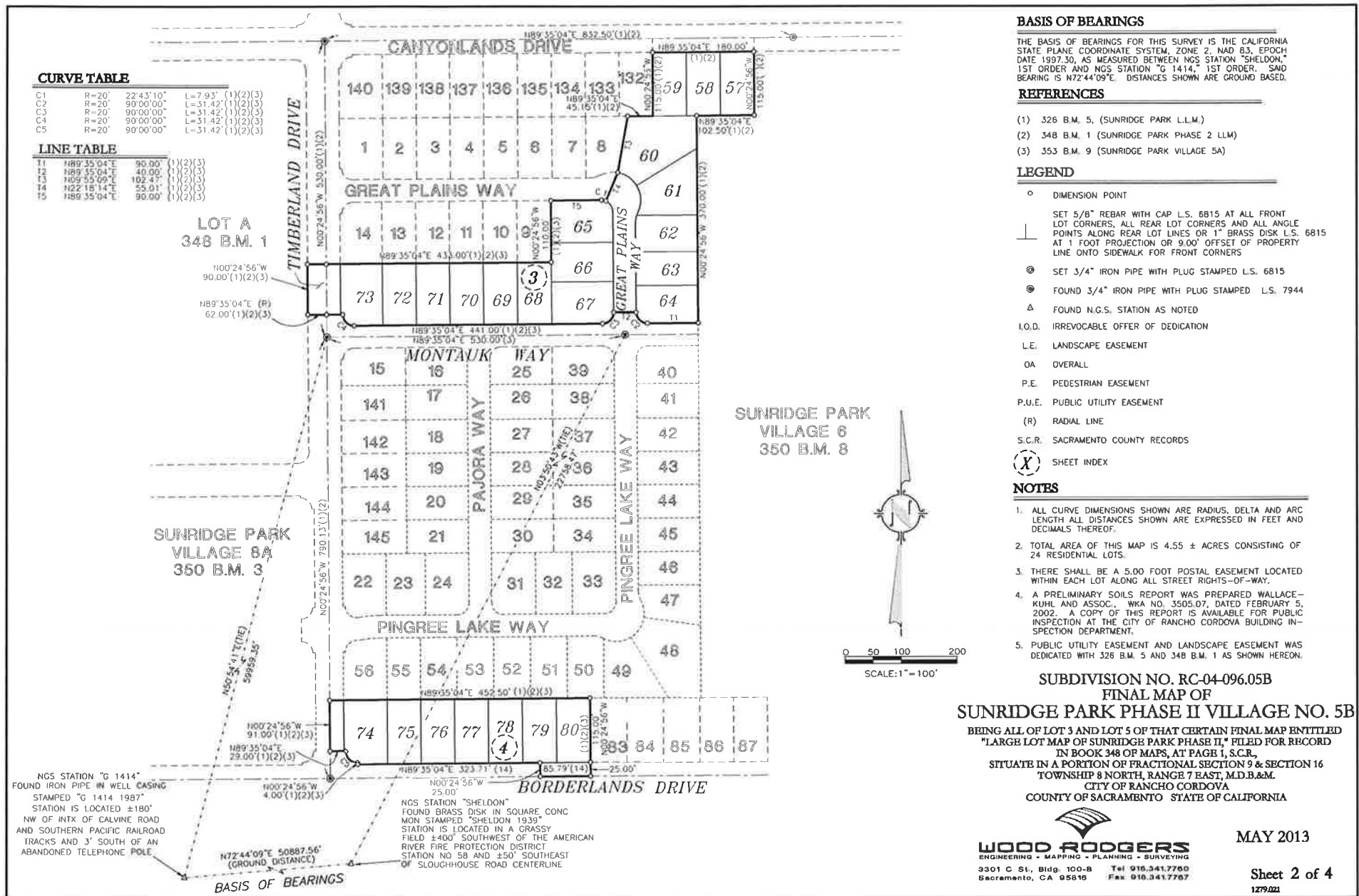
BY: _____ DEPUTY RECORDER

SUBDIVISION NO. RC-04-096.05B
FINAL MAP OF
SUNRIDGE PARK PHASE II VILLAGE NO. 5B
BEING ALL OF LOT 3 AND LOT 5 OF THAT CERTAIN FINAL MAP ENTITLED
"LARGE LOT MAP OF SUNRIDGE PARK PHASE II," FILED FOR RECORD
IN BOOK 348 OF MAPS, AT PAGE 1, S.C.R.,
SITUATE IN A PORTION OF FRACTIONAL SECTION 9 AND SECTION 16
TOWNSHIP 8 NORTH, RANGE 7 EAST, M.D.B.&M.
CITY OF RANCHO CORDOVA
COUNTY OF SACRAMENTO STATE OF CALIFORNIA

WOOD RODGERS
ENGINEERING • MAPPING • PLANNING • SURVEYING
3301 C St., Bldg. 100-B Tel: 916.341.7780
Sacramento, CA 95816 Fax: 916.341.7787

MAY 2013

Sheet 1 of 4
1279.021



SUBDIVISION NO. RC-04-096.05B
FINAL MAP OF
SUNRIDGE PARK PHASE II VILLAGE NO. 5B

BEING ALL OF LOT 3 AND LOT 5 OF THAT CERTAIN FINAL MAP ENTITLED
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CITY OF RANCHO CORDOVA
COUNTY OF SACRAMENTO STATE OF CALIFORNIA



WOOD RODGERS
ENGINEERING - MAPPING - PLANNING - SURVEYING
3301 C St., Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

MAY 2013
Sheet 3 of 4
1279.021

MONUMENT@ INTERSECTION
TIMBERLAND DRIVE/CANYONLANDS DRIVE

LOT A
348 B.M. 1

TIMBERLAND DRIVE



0 20 40 80
SCALE: 1"=40'

SEE SHEET 2 FOR BASIS OF
BEARINGS, LEGEND AND NOTES.

MONUMENT@ INTERSECTION
TIMBERLAND DRIVE/CANYONLANDS DRIVE

N89°35'04"E 832.50'(1)(2)
582.50'(1)(2)

MONUMENT@ INTERSECTION
CANYONLANDS DRIVE/EDYTH LAKE WAY
180.00'(1)(2)

CANYONLANDS DRIVE

SUNRIDGE PARK
UNIT A
350 B.M. 7

GREAT PLAINS WAY

SUNRIDGE PARK UNIT
VILLAGE NO. 5A
353 B.M. 9

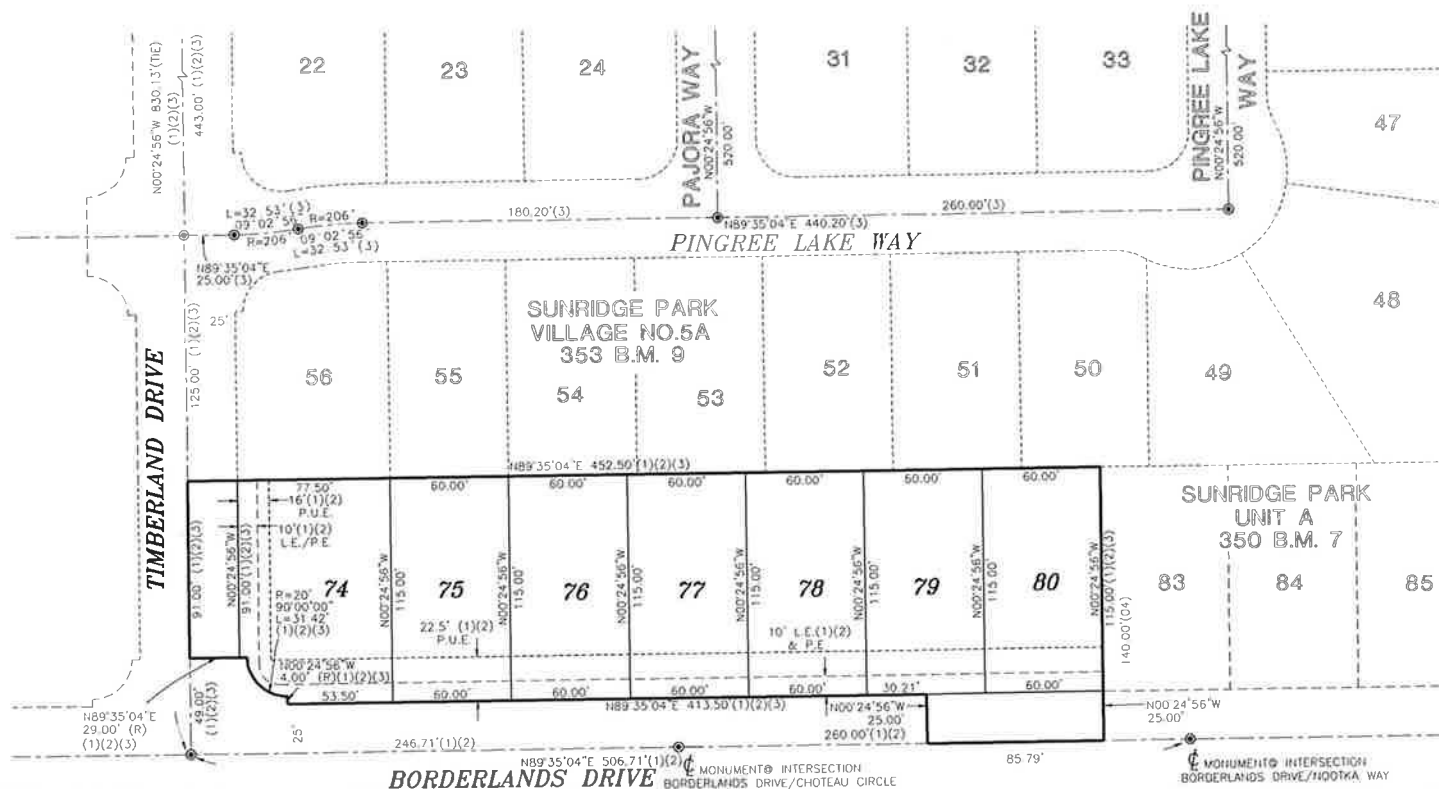
GREAT PLAINS WAY

VILLAGE 6
SUNRIDGE PARK
350 B.M. 8

MONTAUK WAY

SEE SHEET 4

25 VILLAGE 5A
39 353 B.M. 9



0 20 40 80
SCALE: 1" = 40'

SEE SHEET 2 FOR BASIS OF
BEARINGS, LEGEND AND NOTES.

SUBDIVISION NO. RC-04-096.05B
FINAL MAP OF
SUNRIDGE PARK PHASE II VILLAGE NO. 5B

BRING ALL OF LOT 3 AND LOT 5 OF THAT CERTAIN FINAL MAP ENTITLED
"LARGE LOT MAP OF SUNRIDGE PARK PHASE II," FILED FOR RECORD
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CITY OF RANCHO CORDOVA
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Sacramento, CA 95816 Fax 916.341.7767

MAY 2013

Sheet 4 of 4

1279.021



SUNRIDGE PARK PHASE II VILLAGE NO. 5B

ATTACHMENT 2

CANYONLANDS DR

TAWANA DOME WAY

MONTAUK WAY

LITTLE DOME WAY

TENAJA WAY

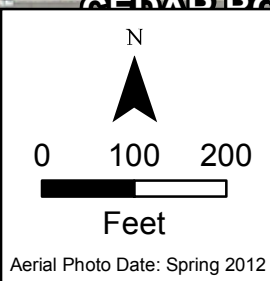
BORDERLANDS DR

TIMBERLAND DR

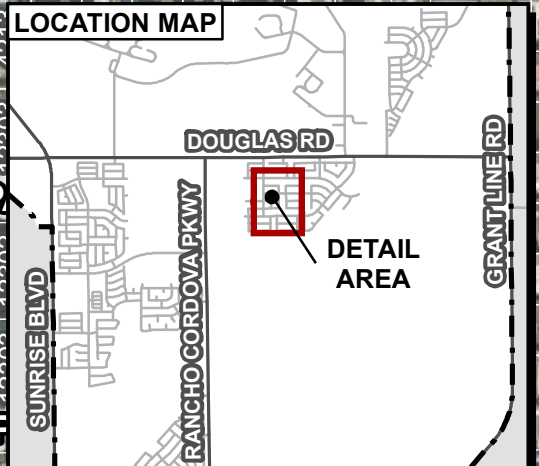
PAJORA WAY

PINGREE LAKE WAY

REDWOOD WAY



LOCATION MAP



AGENDA ITEM 9.4

MEMORANDUM



DATE: July 1, 2013

TO: Honorable Mayor and Council Members

FROM: William Campbell, Principal Planner

SUBJECT: **AMERICAN FAMILY ENTERTAINMENT CENTER DESIGN REVIEW, AN EXCEPTION TO THE MINIMUM FLOOR AREA RATIO REQUIREMENT AND FINANCE AGREEMENT; PROJECT NO. DD0038-179 – LOCATED ON THE EASTSIDE OF KILGORE ROAD BETWEEN TRADE CENTER DRIVE AND SUN CENTER DRIVE**

PROPERTY OWNER: City of Rancho Cordova Mr. Micah Runner 2729 Prospect Park Drive Rancho Cordova, CA 95670	APPLICANT/DEVELOPER: Nichols, Naylor Architects, Inc. Mr. Russ Naylor 1155 East Wilmington Avenue, Suite 250 Salt Lake City, UT 84106
--	--

PROJECT: American Family Entertainment Center FILE: DD 0038-179 LOCATION: The property is located on the eastside of Kilgore Road between Trade Center Drive and Sun Center Drive APN: 072-0260-036-0000, 072-0260-0037-0000, 072-0260-038-0000, 072-0260-039-0000, 072-0260-040-0000 PLANNER: William Campbell, Principal Planner	
---	--

RECOMMENDATION

Adopt Resolution 59-2013.

RESULT OF RECOMMENDED ACTION

Adoption of the resolution would provide the necessary approval to allow the construction a 72,682 square foot entertainment center building on the eastern side of the 13.2 acre development site. Conditions of Approval have been prepared that will ensure the construction of the project is according to the approved plans and its on-going maintenance and operation are kept at a high level.

REQUIRED PERMITS AND REGULATORY BASIS

The Zoning Code requires all new commercial developments to be approved by the City Council. Section 23.141 Major Design Review applies to this projects design and the project qualifies for an "Exception", to the minimum floor area development standard in the Convention Overlay District of the Zoning Code, according to Section 23.325.020.

BACKGROUND

The City has been actively promoting the development of an entertainment complex within the community for several years. American Family Entertainment Centers (AFEC) approached the City regarding the development of City owned property fronting Kilgore Road and proposed a public/private partnership to develop the site. The City and the AFEC plan to enter into an agreement regarding the development of the property and specify the financial obligations of each party. At the December 17, 2012 City Council meeting, a progress status report on the project was made by the architect and AFEC representatives, giving the City the first opportunity to see the conceptual design of the entertainment center. Subsequent to that meeting, the City Council again reviewed the project and its components on June 3, 2013. At that meeting, the City Council determined the environmental assessment to be complete in accordance with the California Environmental Quality Act, accepted the design and instructed staff to prepare the final approval package.

PROJECT ANALYSIS

In order for the City to approve the Entertainment Center within the Convention Overlay District, the findings to support an "Exception" according to Section 23.325.020 are necessary. The project cannot meet the minimum .4 floor area ratio requirement, as specified in the Convention Overlay District development standards. Staff has reviewed the materials and information provided by the applicant and has determined the information meets the requirements for granting an Exception. The supporting evidence is provided in the attached resolution to approve the reduction of the minimum floor area ratio requirement. The approval will be contingent upon the Ordinance 18-2013 to become effective on August 1, 2013. This contingency will not impact the applicant's ability to proceed, because the construction plans will take a few months to complete and submit to the City for plan check.

ENVIRONMENTAL ASSESSMENT

A Mitigated Negative Declaration (MND) has been prepared for the American Family Entertainment Center. The document was released for public review for 30 days beginning on October 12, 2012 running through November 12, 2012. The Mitigated Negative Declaration for the Project includes site specific mitigation measures that reduce all impacts to a less than significant level. The approval of this analysis is included with Resolution 59-2013.

FINANCIAL IMPLICATIONS TO CITY

A Finance Agreement has been reviewed and accepted by the City, as part of the approval package for this development. The following is a summary of the agreement:

1. The proposed financial terms for the City include, land contribution (\$4.6 million), \$1million in cash, and a \$775k fee deferral.
2. Total investment of \$6.4 million with a potential of a \$4 million direct return (revenue share and fee deferral repayment) and additional benefit through sales/property tax and new economic activity
3. The developer team will contribute \$6 million in cash and secure \$16 million in financing for a \$22 million total private investment

The details and terms of the agreement are provided in the Finance Agreement.

RECOMMENDED MOTION

Move the City Council adopt Resolution 59-2013 approving 1) an “Exception” to the minimum floor area ratio standard of the Convention Overlay District, 2) the design review for the project, according to the Design Review Plans (**Exhibit A**) and subject to the Conditions of Approval (**Exhibit B**) and 3) the Finance Agreement (**Exhibit C**).

ATTACHMENTS

1. Resolution 59-2013, Exception to Section 23.325.020, the Design Review Plans (**Exhibit A**), subject to the Conditions of Approval (**Exhibit B**), and the Finance Agreement (**Exhibit C**).
2. 500’ radius map and mailing labels.

ATTACHMENT 1

CITY OF RANCHO CORDOVA

CITY COUNCIL RESOLUTION NO. 59-2013

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA
GRANTING AN EXCEPTION TO THE FLOOR AREA RATIO DEVELOPMENT
STANDARD FOR THE CONVENTION OVERLAY DISTRICT, APPROVING A
DESIGN REVIEW FOR THE FIRST PHASE, AND A FINANCE AGREEMENT
FOR THE AMERICAN FAMILY ENTERTAINMENT CENTER,
PROJECT DD0038-179**

WHEREAS, American Family Entertainment, Inc. (the "Applicant") filed an application with the City of Rancho Cordova to approve a Design Review and an exception to the minimum floor area ratio standard ("Exception") in the Convention Overlay District ("COD") for a new 72,682-square-foot entertainment center building on the eastern end of the 13.2-acre development site. The building will contain eight theaters with a total of 1,402 seats, 24 bowling lanes, a laser tag area, an elevated ropes course, amusement games, shuffleboard, billiards, a bar/lounge, event rooms, concessions, restrooms, storage areas, employee areas, and a kitchen (the "Project"). The Project will also include 708 ground-level parking spaces, landscaping, lighting, and other site improvements. The construction of the Project will be split up in phases. Phase I of the project would also include the construction and operation of a police communications tower; and

WHEREAS, the Applicant and the City have also been preparing a finance agreement that will allocate certain financial responsibilities among the City and the Applicant ("Finance Agreement"); and

WHEREAS, the Project currently complies with all development standards except for the floor area ratio. The Applicant is seeking an Exception to the floor area ratio standard in order to comply with the City's Zoning Code. Due to the large area of the Project site and the Project being constructed in phases, the .4 floor area ratio would be impossible to meet; and

WHEREAS, the Exception process was established by Ordinance 18-2013, which was adopted by the Council on July 1, 2013. The Ordinance will be in effect on July 31, 2013, however, the Council is able to approve the Exception pursuant to the Ordinance as long as the approval is conditioned on the Ordinance taking effect; and

WHEREAS, the City Council is the appropriate authority to hear and take action on the Exception to the minimum floor area ratio standard, Design Review, and the Finance Agreement for the Project; and

WHEREAS, the City Council of the City of Rancho Cordova has conducted a properly noticed public hearing pursuant to Government Code section 65090 and has duly considered all written and verbal testimony presented during the hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA HEREBY RESOLVES AS FOLLOWS:

1. **CEQA.** Determines the Project assessment and environmental review are adequate and complete according to the Guidelines of the California Environmental Quality Act.

a) *Finding:* The Project site has been analyzed in compliance with the California Environmental Quality Act.

Evidence: A Mitigated Negative Declaration ("MND") was completed for the Project. The document was released for public review for 30 days beginning on October 12,

ATTACHMENT 1

2012, running through November 12, 2012. The MND for the Project includes site specific mitigation measures that reduce all impacts to a less than significant level.

2. **EXCEPTION.** Grants an Exception for the floor area ratio requirement for the Project. The procedure for granting Exceptions to development standards within the COD was established by Ordinance 18-2013. The Ordinance was adopted by the City Council on July 1, 2013 and will be effective on July 31, 2013. The Exceptions procedure is set to be codified as Section 23.325.020(F) of the City's Zoning Code. The granting of the Exception under this Resolution is contingent on Ordinance 18-2013 taking effect on July 31, 2013. In granting the Exception, the City Council shall make the following findings:

a) *Finding:* *The City Council has determined that the proposed project has adhered to the development standards in Table 23.325-2 to the fullest extent practicable.*

Evidence: All development standards for this Project are being met, except the floor area ratio. Due to the large area of the Project site and the Project being constructed in phases, the .4 floor area ratio would be impossible to meet. Subsequent phases will complete the Project and it may become necessary to consider another exception to the standard at a later date.

b) *Finding:* *The applicant has provided substantial evidence that the conditions required for granting of an Exception will be met following construction and operation of the Project. Further, the applicant has agreed to conditions of approval guaranteeing these conditions will be met or exceeded throughout the life of the Project.*

Evidence: Information provided by the Applicant and Staff's analysis indicates that the Project meets five (5) of the six (6) conditions required under City Zoning Code section 23.325.020(F) in order to grant an Exception as follows:

1. *Will fulfill a compelling community need, as indicated by an existing City goal, General Plan policy, budget priority, or other Council adopted policy document.* The City Council has expressed their desire to attract a family oriented entertainment center since incorporation. The Convention Overlay District was originally developed to attract such uses. The City is using City property to help accomplish this goal. There are a number of policies and action items in the Economic Development Element of the General Plan that support this Project.
2. *Will improve an existing blighted situation by removing 100% of the blight located upon the subject property.* No evidence provided for this condition. Condition is unmet.
3. *Will provide unmet services to a currently underserved community.* The City has made efforts to attract a theater/bowling alley venue since the loss of the bowling alley previously located where the current Wal-Mart is located. Additionally, market analysis of the area theater sites shows that the proposed location is within an unmet service area of the community.
4. *Will create at least 15 new permanent full time jobs (or new jobs equivalent to at least 15 FTE) or a minimum of 1 job per 500 square feet.* The joint theater/bowling alley and other uses proposed will generate more than 15 new permanent jobs in the community. The Applicant estimates the Project will result in 55 full time employees and a number of special event and seasonal part-time employees.
5. *Will generate annual sales tax contributions to the City in excess of \$25,000.* A conservative estimate of the direct sales tax the Project will contribute to the City

ATTACHMENT 1

is \$25,000-\$30,000. The direct sales tax will be generated through food concessions, retail sales of bowling equipment and other promotional merchandise. The Applicant has prepared a Finance Agreement that forecasts the revenue stream from the operations of the entertainment center.

6. *Investments in the property will increase the property tax revenue for the subject parcel(s) by at least 250%.* The City conducted an appraisal of the property that yielded a land value of \$4.25 Million, prior to the proposed Project development. The estimated value of the Project is \$25 Million, including land value, therefore, the project clearly exceeds the anticipated property tax revenue increase as required by this finding.

This information has been evaluated and determined to meet the intended requirements of the granting of an Exception. The applicant has agreed to all conditions of approval for the Design Review and the proposed Finance Plan.

- c) *Finding: Granting the Exception will not adversely affect the interests of the public or the interests of the residents and property owners in the vicinity of the premises in question, and shall not establish a precedent for other project requests.*

Evidence: As demonstrated in the Project materials, this commercial development will benefit the public interest and City residents by providing a needed family entertainment venue that does not currently exist within City limits. The new development has been designed to avoid negative impacts to immediate neighbors by placing the building towards the rear of the property and providing adequate parking and landscaping. Additionally, the Applicant's market analysis indicates there is significant unmet need for entertainment attraction in the overall community. As required by the COD, the Project has provided independent, project-specific evidence for meeting the conditions of an Exception. This Exception only applies to this Project and would not set a precedent for other projects in the future. Future projects would be required to satisfy City Zoning Code section 23.325.020(F).

- d) *Finding: Granting the Exception will not endanger the public health and safety.*

Evidence: Granting of the Exception for the Project will benefit the public health and safety by improving a large vacant lot in the heart of the City's business district. The Project's close proximity to the Rancho Cordova Police Department will also provide added security to the Project's customers.

3. **DESIGN REVIEW.** Approves the Design Review, subject to the Project Plans (**Exhibit A**) and the Conditions of Approval (**Exhibit B**); supported by the following Findings and Evidence, as required by Zoning Code Section 23.141.050:

- a) *Finding: The proposed project is consistent with the objectives of the General Plan, complies with applicable zoning regulations, Specific Plan provisions, and Special Planning Area provisions, and is consistent with the applicable Rancho Cordova Design Guidelines.*

Evidence: The General Plan designation and Zoning Code designation for this property is Convention Overlay District, which permits indoor entertainment facilities by right. The proposed project has been designed to meet the applicable regulations of the Specific Plan and Design Guidelines, including setbacks, height regulations, and density for this site.

- b) *Finding: The proposed architecture, site design, and landscape are suitable for the purposes of the building and the site and will enhance the character of the neighborhood and community.*

ATTACHMENT 1

Evidence: The Applicant has provided a design package that clearly illustrates the composition and form of the new entertainment center. The Applicant has submitted preliminary building elevations, parking lot layout and landscape plans with the Design Review package (**Exhibit A**). A condition has been placed on the Project that will require approval from the Planning Director, in order to accommodate refinements to the site improvement plans, prior to the issuance of building permits.

- c) Finding: *The architecture, including the character, scale, and quality of the design, relationship with the site and other buildings, building materials, screening of exterior appurtenances, exterior lighting and signing, and similar elements establishes a clear design concept and is compatible with the character of existing or anticipated buildings on adjoining and nearby properties.*

Evidence: The architectural style is distinctive in mass and in its details for a project this size. The tower feature will serve as an iconic symbol of the Project site and will be illuminated at night for an additional design character. Iconic super graphics of famous film stars will adorn the large wall panels of the building to give the building mass greater interest. The front entry plaza will provide an attractive informal meeting area for patrons of the facility, which can also be used for public gatherings and events. The Project is unique in size and scale for the area because of its intended use to host multiple indoor entertainment opportunities, including bowling, laser tag, arcade games, along with the theater. Other large buildings in the area are used for office use, wherein this Project will be strictly providing indoor entertainment opportunities.

- d) Finding: *The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation.*

Evidence: The on-site parking lot provides pedestrian pathways to gain access to the Center without having to traverse the main body of the parking lot. Traffic circles have been provided to increase the efficient movement of vehicles on the site. Future phases of this project will need to provide additional ways to connect to the road system to serve the project area.

4. **FINANCE AGREEMENT.** Authorizes the City Manager to execute the Finance Agreement for the American Family Entertainment Center, substantially in the form attached hereto as **Exhibit C.**

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the _____ day of _____, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

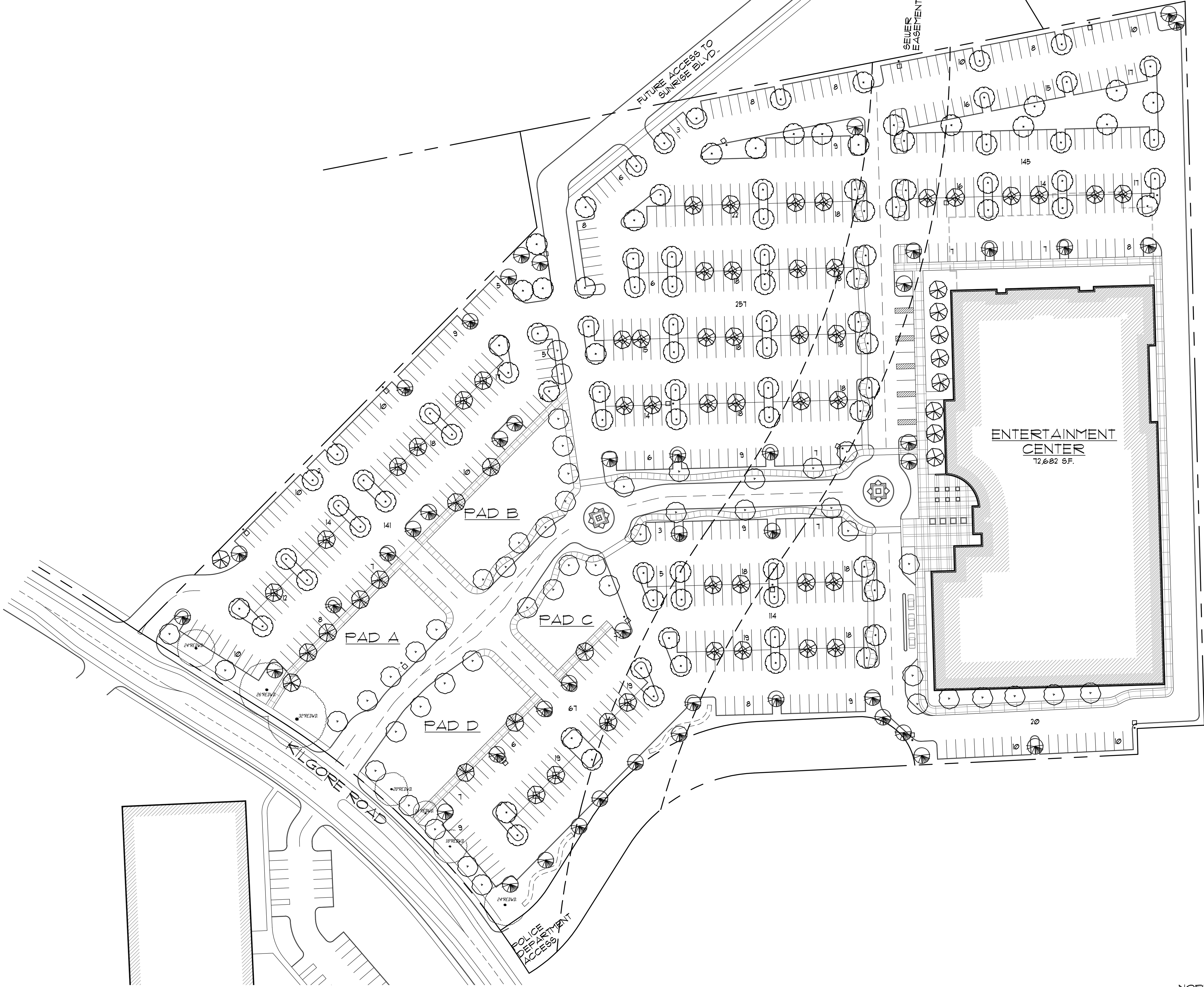
Linda Budge, Mayor

ATTEST:

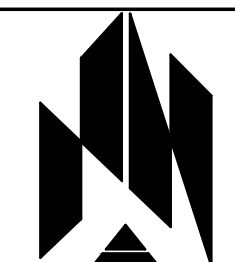
Mindy Cuppy, CMC, City Clerk

AMERICAN FAMILY ENTERTAINMENT CENTER

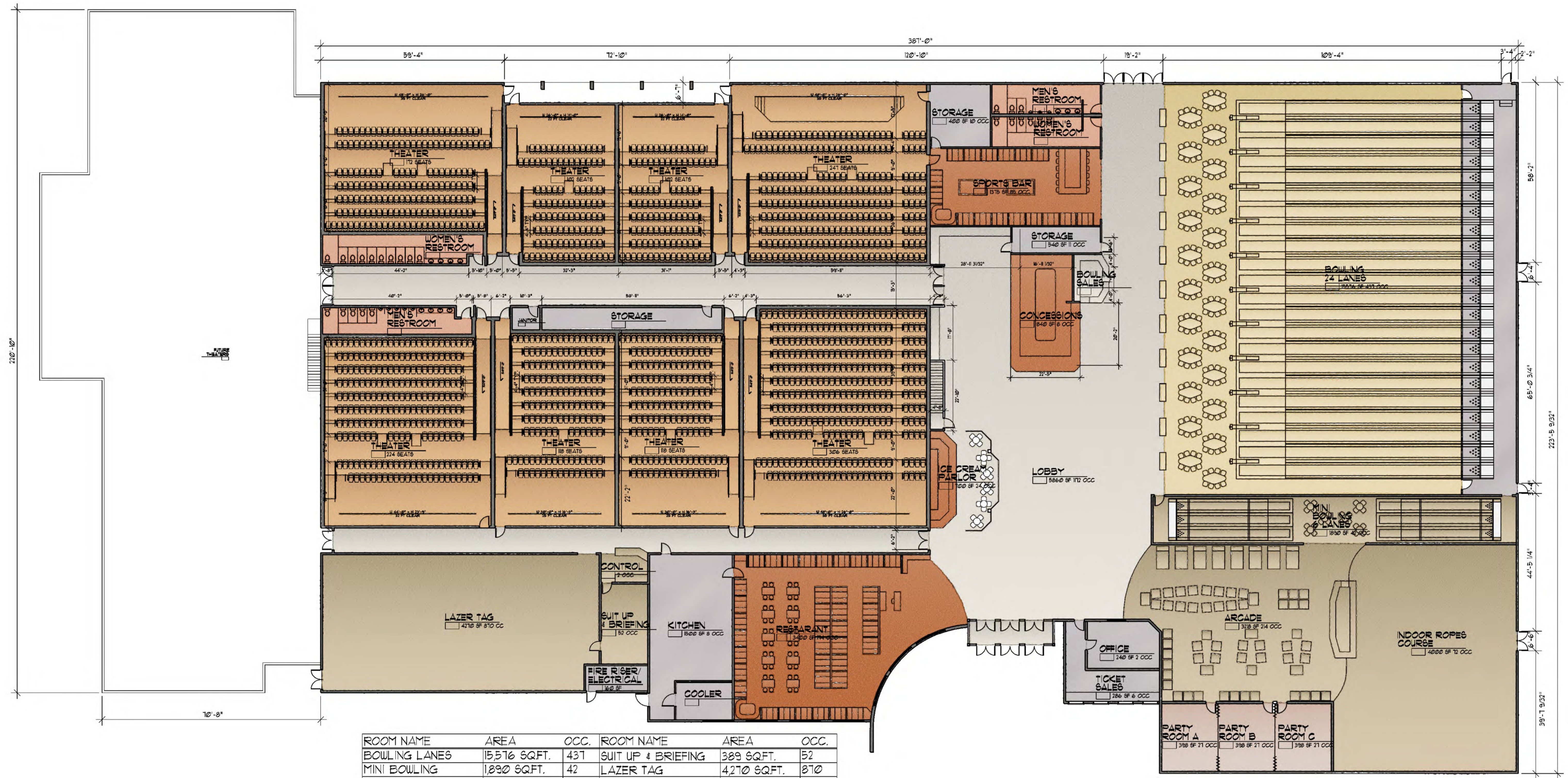
RANCHO CORDOVA - CALIFORNIA



5-16-2013



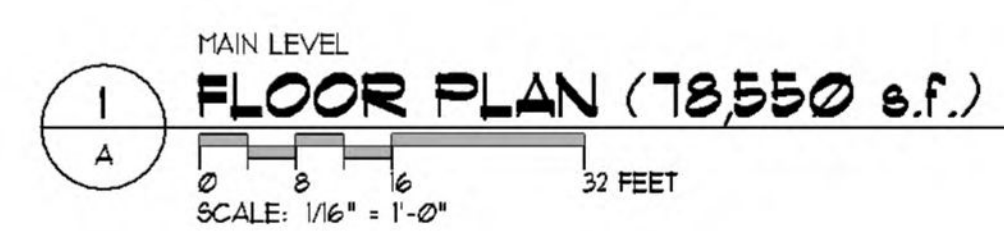
NICHOLS • NAYLOR
ARCHITECTS
1155 EAST WILMINGTON AVENUE SUITE 250
SALT LAKE CITY, UTAH 84106 (801) 487-3330



ROOM NAME	AREA	OCC.	ROOM NAME	AREA	OCC.
BOWLING LANES	15,516 SQFT.	437	SUIT UP & BRIEFING	389 SQFT.	52
MINI BOWLING	1890 SQFT.	42	LAZER TAG	4,210 SQFT.	870
MINI GOLF	4,000 SQFT.	12	THEATER A	3,928 SQFT.	306
PARTY ROOM A	398 SQFT.	21	THEATER B	2,246 SQFT.	118
PARTY ROOM B	398 SQFT.	21	THEATER C	2,246 SQFT.	118
PARTY ROOM C	398 SQFT.	21	THEATER D	3,092 SQFT.	224
ARCADE	3,218 SQFT.	214	THEATER E	3,462 SQFT.	247
OFFICE	240 SQFT.	2	THEATER F	1,664 SQFT.	102
TICKET SALES	286 SQFT.	6	THEATER G	1,664 SQFT.	102
LOBBY	5,860 SQFT.	112	THEATER H	2,618 SQFT.	172
ICE CREAM PARLOR	100 SQFT.	24	CONCESSIONS	840 SQFT.	8
RESTAURANT	3,400 SQFT.	174	STORAGE	540 SQFT.	11
KITCHEN	1,500 SQFT.	8	SPORTS BAR	1,375 SQFT.	85
CONTROL	143 SQFT.	2	STORAGE	400 SQFT.	10
			TOTAL	78,550 SQFT.	4,659

AGENDA ITEM 10.1

LOAD BASED ON TABLE 1004 2009 IBC
AL OCC LOAD 4,659
T WIDTH REQ 933.2 INCHES - 4 EXITS REQ
INCHES PROVIDED - 16 EXITS PROVIDED



Ancho Cordova Entertainment Center



NICHOLS • NAYLOR

ARCHITECT

1155 EAST WILMINGTON AVE
SALT LAKE CITY - UTAH 84106

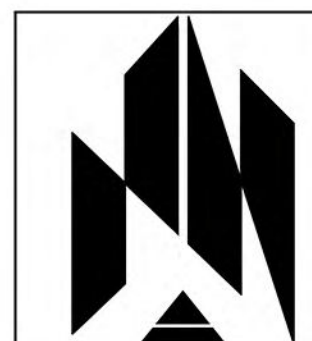
SUITE 25
801.487.333

311



AGENDA ITEM 10.1

Ancho Cordova Entertainment Center



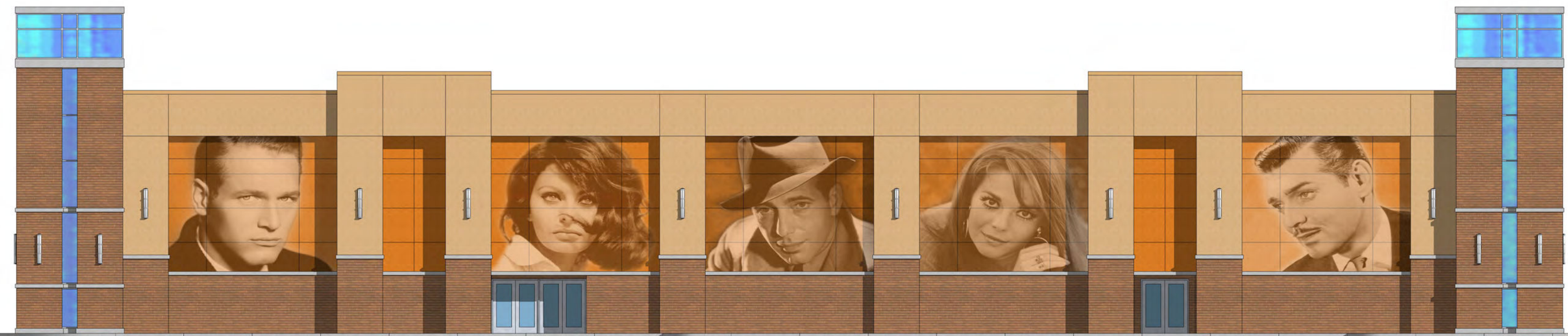
NICHOLS • NAYLOR
ARCHITECT
1155 EAST WILMINGTON AVE SUITE 201
SALT LAKE CITY - UTAH 84106 801.487.3312



West Elevation



South Elevation



North Elevation



East Elevation

AGENDA ITEM 10.1

ancho Cordova Entertainment Center



NICHOLS • NAYLOR
ARCHITECT
1155 EAST WILMINGTON AVE SUITE 201
SALT LAKE CITY - UTAH 84106 801.487.3333



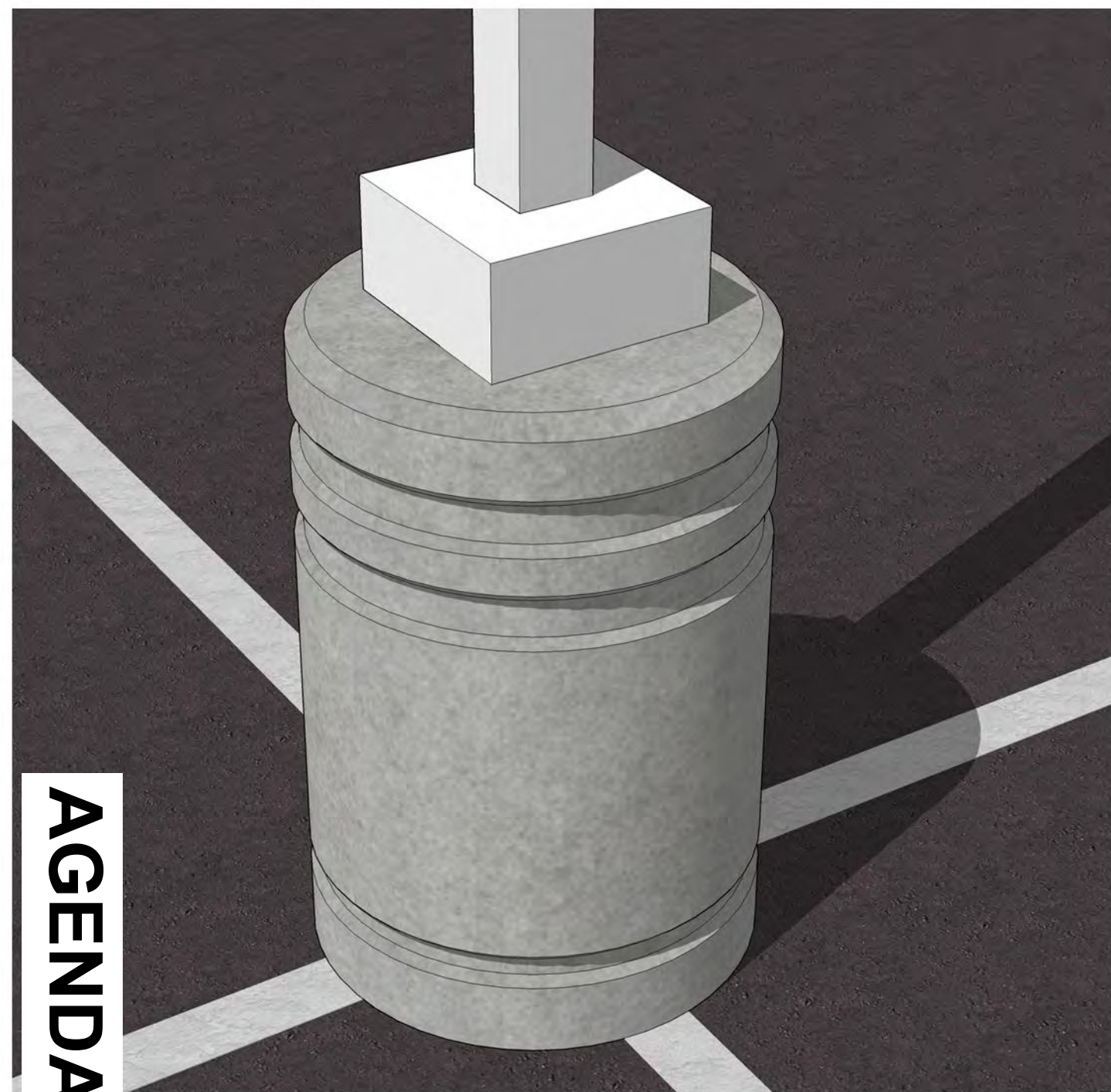
LIGHT POLE
G18-2XL-875PSMH
GULLWING



OUTDOOR SEATING
POWDER COATED
STEEL BENCH
RSPAS6



BIKE RACK
POWDER COATED STEEL
HEAVY DUTY CHALLENGER
H36-7-P-SF



LIGHT POLE BASE
CAST IN PLACE
CONCRETE



TREE GRATE
POWDER COATED
PERFORATED STEEL



TRASH RECEPTALS
POWDER COATED STEEL
MH46PLBK

AGENDA ITEM 10.1

ancho Cordova Entertainment Center



NICHOLS • NAYLOR
ARCHITECTS
1155 EAST WILMINGTON AVE. SUITE 25
SALT LAKE CITY - UTAH 84106 801.487.333



PLANT PALETTE

BOTANICAL NAME	COMMON NAME	WATER USE	SIZE
Parking Lot Shade Trees			
<i>Acer rubrum</i> Red Sunset	Red Sunset Red Maple	M	15 Gal.
<i>Celtis australis</i>	European Hackberry	M	15 Gal.
<i>Pistachia chinensis</i> Keith Davey	Chinese Pistache seedless	L	15 Gal.
<i>Zelkova seratta</i>	Sawleaf Zelkova	L	15 Gal.

TREES LARGE ACCENTS

Platanus acerifolia 'Columbia'	London Plane Tree	L	24" Box
Quercus rubra	Red Oak	M	24" Box
Pyrus calleryana 'Chanticleer'	Callery Pear	M	24" Box
Ulmus x 'Frontier'	Frontier Elm	L	24" Box

TREES SMALL ORNAMENTAL ACCENT

Lagerstroemia faurei cva	Crape Myrtle Standard	L	15 Gal.
Podocarpus gracilior	Standard Fern Pine Standard	M	15 Gal.
Prunus bilsiana	Flowering Plum - non fruiting	M	15 Gal.
Cercis 'Forest Pansy'	Redbud	L	15 Gal.

TALL SHRUBS - 5 + FEET HEIGHT

Ligustrum texanum	Texas Wax Privet	M	5 Gal.
Olea 'Little Ollie'	Dwarf Olive	L	5 Gal.
Raphiolepis 'Springtime'	Pink Indian Hawthorn	M	5 Gal
Escallonia fradesi	Pink Escallonia	M	5 Gal
Xylostea senticosa compacta	Compact Xylostea	L	5 Gal
Rhamnus californica 'Eve Cass'	Coffeeberry	L	5 Gal

MEDIUM SIZED SHRUBS - 3-5' HEIGHT

<i>Myrtus communis compacta</i>	Compact Myrtle	L	5 Gal
<i>Cistus x purpureus</i>	Orchid Spot Rockrose	M	5 Gal
<i>Pittosporum tobira variegata</i>	Variegated Tobira	M	5 Gal
<i>Loropetalum EverRed</i>	Chinese Fringe Flower	M	5 Gal
<i>Callistemon 'Little John'</i>	Dwarf Bottlebrush	L	5 Gal

LOW SHRUBS -1-3' HEIGHT

Barberis t 'Crimson Pygmy'	Dwarf Japanese Barberry
Euonymus f. 'Emerald n Gold'	Variegated Euonymus
Pittosporum t. Wheeleri	Wheeler's Dwarf Pittosporum
Raphiolepis indica 'Ballieriana'	Dwarf Indian Hawthorn

GROUND COVER AND ACCENTS - PARKING LOT ISLANDS

Agapanthus 'Queen Ann'	Dark Blue Lily of the Nile	L	Gal.
Festuca maurii	Atlas Fescue	L	Gal.
Gazania rigens cvs.	Trailing Yellow Gazania	L	Gal.
Libertia grandiflora	New Zealand Satin Grass	L	Gal.
Pennisetum a. 'Hamelin'	Dwarf Fountain Grass	L	Gal.
Phormium Baby Bronze	Dwarf Bronze Flax	L	Gal.
Trachelospermum jasminoides	Star Jasmine	L	Gal.
Tulbaghia violacea 'Silver Lace'	Variegated Society Garlic	L	Gal.

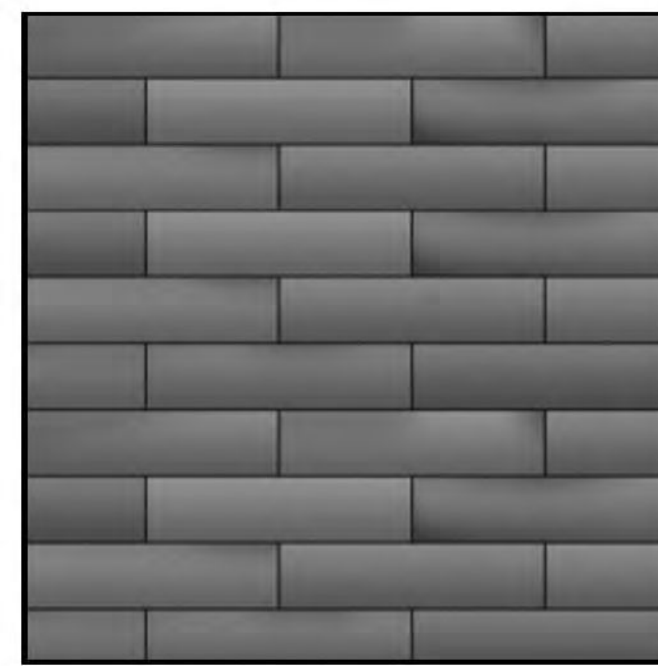


EXTERIOR INSULATION FINISH SYSTEM
SW 6662
SUMMER DAY



(A)

(D)



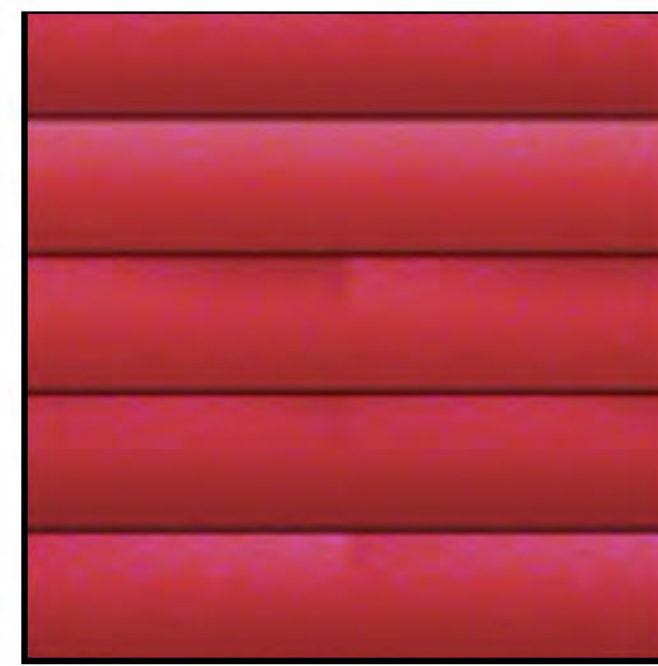
COMPOSITE METAL PANEL
COLORWELD 500
PEWTER

EXTERIOR INSULATION FINISH SYSTEM
SW 6659
CAPTIVATING CREAM



(B)

(E)



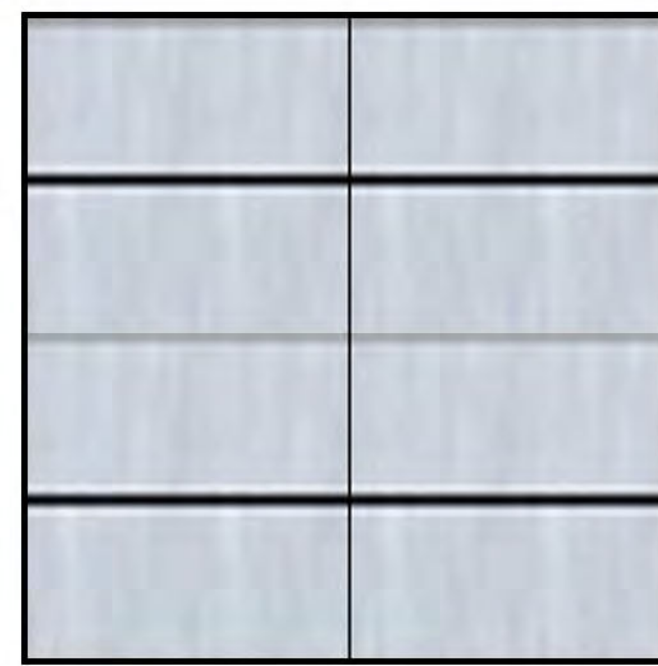
COMPOSITE METAL PANEL
4mm4OER3.5
OER RED

EXTERIOR BRICK CLADDING
INTERSTATE 3 1/2" EMPEROR BRICK
CEDAR



(C)

(F)



COMPOSITE METAL PANEL
4mm4OPT3.5
MICA OPT PLATINUM



Conditions of Approval

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and signature)
1.	Design review for Phase I consists of a new 72,682-square-foot entertainment center building on the eastern end of the 13.2-acre development site, 708 ground-level parking spaces, landscaping, lighting, and other site improvements. The building would contain eight theaters with a total of 1,402 seats, 24 bowling lanes, a laser tag area, an elevated ropes course, amusement games, shuffleboard, billiards, a bar/lounge, event rooms, concessions, and restrooms, as well as storage areas, employee areas, and a kitchen. Phase I of the project would also include the construction and operation of a police communications tower. This approval includes an exception to the Convention Overlay District minimum floor area ratio requirement. Justification to support the exception is found with Resolution 59-2013, adopted July 1, 2013.	On-Going	Planning	
2.	The Applicant shall hold harmless the City, its Council Members, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.	On-Going	Planning	
3.	Applicant shall not carry a negative account balance with the City for the processing of the project. If a negative account balance occurs, it will be the developer's responsibility to pay the balance due, in order to avoid delays in the processing of future permits or recordation of maps. Please email the Finance Department at	On-Going	Finance	

Conditions of Approval

	billings@cityofranchocordova.org for the status of your account with the City.			
4.	Applicant shall be responsible for all damage to City streets associated with construction of the project and shall repair any damage as soon as possible.	On-Going	Public Works	
	Prior to Issuance of Improvement Plans			
5.	Applicant shall photo-document the condition of adjacent streets, sidewalks and infrastructure to the satisfaction of the Public Works Department.	Prior to Approval of Improvement Plans	Public Works	
6.	Incorporate into the site improvement plans permanent storm water quality treatment measures in conformance with applicable County ordinances & standards, and State and Federal law.	Prior to Approval of Improvement Plans	Public Works	
7.	Enter into a frontage agreement and bond for construction of public improvements per the approved Public Works plans to the satisfaction of the Public Works Department.	Prior to Approval of Improvement Plans	Public Works	
8.	Applicant shall submit final landscaping plans demonstrating conformance with the Water Use and Conservation provisions.	Prior to Approval of Improvement Plans	Public Works	
9.	Number, size, and location of driveways are subject to approval by the Public Works Department. If the northern driveway is located and shared with the adjoining property, a shared driveway and access agreement shall be executed, prior to improvement plans approval.	Prior to Approval of Improvement Plans	Public Works	
10.	The Sacramento Area Sewer District (SASD) requires their sewers to be located a minimum of 10 feet (measured horizontally from edge of pipe to edge of pipe) from all potable water lines. Separation of sewer line from other parallel utilities, such as storm drain and other 'dry' utilities (electrical, telephone, cable, etc.) shall be a minimum of 7 feet (measured horizontally from the center of pipe to the center of pipe). Any deviation from the above separation due to depth and roadway width must be approved by SASD on a case by case basis.	Prior to Approval of Improvement Plans	Public Works	
11.	Any use of Sacramento Area Sewer District (SASD) sewer easements, which is not compatible or interferes with the	Prior to Approval of Improvement	Public Works	

Conditions of Approval

	construction, reconstruction, operation, maintenance, or repair of the SASD's sanitary sewer(s), shall not be allowed. Each proposed use shall be reviewed and approved in writing by the SASD Engineer prior to the use of the easement by the Grantor. Landscaping other than the followings: lawn or similar groundcover; areas planted with species whose mature growth does not exceed five (5) feet in height, and species which are not environmentally protected, shall not be permitted within the SASD sewer easement.	Plans		
12.	The subject project owner(s) and successors in interest thereof, shall be responsible for repair and/or replacement of all non-asphalt and/or enhanced surface treatments of streets and drives (such as stamped/colored/decorative concrete, concrete pavers, etc.) within these easements damaged by Sacramento Area Sewer District (SASD) maintenance and repair operations, including landscaping, channelization's, lighting, fountain area, sidewalk, and any other appurtenances conflicting therein. This requirement shall be set forth in easement grant documents and be a covenant running with the land, be responsibility of successors in interest in future land transfers and divisions and by language approved by the SASD. The SASD will only replace asphalt and standard concrete roadway/driveway disturbed due to maintenance/repair of its sewer line. If the repair is of decorative or stamped concrete, the SASD will only replace with standard concrete.	Prior to Approval of Improvement Plans	Public Works	
13.	Demonstrate the existence of, and if needed, abandon the existing easement for the sewer running along and within the parcel, and grant the Sacramento Area Sewer District (SASD) a sewer access and maintenance easement centered along the proposed sewer pipeline. All SASD sewer easements shall be at least 20 feet in width and ensure continuous access for installation and maintenance. All sewer easements shall be dedicated to the SASD, in a	Prior to Approval of Improvement Plans	Public Works	

Conditions of Approval

	form approved by the SASD Engineer. The SASD will provide maintenance only in public right-of-way and in easements dedicated to the SASD.			
	Prior to Issuance of Building Permits			
14.	Ordinance 18-2013 shall be fully adopted and in affect.	Prior to Issuance of Building Permits	Planning	
15.	Developer shall prepare a materials board that depicts, in detail, the types of interior finishes' that will be used within the structure. The Planning Director will have the discretion to approve the interior materials palette or may defer approval to the City Council.	Prior to Issuance of Building Permits	Planning	
16.	The final architectural, landscape and site development plans shall be reviewed for architectural consistency with the approved preliminary plans by the Planning Director. The final photometric plans shall be reviewed for Code compliance.	Prior to Issuance of Building Permits	Planning	
17.	Applicant shall complete improvement plans to the satisfaction of the Public Works Department. Improvement plans shall include, but shall not be limited to: • All onsite civil improvements. • Civil plan shall include an ADA access plan • All facilities, including but not limited to, sidewalk, driveways, etc. shall be upgraded to meet current ADA requirements and City Standards. Sidewalk on entire property frontage does not conform to ADA guidelines. Remove and replace all sidewalk, curb and gutter per City Standard. New sidewalk shall be a minimum of 6-feet wide. • Left turns in and out of the project shall be allowed at only one "main" project driveway and the other driveway should be restricted to right-turns in and	Prior to Issuance of Building Permits	Public Works	

Conditions of Approval

	out. A two-way left turn lane shall not be used. • A channelized left-turn lane for the "main" project driveway can be created with pavement striping. • A raised median to restrict turn movements to right in/right out only from the secondary access shall be installed. • The main project driveway shall have three lanes: two outbound and one inbound. If only one outbound lane is provided, a traffic signal shall be designed and constructed at the main project driveway. The intersection of Kilgore Road and the main project driveway shall be designed so that signalization could be implemented in the future. • The location of the main project driveway and channelization/stripping to control left turns from the project driveways shall be designed to minimize impacts to other driveways, both on the west side of Kilgore Road, opposite the project, and on adjacent property on the east side of Kilgore Road, including the neighboring police station. The main driveway shall be aligned with the northern driveway serving 2890 Kilgore Road. • The internal circulation within the project's parking lot will need to be carefully designed so that traffic can readily flow to/from the main driveway • Show utility laterals on the plan. • Public improvement plans shall clearly delineate all transitions to existing improvements. • Applicant shall complete improvement plans to the satisfaction of the Public Works Department prior to issuance of the first building permit. • Improvements detailed on the plans shall be fully constructed and operational to the satisfaction of the Public Works Department prior to occupancy of the first unit.		
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Conditions of Approval

18.	A signal shall be constructed at the intersection of Kilgore Road and Sun Center Drive. Prior to issuance of the first building permit, the applicant shall complete traffic signal plans to the satisfaction of the Public Works Department. Traffic signal plans shall include, but shall not be limited to: • Full engineering plans detailing the installation of a new four-way traffic signal complete with bicycle and pedestrian facilities and associated improvements at the intersection of Kilgore Road and Sun Center Drive. • All improvements to be designed and constructed to the satisfaction of the Public Works Department. • The applicant shall enter into a construction contract with a qualified contractor for construction of the improvements detailed on the plans prior to issuance of the first building permit. The working days allowed in the contract shall be such that the signal is completed prior to occupancy of the first unit. • Improvements detailed on the plans shall be fully constructed and operational to the satisfaction of the Public Works Department prior to occupancy of the first unit.	Prior to Issuance of Building Permits	Public Works	
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Conditions of Approval

19.	The City has identified approximately \$1 million dollars in offsite improvement needs including, but not limited to frontage improvements, a new signal at Kilgore Road and Sun Center Drive, a new signal at Kilgore Road/main entrance to the entertainment center, and fair share contributions to other improvements on Kilgore Road and Trade Center Drive. Prior to issuance of the first building permit, the applicant shall enter into a deferred improvement agreement to the satisfaction of the City and per section 12.03.050 "Time deferments" of the City of Rancho Cordova Municipal Code. The deferred improvement agreement shall address construction and funding of a new signal at Kilgore Road/main entrance to the entertainment center, and fair share contributions to other improvements on Kilgore Road and Trade Center Drive.	Prior to Issuance of Building Permits	Public Works	
20.	Transportation Impact Fees shall be updated, or other provisions for collection of fair share contributions shall be established, to incorporate any offsite mitigation measures within the City of Rancho Cordova that are identified for the project that are not part of the current Transportation Impact Fee program and Transportation Impact Fees shall be paid.	Prior to Issuance of Building Permits	Public Works	
21.	Developing this property will require the payment of sewer impact fees. Impact fees shall be paid prior to issuance of Building Permits or recordation of Final Map, whichever comes first. Applicant should contact the Fee Quote Desk at (916) 876-6100 for sewer impact fee information.	Prior to Issuance of Building Permits	Public Works	

Conditions of Approval

22.	Property Owner/Applicant shall participate in a funding mechanism for maintenance of any existing or new publicly maintained frontage and median landscaping associated with the project by annexation to the City Landscape Maintenance Community Facilities District. All costs associated with the annexation shall be borne by the Property Owner/Applicant. Contact: Elizabeth Sparkman at (916) 851-8714 as there may be a 2-3 month lead time to satisfy this condition.	Prior to Issuance of Building Permits	Public Works	
23.	Property Owner/Applicant shall participate in a funding mechanism for maintenance services for the fair share of existing and all new public improvements associated with the project including but not limited to streets, bridges/culverts, traffic signals, traffic signs, striping and legends, ITS operations, and street lights. This may be accomplished through annexation to the City Road Maintenance Community Facilities District. All costs associated with the annexation shall be borne by the Property Owner/Applicant. Contact: Elizabeth Sparkman at (916) 851-8714 as there may be a 2-3 month lead time to satisfy this condition.	Prior to Issuance of Building Permits	Public Works	
24.	Property Owner/Applicant shall participate in the provision of funding to provide transit-related services by voting to approve a special tax. The tax shall be the annual amount (with appropriate annual inflation adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to the issuance of building permits. The property owner shall be responsible for paying all costs associated with holding the election. The tax shall be due at the time specified in the ordinance imposing the tax. In addition, the Owner of the property shall hold a deed assessment in the form of Conditions, Covenants & Restrictions against the property, or other form as shall be approved by the City, which	Prior to Issuance of Building Permits	Public Works	

Conditions of Approval

	assessment will take effect in the event the special tax described in this Condition of Approval is reduced or repealed. Contact: Elizabeth Sparkman at (916) 851-8714 as there may be a 1-2 month lead time to satisfy this condition.			
25.	Storm Water Drainage Maintenance District. Property owner shall annex the property into CFD No. 2013-1 (Storm and Flood Protection Services) for the purpose of providing a financial mechanism to fund the operation and maintenance of the project's storm water drainage system.	Prior to Issuance of Building Permits	Public Works	
	Prior to Final Inspection and Utility Release			
26.	The building, site improvements and landscaping shall be reviewed in accordance with the approved plans, prior to requesting final inspection from the Building Department.	Prior to Final Building Inspection	Planning	
27.	All street trees shall be approved by the City's Engineer and Planning Director.	Prior to Final Building Inspection	Planning	
28.	Designer shall certify that installed landscaping conforms to City water conserving landscape requirements.	Prior to Final Building Inspection	Public Works	
29.	As-Built reproducible grading and improvement plans, as well as a compact disc containing said plans in AutoCAD and pdf format shall be submitted and approved by the Public works Department.	Prior to Final Building Inspection	Public Works	
30.	Connection(s) to the Sacramento Area Sewer District's (SASD) sewer system shall be required to the satisfaction of the SASD. In order to obtain sewer service, construction of SASD sewer infrastructure may be required. SASD Design Standards apply to any on and off-site sewer construction. Each parcel with a sewage source shall have a separate connection to SASD public sewer system. If	Prior to Final Building Inspection	Public Works	

Conditions of Approval

	there is more than one building in any single parcel and the parcel is not proposed for split, then each building on that parcel shall have a separate connection to a private on-site sewer line or SASD public sewer line.			
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EXHIBIT C**ENTERTAINMENT CENTER FINANCING AGREEMENT**

**BY AND BETWEEN THE CITY OF RANCHO CORDOVA AND RANCHO CORDOVA ENTERTAINMENT
GROUP, LLC**

EXHIBIT C

ENTERTAINMENT CENTER FINANCING AGREEMENT
BY AND BETWEEN THE CITY OF RANCHO CORDOVA AND RANCHO CORDOVA ENTERTAINMENT
GROUP, LLC

PARTIES

This Finance Agreement ("Agreement") is entered into as of this ____ day of _____ 2013, by and between the CITY OF RANCHO CORDOVA, a municipal corporation ("City"), and THE RANCHO CORDOVA ENTERTAINMENT GROUP, LLC, a California Limited Liability Corporation ("Developer"). The City and the Developer are hereinafter collectively referred to as the "Parties" and singularly as "Party."

RECITALS

1. **Background.** The City owns approximately 12.7 acres on Kilgore Road between Trade Center Drive and Sun Center Drive, as more particularly described in Exhibit A attached hereto, and incorporated herein by this reference (the "Property"). The Developer proposes to build a new entertainment center on the Property. The proposed development is a family-oriented entertainment facility that will include an 8-screen digital cinema complex, a 24-lane bowling center, a themed restaurant, a laser-tag facility, and other high energy amusement activities, all contained within a 73,000-square-foot facility as shown in Exhibit B (the "Project").

2. **City Participation.** The Project is only feasible with financial assistance from the City. This Agreement establishes the terms and conditions under which the City agrees to provide that assistance. The City will invest a total of approximately \$6,395,000 in the Project, depending on the final appraised value of the Property. The Developer will reimburse the City approximately \$3,852,490, plus any applicable interest.

3. **Public Purpose and Public Benefit.** Providing new, family-oriented entertainment options is a high priority for Rancho Cordova. This Project addresses an unmet need for the community by providing numerous entertainment options. The Project will also provide significant job opportunities in the City at a range of different skill levels. Additionally, the Project will provide the City with an ongoing source of much-needed sales tax and property tax revenue. Over the first 30 years of Project operation, City Staff and Developer estimate that the Project will generate a total of approximately \$1,400,000 in property tax and \$750,000 in sales tax revenue to the City, and at least \$20,000,000 in additional economic activity for the community. These City revenues and community economic activity, in addition to the reimbursement from the Developer, will more than repay the City's contribution to the Project. The Project will also enhance the City's reputation as both a great place for families to live and a regional entertainment destination. These benefits will improve the value of residential and commercial property throughout the City. The Project will be a catalyst for nearby commercial development and attract positive attention to the City from throughout the region. The City is transferring property and contributing capital to the Project for the public purpose of obtaining the Project's significant public benefits that far outweigh the City's contribution.

4. **Required Entitlements and Environmental Review.** The Property is located in the Folsom Boulevard Specific Plan area. The underlying zoning is OPMU within a Convention District Overlay, which permits this type of entertainment facility, subject to Design Review approval by the City. The City determined that approval of this Agreement is a "project" subject to the California Environmental

EXHIBIT C

Quality Act ("CEQA"). The City conducted an Initial Study and determined that the Project's potentially significant environmental impacts can be mitigated to less than significant levels. Accordingly, the City is adopting a Mitigated Negative Declaration ("MND") concurrent with this Agreement to comply with CEQA.

NOW, THEREFORE, in consideration for mutual promises, conditions, and covenants hereinafter set forth, the Parties agree as follows:

AGREEMENT

1. **Incorporation of Recitals.** The Preamble, the Recitals, and all defined terms set forth in both, are hereby incorporated into this Agreement as if set forth herein in fully defined terms. Capitalized terms shall have the meaning set forth in Section 6.

2. **Description of Property.** The property which is the subject of this Agreement is described in Exhibit A and depicted in Exhibit B attached hereto, and is hereinafter referred to as the "Property."

3. **Effective Date.** The effective date of this Agreement is _____, 2013, which is the effective date of City Resolution 59-2013, adopting this Agreement.

4. **Term.** Upon execution, the term of this Agreement shall commence on the effective date of this Agreement and extend until the Parties have satisfied their obligations under this Agreement, including Developer's loan repayment and revenue sharing obligations to the City, unless this Agreement is modified in writing, terminated, or extended by circumstances set forth herein. Following satisfaction of Developer's loan repayment and revenue sharing obligations to the City, this Agreement shall be terminated and of no further force and effect. Said termination of the Agreement shall not affect any right or duty created by City approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement.

5. **Scope of Agreement.** This Agreement is a financing document, not a land use or planning document. This Agreement is not, and shall not be, considered an approval of land use entitlements or approval of the structural or aesthetic design of the Project.

6. **Definitions**

6.1 **Architectural Services Plan.** Means a detailed task list and schedule for the completion of all materials required in order to obtain any and all required building permits for the Project, including, but not limited to, architectural, engineering, and landscaping plans for the Project. The Architectural Services Plan shall include clearly identifiable benchmarks demonstrating when building permit applications are 20 percent, 70 percent, and 100 percent complete, in order to facilitate the City's Phase I payment schedule as set forth in Section 7.1(b) of this Agreement.

6.2 **Certificate of Occupancy.** Means City approval to open any portion of the Project to the public. If multiple Certificates of Occupancy are required, Certificate of Occupancy, as used and defined in this Agreement, means the first Certificate of Occupancy issued by the City.

6.3 **City's Capital Contribution.** Means the \$1,000,000 capital contribution the City will make to directly support the viability of the Project, as set forth in the MOU and in Sections 7.1(b) and 8.1(a) of this Agreement.

6.4 **City Revenue Share.** Means the portion of the Developer's Net Income Before Taxes from the Project, as well as the Developer's Net Income Before Taxes generated by any expansion of the Project, that Developer will pay to City to partially reimburse City for the value of the Property the City

EXHIBIT C

will transfer to Developer under this Agreement. City shall be responsible for its own taxes from any distribution. The City's Revenue Share is \$3,077,490.

6.5 Construction Plan. Means the Construction Plan described in Section 8.2(d).

6.6 Contamination. Means any Hazardous Materials at, on, in, beneath or from the Property.

6.7 Developer's Capital Contribution. Means the amount of equity the Developer will commit to the Project, pursuant to Section 7.2(f) of this Agreement, in order to secure Project Financing. As of the approval of this Agreement, the Parties estimate the Developer Capital Contribution will be \$5,925,000.

6.8 Developer's Final Capital Contribution. Means the actual amount of the Developer's Capital Contribution required to secure Project Financing, as well as any additional Developer investments in the Project that become necessary to implement the Project consistent with this Agreement after approval of Project Financing.

6.9 Development Impact Fees. Means the total amount of impact fees, not including building permit and processing fees, that are due prior to issuance of a building permit for the Project.

6.10 Environmental Response Actions. Means any and all activities, data compilations, preparation of studies or reports, interaction with environmental regulatory agencies, obligations and undertakings associated with environmental investigations, removal activities, remediation activities or responses to inquiries and notice letters, as may be sought, initiated or required in connection with any local, State or Federal governmental or private party claims, including any claims by the Developer or the City.

6.11 Environmental Response Costs. Means any and all costs associated with Environmental Response Actions, including, without limitation, any and all fines, penalties and damages.

6.12 Fee Deferral Loan. Means a 10-year, \$775,000 loan from the City to the Developer to pay for a portion of the Development Impact Fees that the Developer is obligated to pay prior to the issuance of a building permit.

6.13 Final Appraised Value. Means the appraised value of the Property as determined during Phase I in order for Developer to obtain Project Financing.

6.14 Full Payoff Amount. Means the total amount the Developer is obligated to pay the City under this Agreement. The Full Payoff Amount includes repayment of the Fee Deferral Loan and the City Revenue Share, plus any applicable interest.

6.15 Hazardous Materials. Means any substance, material or waste which is (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant," or any other term comparable to the foregoing terms under any provision of California law or federal law; (2) petroleum; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; or (6) determined by California, Federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

6.16 Improvements. Means the development and construction of the Project on the Property, and the development and construction of all public and private improvements required by this Agreement, State law, City ordinances, and any conditions of approval for the Project.

EXHIBIT C

6.17 Indemnitees. Means the City and its officers, beneficiaries, employees, agents, attorneys, representatives, legal successors and assigns.

6.18 Memorandum Of Understanding (“MOU”). Means the Memorandum of Understanding Between the City of Rancho Cordova and the Rancho Cordova Entertainment Group, LLC, executed on October 15, 2012, setting forth the Parties’ commitments to Project development prior to the approval of this Agreement.

6.19 Net Income Before Taxes. Means the Project’s annually calculated total revenue less total expenses, excluding depreciation and Federal and State income taxes, utilizing the accrual basis of the City in conformance with generally accepted accounting principles.

6.20 Permitted Exceptions. Means the conditions, liens, encumbrances, restrictions and exceptions that may remain on the Property after conveyance, if approved by Developer in writing.

6.21 Phase I. Means the Parties’ obligations after the approval of this Agreement through Project Financing.

6.22 Phase II. Means the Parties’ obligations after approval of Project Financing through issuance of the Certificate of Occupancy.

6.23 Phase III. Means the Parties’ obligations after issuance of the Certificate of Occupancy through repayment to the City of the Full Payoff Amount.

6.24 Project. Means the approximately 72,000-square-foot entertainment center, and all of its individual components, as described in this Agreement’s Recitals and Exhibit B. The Developer intends to expand the entertainment center and/or construct additional on-site retail buildings in the future; however, for the purposes of this Agreement the definition of “Project” is limited to the initial entertainment center facility.

6.25 Project Financing. Means the contractual commitment of one or more lenders to provide the Developer with the total amount of financing needed to fully pay the expected costs to construct and implement the Project, exclusive of City and Developer Capital Contributions, up to and including the issuance of the Certificate of Occupancy. The Parties estimate Project Financing will be approximately \$15,981,000.

6.26 Revenue Share Loan. Means the loan described in 9.2(c) that will be issued by the Developer to the City to cover the balance of the City’s Revenue Share still outstanding fifteen (15) years from the issuance of the Certificate of Occupancy.

6.27 Term Sheet. Means the documentation from potential lenders that Project Financing is available to Developer upon satisfaction of the conditions set forth in the Term Sheet.

7. Phase I: Parties’ Obligations After Approval of this Agreement Through Approval of Project Financing.

7.1 City’s Phase I Obligations.

a. Land Transfer. The Property has an appraised value of \$4,620,000 (see appraisal by Seevers Jordan Ziegenmeyer dated November 22, 2011, accepted by City Council Resolution ___ approving this Agreement). The City will retain title to Property until conveyance is required in order for Developer to secure Project Financing. The City will convey land to the Developer only when it becomes necessary to satisfy lender requirements and will only convey title to the land as part of the closing process

EXHIBIT C

to secure final approval of Project Financing. The Developer will pay Developer's share of escrow fees and all costs of title insurance at the time of conveyance.

Except as otherwise provided herein, the Property shall be conveyed by the City to the Developer in an "as is" condition, with no warranty, express or implied, by the City as to the physical condition, including, but not limited to, the soil, its geology, or the presence of known or unknown faults, Hazardous Materials or hazardous waste (as defined by State and Federal law). The City shall not be responsible for any items of site work.

The Property shall be conveyed to the Developer by the City free of any possession or right of possession by any person, except that of the Developer or any easements of record. The Property shall be conveyed free of any recorded and unrecorded liens, assessments, leases, Promissory Notes, Deeds of Trust and assignment of rents and taxes, except taxes for the fiscal year in which the escrow for this transaction closes, which shall be prorated as of the close of escrow and handled in accordance with Section 4986 of the California Revenue and Taxation Code. Any other conditions, liens, restrictions, and exceptions may be approved in writing by the Developer ("Permitted Exceptions"), including the Promissory Note, Deed of Trust, and Revenue Sharing Agreement attached as exhibits to this Agreement.

(i) **Reversionary Interest and Lien.** The deed conveying the Property will include the option for the City to retake title to the property- including any improvements- at any time prior to the disbursement of any funds from Project Financing if Developer becomes insolvent, demonstrates an inability to proceed with Project construction, the Term Sheet demonstrating Developer has secured Project Financing expires, or Developer fails to demonstrate a good faith effort to diligently proceed with Project construction within 12 months from the date Developer secures full Project Financing. The City's option to retake title expires upon the disbursement of any funds from Project Financing; however, City will remain second only to lender in order of priority to recover debt, and City shall retain the right to pay the loan balance in the event the Developer defaults on the loan, and retake title to the Property. The Developer shall ensure that loan documents designate City second only to lender to recover proceeds of any sale of the property up to the Full Payoff Amount, plus the Final Appraised Value of the Property.

b. **Phase I Payments.** The City will pay four installments toward costs associated with obtaining building permits for the Project, so that the total City contribution under the MOU and Phase I equals \$500,000. The City's contribution under the MOU was \$60,000, therefore City anticipated contributing \$440,000 in four Phase I installments. The total amount the City contributes under this Section has been adjusted to \$_____ to account for the City's Capital Contribution of \$_____ under the MOU. This adjustment shall be reflected in the City's final scheduled Phase I payment, which occurs after issuance of the building permit and approval of Project Financing. The City shall make the following Phase I payments:

(i) \$100,000 upon completion of 20 percent of the Architectural Services Plan and documentation that Developer has secured at least two Term Sheets for the Project;

(ii) \$50,000 upon completion of 70 percent of the Architectural Services Plan;

(iii) \$50,000 upon completion of 100 percent of the Architectural Services Plan;

(iv) City shall pay the remaining \$_____ [approx. \$240,000] upon issuance of building permit and final approval of Project Financing.

EXHIBIT C

c. **Accounting Certification and Payment Disbursement.** The deadline for the City to disburse each Phase I payment shall be 20 days after the date the Developer submits written documentation, in a form approved by City, that it has reached the benchmarks set forth in the Architectural Services Plan, along with accounting records documenting the expenditure of any previously received capital contributions. The City's Finance Director shall be responsible for reviewing the Developer's accounting records. Unless the evidence before the City's Finance Director indicates otherwise, the City's Finance Director shall certify the City's Capital Contributions are being utilized for the sole purpose of directly advancing the Project's implementation, and shall distribute funds according to the schedule set forth herein. The City's Finance Director shall not make the required certification and shall withhold any scheduled disbursement of City funds if evidence indicates the City's Capital Contributions are being used for anything other than for the sole purpose of directly advancing Project implementation.

d. **Additional Documentation of City's Capital Contribution.** To assist Developer in obtaining financing, City agrees to provide documentation, in addition to this Agreement, of the City's commitment to disburse funds pursuant to Section 7.1(b) for the Project upon request.

e. **Fee Deferral Loan.** The total amount of Development Impact Fees owed by Developer prior to the issuance of a building permit is currently estimated to be approximately \$1,080,000. The total Development Impact Fees due will be determined prior to issuance of a building permit, based upon the precise building size, building type, and fee requirements then in effect. The City will issue the Fee Deferral Loan in the amount of \$775,000 when fees become due. The Developer shall pay the remaining balance due after the City's \$775,000 Fee Deferral Loan is deducted from the total. The Developer shall repay the Fee Deferral Loan pursuant to the terms set forth in Section 9 of this Agreement, and according to the terms set forth in Exhibit C.

7.2 Developer's Phase I Obligations.

a. **Obtain Building Permit and Project Financing.** The Developer shall make a good faith effort to secure Project Financing, and to obtain all required permits and approvals for the Project without unnecessary delay.

b. **Soil Conditions.** The City provided Developer with a soil and geology study performed by Kleinfelder on _____. It shall be the sole responsibility of the Developer, at the Developer's sole expense, to investigate and determine the soil conditions of the Property and the suitability of such soil conditions for the construction of the Improvements by the Developer. If the soil conditions are not in all respects entirely suitable for the use or uses to which the Property will be put, then it is the sole responsibility and obligation of the Developer to take such action as may be necessary to place the soil conditions of the Property in a condition suitable for development of the Property.

c. **Architectural Services Plan.** The Developer shall submit to City a detailed Architectural Services Plan, including a task list and schedule for the preparation of building permit application materials for the Project. The Architectural Services Plan shall include clearly defined benchmarks indicating when the building permit application materials are 20 percent, 70 percent, and 100 percent complete, to facilitate the City's Phase I payment schedule.

d. **Term Sheets.** The Developer shall obtain at least two Term Sheets demonstrating the availability of Project Financing. The Developer shall present the Term Sheets to the City's Finance Director prior to the City's first Phase I payment. City is not obligated to make any Phase I payments until Developer has submitted proof that it has obtained two Term Sheets for Project Financing.

EXHIBIT C

e. **Reporting and Accounting Requirements.** The Developer shall keep an accounting of its expenditure of the City's Capital Contributions. Upon reaching each payment benchmark in the Architectural Services Plan, Developer shall submit a written request to the City's Finance Director for the next scheduled Phase I payment from the City. The written request for a Phase I payment must include: (1) documentation that the Developer has reached the next benchmark in the Architectural Services Plan; and (2) accounting records documenting Developer's expenditure of any previous City Capital Contribution. Accounting records are not required for the first Phase I payment from the City because the City's Capital Contributions prior to that point are covered under the MOU.

f. **Developer's Capital Contribution.** The Developer shall provide all other capital as needed to fully fund the Project, other than the City Capital Contribution. The Developer will use the Developer's Capital Contribution and the City's Capital Contribution to secure financing and will perform all actions required to complete and operate the Project. The Developer's Capital Contribution is a minimum of \$5,925,505; however, the Developer's Capital Contribution may increase according to the availability and requirements of Project Financing and lender requirements, the Final Appraised Value of the Property, Project costs, and other factors. The loan approval documents shall demonstrate that Developer is obligated to expend Developer's Capital Contribution in its entirety on implementation of the Project prior to the disbursement of any funds from the Project Financing. The Developer shall retain sole possession and control of all confidential loan documents; however, Developer shall provide City staff access to review all loan documents.

g. **Project Financing.** Developer is responsible for securing Project Financing for the remainder of the Project cost after the City Capital Contribution and Developer's Capital Contributions. The expected Project Financing is estimated to reach \$15,981,000. Developer shall submit documentation demonstrating that Developer has secured Project Financing within 18 months of the effective date of this Agreement. Upon written request from the Developer the City Council may, at its discretion, extend the Term Sheet submission deadline for up to an additional 18 months. Each of the Developer Entities which are signatories to this Agreement agrees to repay in full the sum borrowed and to remain in compliance at all times with the terms of the Project Financing; the Developer signatories to this Agreement agree that they will not claim or assert that the creation of any partnership, limited liability company, corporation or other legal entity in any way limits such obligations and potential liabilities.

h. **Consistency.** The Developer shall ensure that the loan documents for the Project Financing are consistent with this Agreement.

i. **Promissory Note and Deed of Trust.** The Developer shall execute (i) a Promissory Note substantially in the form attached as Exhibit C to this Agreement to evidence the amount due to the City; and (ii) a Deed of Trust, substantially in the form attached as Exhibit D for the benefit of the City as security for the loan payments due under this Agreement.

7.3 Failure to Satisfy Phase I Obligations. The City shall have the right to terminate this Agreement if Developer is unable to demonstrate that Developer has obtained Project Financing to the City's satisfaction as required by Section 7.2(g). In the event Developer is unable to secure Project Financing and City terminates the Agreement, City shall not transfer the Property to the Developer, the Parties assume their own risk of loss, and neither Party shall recover its losses, nor any monetary damages from the other Party, even in the event of a Party's failure to satisfy its obligations under this Agreement. For Phase I obligations only, this Section 7.3 takes precedence over the general remedies and default procedures under Section 10 of this Agreement.

EXHIBIT C**8. Phase II: Parties' Obligations After Approval of Project Financing Through Issuance of the Certificate of Occupancy.****8.1 City Obligations.**

a. **Phase II Payments.** The City will contribute a total of \$500,000 during Phase II which, when combined with the City's obligations under the MOU and Phase I, will complete the City's Capital Contribution of \$1,000,000. The City shall make Phase II payments to the Developer upon satisfaction of the preconditions set forth below:

(i) City shall pay \$100,000 upon demonstration by Developer that 50 percent of Project construction is complete;

(ii) City shall pay \$400,000 upon issuance of a Certificate of Occupancy.

b. **Accounting Certification and Payment Disbursement.** The deadline for the City to disburse each of the two Phase II payments shall be 20 days after the date the Developer submits written documentation that it has reached the benchmarks set forth in the Construction Plan, along with accounting records documenting the expenditure of any previously received capital contributions from the City. The City's Finance Director shall be responsible for reviewing the Developer's accounting records. Unless the evidence before the City's Finance Director indicates otherwise, the City's Finance Director shall certify the City's Capital Contributions are being utilized for the sole purpose of directly advancing this Project's implementation, and shall distribute funds according to the schedule set forth herein. The City's Finance Director shall not make the required certification and shall withhold any scheduled disbursement of City funds if evidence indicates the City's Capital Contributions are being used for anything other than the sole purpose of directly advancing Project implementation.

8.2 Developer Obligations.

a. **Property Condition.** Except as provided in this Agreement, if the condition of the Property is not in all respects entirely suitable for the use or uses to which the Property will be put, it is the sole responsibility and obligation of the Developer to take such reasonable actions as may be necessary to place the Property in a condition which is entirely suitable for its development in accordance with the construction plans and drawings approved by City.

b. **Project Construction.** The Developer shall construct the Project consistent with approved design review, building permit conditions, and this Agreement, and shall take all necessary steps to obtain a Certificate of Occupancy without unreasonable delay.

c. **Notification of General Contractors, Architects, and Engineers.** The Developer shall have the responsibility of notifying the Project contractors, architects, and engineers of the requirements of this Agreement. The Developer shall include, when applicable, the provisions of this Agreement in construction contracts and subcontracts for the Project, and Developer shall undertake the enforcement of such provisions.

d. **Construction Plan.** The Developer shall submit to City a detailed Construction Plan, including a task list and schedule for the construction of the Project. The Construction Plan shall include clearly defined benchmarks indicating when Project construction is 50 percent complete to facilitate the City's Phase II payment schedule. Developer shall submit to City a written report of the progress of the work as and when reasonably requested by the City, but not more often than once each

EXHIBIT C

month. The City also reserves the right to verify progress on the Construction Plan directly with construction contractors.

e. Construction Contracts. In addition to the Construction Plan, Developer shall submit to City the construction contract for each component of the Project. The City's review of such contracts shall be limited to determining their compliance with this Agreement. If the cost of construction of the Project or any part of the Project exceeds the costs projected by Developer, Developer shall nevertheless bear the responsibility to complete, at Developer's cost, the construction of the Project in accordance with this Agreement.

f. Reporting and Accounting Requirements. The Developer shall keep an accounting of its expenditure of the City's Capital Contributions. Upon reaching the payment benchmark in the Construction Plan, Developer shall submit a written request to the City's Finance Director for the next scheduled Phase II payment from the City. The written request for a Phase II payment must include: (1) documentation that the Developer has reached the next benchmark in the Construction Plan; and (2) accounting records documenting Developer's expenditure of any previous capital contribution from the City. Upon completion of construction, but prior to the issuance of the Certificate of Occupancy, Developer shall submit to the City documentation of the final amount of Developer's Capital Contribution, which includes the actual amount of the Developer's Capital Contribution that was required to secure Project Financing, as well as any additional Developer investments in the Project that became necessary to implement the Project consistent with this Agreement after approval of Project Financing.

9. Phase III. Parties' Obligations After Issuance of the Certificate of Occupancy During Project Operations

9.1 City Obligations.

a. Accounting. The City will promptly process all Phase III payments from Developer and will provide Developer with a monthly statement showing the balance due on the Fee Deferral Loan and the City Revenue Share.

b. City Cooperation. The City agrees to cooperate with all reasonable requests from the Developer to provide the documentation required to complete a sale or refinancing of the Project. If the requested documentation takes more than five (5) hours to prepare, Developer shall reimburse the City for any staff (including contract staff and attorneys) time spent after the initial five (5) hours and for any other costs incurred by the City in response to the Developer's request. Developer reimbursement to the City under this provision shall be calculated consistent with the City's cost-recovery rates in effect at the time of the Developer's request for documentation.

9.2 Developer Obligations.

a. Fee Deferral Loan Repayment. The Fee Deferral Loan shall be issued by City to Developer prior to issuance of a building permit. The Developer shall repay the Fee Deferral Loan plus 3 percent interest amortized annually from the date of the issuance of the Certificate of Occupancy. No interest will accrue prior to Certificate of Occupancy. Repayment shall occur over a 10-year term with the first payment due one year from the date of the issuance of the Certificate of Occupancy. Monthly payments will be made in accordance with loan repayment terms set forth in the Promissory Note attached as Exhibit C to this Agreement.

b. Revenue Sharing for the First Fifteen Years. The Developer shall retain all Project revenue for five years starting from the date of issuance of the Certificate of Occupancy. Starting in the 61st month after the issuance of the Certificate of Occupancy, until the City is paid the total

EXHIBIT C

City Revenue Share of \$3,077,490, Developer will make annual revenue share payments on May 1 of each year beginning at the end of the fifth year after the issuance of the Certificate of Occupancy, and continuing until either the entire City Revenue Share is repaid to the City or until the remaining City Revenue Share balance is converted to a loan under Section 9.3.c. No interest shall accrue on the City Revenue Share balance for the first fifteen (15) years after the issuance of the Certificate of Occupancy. The amount of the annual revenue share payment by the Developer to the City must include:

- (i) **Revenue Share From Project's Income.** Ten (10) percent of the Net Income Before Taxes;
- (ii) **Revenue Share from Expansion of the Project.** The Net Income Before Taxes generated by any expansion of the Project (e.g., additional bowling lanes or expansion of the movie theater or expansion of the facilities in entertainment center building);
- (iii) **Revenue From Sale of Parcels.** In the event Developer sells any portion of the Property, the City is entitled to ten (10) percent of any profit realized by Developer from the sale, after satisfying that portion of the outstanding Project Financing which is attributable to the parcel being sold based upon the acreage of the parcel being sold in proportion to the total acreage of the Property.
- (iv) **Revenue From Lease of Parcels.** In the event Developer leases any portion or portions of the Property to any lessor, any profit, which means lease revenues minus expenses and debt service, generated by the lease or leases must be included in the Project's Net Income Before Taxes and is subject to revenue sharing with the City.
- (v) **Revenue From Developer's Additional Development on the Property.** Developer may develop and operate new businesses on the Property in addition to the Project. Developer must include Net Income Before Taxes generated by any new business development on the Property in the Project's Net Income Before Taxes for the purposes of calculating the City's Revenue Share payment. Developer will meet and confer with the City Manager before applying for any entitlements (including business licenses or building permits) to ensure an accounting mechanism is in place that will capture the revenue from any new business development on the Property in the City's Revenue Share payment. It is the intent of the Parties to factor all revenue generated on the Property into the calculation of the Developer's annual payment of the Revenue Share Loan to the City.

c. Remaining Revenue Share Balance Replaced with Loan After Fifteen Years. Fifteen (15) years from the date of issuance of the Certificate of Occupancy, any remaining balance of the Revenue Share due to the City (expected to be approximately \$1.8 million) will be converted to a Revenue Share Loan, payable by Developer to the City, and the City will cease to participate in revenue sharing. The Revenue Share Loan will be fully amortized over fifteen (15) years at a fixed five (5) percent annual interest rate.

d. Management and Operation of the Project. Developer agrees to construct, operate, maintain, and manage the Property and the Project in first-class manner, subject to incidental wear and tear. Developer shall not permit any use of the Property or the Project that constitutes waste or nuisance.

EXHIBIT C

e. Proceeds from Sale of the Project. In the event the Developer sells Project, or any portion thereof, before the City has received the Full Payoff Amount, City shall be repaid in full with up to 30 percent of the proceeds from sale within fifteen (45) days of the change of ownership. If the City has not received the Full Payoff Amount after receiving thirty (30) percent of the proceeds from sale, the City agrees to allow the Developer to assign the outstanding debt to the purchaser of the Project. Assignment of debt to the purchaser shall not alter the repayment terms of this Agreement. Repayment terms may only be altered by amendment of this Agreement as set forth in Section 13.18 herein. The Developer is responsible for ensuring the City receives the Full Payoff Amount, as required by this Agreement, or the repayment obligations herein are assigned to a subsequent purchaser. Regardless of the limitations on the City's share of the proceeds from sale, the Developer remains liable for all debt to the City arising under this Agreement until and unless a Project purchaser assumes full responsibility of the debt to the City and the City is notified in writing of such assignment and assumption, as provided in Section 13.10.

f. Proceeds from Refinancing. The Developer may refinance at any time to recover the Developer's Capital Contribution. The Developer is entitled to all proceeds from refinancing up to the Developer's Capital Contribution. Once the Developer has recovered one hundred (100) percent of the Developer's Capital Contribution, the City shall receive any additional proceeds from refinancing up to the Full Payoff Amount. The City shall begin to receive ten (10) percent of the Net Income Before Taxes immediately upon any refinancing, with no 61-month waiting period, unless City receives the Full Payoff Amount out of the proceeds from refinancing.

g. Accounting. Every year during the term of this Agreement, no later than April 1st, the Developer shall submit to City an annual financial statement reviewed by a certified public accountant that demonstrates the Net Income Before Taxes.

10. General Remedies During Development.

10.1 Defaults and Opportunity to Cure. Failure or delay by either Party to perform any term or provision of this Agreement constitutes a default under this Agreement. In the event of a default, the injured Party shall give written notice to the Party in default specifying the default complained of by the injured Party. The Party who receives a notice of default must commence to cure, correct or remedy such default upon written notification by the other Party, and shall complete such cure, correction or remedy within thirty (30) days of receipt of the notice of default. Except as required to protect against further damages, and except as otherwise expressly provided in Sections 10.2 and 10.3, the nondefaulting Party may not institute proceedings against the Party in default until thirty (30) days after giving such notice. Failure or delay in giving such notice shall not constitute a waiver of any default or of any such rights or remedies, nor shall it deprive the nondefaulting Party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert or enforce any such rights or remedies under this Agreement.

10.2 Termination by City. Any of the following shall constitute a breach, or default under the terms, of this Agreement by Developer:

a. Developer transfers, assigns or attempts to transfer or assign this Agreement or any rights herein, or in the Property or the buildings and the Improvements, in violation of this Agreement;

b. There is a change in the ownership or identity of the Developer or the parties in control of Developer, or the degree thereof, contrary to the provisions of this Agreement;

EXHIBIT C

c. Developer does not provide and maintain Developer's Capital Contribution and Developer's Final Capital Contribution;

d. Developer fails to submit to the City any documents, financial reports, plans, and drawings required by this Agreement;

e. Developer does not take title to the Property under tender of conveyance by City pursuant to the terms of this Agreement;

f. Developer is in breach or default with respect to any other obligation of the Developer under this Agreement;

If Developer is in default and fails to cure as provided in Section 10.1, then this Agreement, and any rights of Developer or any assignee or transferee to this Agreement pertaining thereto or arising therefrom with respect to City, may, at the option of City, be terminated by City by written notice thereof to Developer.

10.3 Specific Performance. If Developer or City defaults under any of the provisions of this Agreement, the nondefaulting Party shall serve written notice of such default upon the defaulting Party as provided in Section 10.1. If the default is not commenced to be cured as provided in Section 10.1, the nondefaulting Party, at its option, may institute an action for specific performance of the terms of this Agreement, in addition to any other rights provided a nondefaulting Party as provided in the Agreement.

11. Insurance Requirements. Before beginning any work under this Agreement, Developer, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Developer and its agents, representatives, employees, and subcontractors. The Developer shall provide proof satisfactory to City of such insurance that meets the requirements of this Section and under forms of insurance satisfactory in all respects to the City. The Developer shall maintain the insurance policies required by this Section throughout the term of this Agreement. Developer shall not allow any subcontractor to commence work on any subcontract until Developer has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. The Developer shall maintain all required insurance listed herein for the duration of this Agreement.

11.1 Workers' Compensation. The Developer shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Developer. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than Five Million Dollars (\$5,000,000) per accident. In the alternative, Developer may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the City Attorney. The insurer, if insurance is provided, or the Developer, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. Developer shall notify City within fourteen (14) days of notification from Developer's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

EXHIBIT C

The requirement to maintain Statutory Worker's Compensation and Employer's Liability Insurance may be waived by the City upon written verification that Developer does not have any employees.

11.2 Commercial General and Automobile Liability Insurance.

a. General requirements. The Developer, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than Five Million Dollars (\$5,000,000), and automobile liability insurance for the term of this Agreement in an amount not less than Two Million Dollars (\$2,000,000). The commercial general liability and automobile liability insurance shall be per-occurrence, combined single-limit coverage for risks associated with the work contemplated by this Agreement. If a commercial general liability insurance or an automobile liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement, or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

b. Minimum scope of coverage. Commercial general liability coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition), Code 1 (any auto). No endorsement shall be attached limiting the coverage.

c. Additional requirements. Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

(i) City and its officers, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Developer, including the insured's general supervision of Developer; products and completed operations of Developer; premises owned, occupied, or used by Developer; and automobiles owned, leased, or used by the Developer. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or volunteers.

(ii) The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

(iii) An endorsement must state that coverage is primary insurance with respect to the City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.

(iv) Any failure of Developer to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

(v) An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. The Developer shall notify City within fourteen (14) days of notification from Developer's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

EXHIBIT C**11.3 All Policies Requirements.**

a. **Acceptability of insurers.** All insurance required by this Section is to be placed with insurers with a Bests' rating of no less than A:VII.

b. **Verification of Coverage.** Prior to beginning any work under this Agreement, Developer shall furnish City with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

c. **Subcontractors.** The Developer shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

d. **Deductibles and Self-Insured Retentions.** The Developer shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of the City's Risk Manager, Developer may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The City's Risk Manager may condition approval of an increase in deductible or self-insured retention levels with a requirement that Developer procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

e. **Waiver of Subrogation.** Developer hereby agrees to waive subrogation which any insurer or contractor may require from a vendor by virtue of the payment of any loss. The Developer agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Developer, its employees, agents, and subcontractors.

f. **Notice of Reduction in Coverage.** In the event that any coverage required by this Section is reduced, limited, or materially affected in any other manner, Developer shall provide written notice to City at Developer's earliest possible opportunity, and in no case later than five (5) days after Developer is notified of the change in coverage.

g. **Remedies.** In addition to any other remedies City may have if Developer fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Developer's breach:

(i) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

(ii) Order Developer to stop work under this Agreement or withhold any payment that becomes due to Developer hereunder, or both stop work and withhold any payment, until Developer demonstrates compliance with the requirements hereof; and/or

(iii) Terminate this Agreement.

EXHIBIT C**12. Hazardous Material Indemnity, Hold Harmless, Waiver**

12.1 Developer Indemnity. The Developer agrees, from and after the date of conveyance of the Property under this Agreement, to defend, indemnify, protect and hold harmless the City and its officers, beneficiaries, employees, agents, attorneys, representatives, legal successors and assigns ("Indemnitees") from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, Environmental Response Actions, claims, losses, damages, fines, penalties, expenses, Environmental Response Costs or costs of any kind or nature whatsoever, together with fees (including without limitation reasonable attorneys' fees and experts' and consultants' fees), whenever arising, unless caused in whole or in part by the negligence of any of the Indemnitees, resulting from or in connection with the construction of the Improvements by Developer, the general contractor or any subcontractor or supplier of or to the Project, Developer's occupancy or use of the Property, or Developer's performance or non-performance under or with respect to this Agreement or the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials at, on, in, beneath or from the Property (collectively referred to as "Contamination"). The Developer's defense, indemnification, protection and hold harmless obligations herein shall include without limitation the duty to respond to any governmental inquiry, investigation, claim or demand regarding the Contamination, at Developer's sole cost. If Developer discovers Contamination or other materials subject to legal requirements or corrective action, Developer shall immediately notify City of the same.

12.2 Release and Waiver. The Developer hereby releases and waives all rights, causes of action and claims Developer has or may have in the future against the Indemnitees arising out of or in connection with any Hazardous Materials at, on, in, beneath or from the Property, unless the presence of such Hazardous Materials at, on, in, beneath or from the Property is caused in whole or in part by any of the Indemnitees. If the presence of such Hazardous Materials at, on, in, beneath or from the Property is caused in whole or in part by any of the Indemnitees after the close of escrow for the Phase One Property, the provisions of this paragraph shall not apply. The Developer hereby acknowledges that the aforementioned release includes Hazardous Material claims that Developer does not know or suspect to exist as of the date hereof, and with respect to such Hazardous Materials claims or causes of action, Developer affirmatively waives and relinquishes any right or benefit, to the full extent that it may lawfully waive all such rights and benefits pertaining to the subject matter of this Section 12.2, Developer further waives all such rights and benefits that Developer may have under California law or any similar provision of the statutory or nonstatutory law of any other applicable jurisdiction to claim that a general release does not extend to claims which Developer does not know or suspect to exist in its favor at the time of executing the release, which if known by it would have materially affected its agreement with the City.

13. General Provisions

13.1 Contribution Limit. This Agreement does not obligate the City to make any additional capital contributions to the Project other than those specifically enumerated herein. This provision applies to all City Capital Contributions required in this Agreement.

13.2 Standard of Performance. The Developer shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Developer is engaged in the geographical area in which Developer practices its profession. The Developer shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Developer's profession.

EXHIBIT C

13.3 Compliance with Laws. The Developer shall carry out and shall cause its contractors to carry out all construction and rehabilitation work related to the Project in conformity with all applicable Federal, State and local laws, rules, ordinances and regulations, including without limitation all applicable Federal and State labor standards. Before commencement of construction or development of any buildings, structures or other work of improvement upon the Property, Developer shall at its own expense secure any and all certifications and permits which may be required by any governmental agency having jurisdiction over such construction, development or work. The Developer shall permit only persons or entities duly licensed in the State of California and County of Sacramento, as applicable, to perform work on or for the Project.

13.4 Prevailing Wage. The Developer will comply with prevailing wage requirements. To the full extent required by all applicable state and federal laws, rules and regulations, if any, the Developer and its contractors and agents shall comply with California Labor Code Section 1720 *et seq.* and the regulations adopted pursuant thereto ("Prevailing Wage Laws"), and shall be responsible for carrying out the requirements of such provisions. If required by California law or City policy, Developer shall submit to City a plan for monitoring payment of prevailing wages and shall implement such plan at Developer's expense.

a. Prevailing wage indemnification. The Developer shall indemnify, defend (with counsel approved by City) and hold the City and its elected and appointed officers, officials, employees, agents, consultants, and contractors (collectively, the "Indemnitees") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "Claims") which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code Sections 1726 and 1781), the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Developer related to this Agreement with respect to the payment or requirement of payment of prevailing wages, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that City does not and shall not waive any rights against Developer which it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Developer's deposit with City of any of the insurance policies described in this Agreement. The provisions of this Section of the Agreement shall survive the expiration or earlier termination of this Agreement and the issuance of a Certificate of Completion for the Project, and shall be assumed by any successor to Developer's interest in this Agreement. Developer's indemnification obligations set forth in this Section shall not apply to Claims to the extent they arise from the gross negligence or willful misconduct of one or more of the Indemnitees.

13.5 Public Safety Protections. Developer shall assure that all necessary steps are taken (including the erection of fences, barricades and warning devices) to protect private contractors and their employees and the public from the risk of injury arising out of the condition of the Property or Developer's activities in connection with the Property, including without limitation, fire, or the failure, collapse or deterioration of any improvements or buildings.

13.6 Public Improvements. The Developer shall, at Developer's expense as a Project cost, undertake and complete all modifications, construction, relocation, installation or improvement of public facilities, improvements and utilities required for the development of the Property.

EXHIBIT C

13.7 Access to the Property. The Developer shall permit City representatives access, without charge, to the entire Property at any time and for any purpose which City reasonably considers necessary to carry out its obligations and protect its interests under the Agreement. Purposes for City entry may include, without limitation, inspection of all work being performed in connection with the construction and operation of the Project.

13.8 Project Signs. If Developer places a sign on the Property during construction stating the names of the Project participants, it shall also name "City of Rancho Cordova" as a participant in the Project. The City name on the sign shall be in letters not less than the size of letters used to name any of the other participants. Permanent Project signage will be addressed during the Design Review process.

13.9 Notification of General Contractors, Architects and Engineers. The Developer shall assure that the Project contractors, architects and engineers for the Project have notice of the requirements of this Agreement. The Developer shall include, when applicable, the provisions of this Agreement in construction contracts and subcontracts for the Project, and Developer shall undertake the enforcement of such provisions.

13.10 Successors and Assigns. At any time during the Term of this Agreement, Developer shall have the right to sell, assign, or transfer the Property or any portion thereof without the prior consent of City, subject to the limitations in this Agreement.

a. Conditions for Assignment to Subsequent Landowner. A subsequent landowner shall not be eligible to apply for, receive, or exercise any rights under this Agreement, and Developer shall remain obligated to perform all of the terms and conditions of this Agreement following said sale, assignment or transfer, unless and until all of the following conditions have been satisfied:

(i) Delivery of Documents to City Clerk. The subsequent landowner to which all or any portion of the Property has been sold, transferred or assigned delivers to the City Clerk the following documents:

(1) An express written agreement, in recordable form and approved as to form by the City Attorney, in which the subsequent landowner agrees to contractually assume and be bound by all of the obligations of the Developer under this Agreement with respect to the Property, or portions thereof, which is sold, assigned or transferred by the Developer to the subsequent landowner, including any fees owed to the City relating to planning, building or occupancy permits, inspections, or approvals;

(2) A true copy of the recorded deed under which Developer conveyed its interest in all or a portion of the Property to the subsequent landowner; and

(3) A designation of the name and address to which future notices to the subsequent landowner may be given as provided in Section 13.22 of this Agreement.

(ii) Assumption Agreement. If the sale, assignment or transfer involves less than the whole of the Property, the Developer and subsequent landowner shall include in the assumption agreement provisions indicating who assumes the obligations under this Agreement.

13.11 Parties in Interest/No third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties, their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

EXHIBIT C

13.12 Indemnification from Construction, Improvement, Operation and Maintenance Claims. Developer agrees to indemnify, defend (with counsel selected by the City) and hold harmless City and its elected and appointed councils, boards, commissions, officers, officials, agents, employees, and representatives from any and all claims, costs (including legal fees and costs incurred by the City or awarded to plaintiffs) and liability for any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by Developer, or any actions or inactions of Developer's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Project, unless caused in whole or in part by the gross negligence or willful misconduct of the City, and or anybody acting on behalf of the City. The provisions of this Section shall survive the termination of this Agreement.

13.13 Construction and Maintenance Indemnification. The Developer agrees to indemnify, defend and hold harmless City and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs) and liability for any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by Developer, or any actions or inactions of Developer's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Project.

13.14 Licenses and Permits. The Developer represents and warrants to City that Developer and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions. The Developer represents and warrants to City that Developer and its employees, agents and any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Developer and any subcontractors shall obtain and maintain valid business licenses from City during the term of this Agreement.

13.15 Nondiscrimination and Equal Opportunity. The Developer shall not discriminate on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Developer under this Agreement. The Developer shall comply with all applicable Federal, State, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including, but not limited to, the satisfaction of any positive obligations required of Developer thereby.

13.16 Venue. In the event that either Party brings any action against the other under this Agreement, the Parties agree that such action shall be vested exclusively in the state courts of California, in the County of Sacramento, or in the United States District Court for the Eastern District of California.

13.17 Attorneys' Fees and Costs in Legal Actions By Parties to the Agreement. The prevailing party in any legal action brought by either Party for breach of this Agreement or to enforce any provisions herein is entitled to reasonable attorneys' fees, court costs, and other such costs as may be fixed by the court.

EXHIBIT C

13.18 Amendments. No modification or amendment of this Agreement is effective unless approved by the Rancho Cordova City Council, made in writing, and signed by both the City and Developer.

13.19 Entire Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between the City and Developer.

13.20 Waiver. Waiver of or non-enforcement of any provision of the Agreement does not waive the right to enforce any other provision or constitute a continuing waiver.

13.21 Time is of the Essence. The Parties agree that time is of the essence in the performance of the terms and conditions of this Agreement.

13.22 Notices. All notices required by this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to the City shall be addressed as follows:

City of Rancho Cordova
Planning Director
Copy: City Attorney
2729 Prospect Park Drive
Rancho Cordova, California 95670

Notice required to be given to Developer shall be addressed as follows:

Steven L. Diede, Managing Partner
Rancho Cordova Entertainment Group

13.23 Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, that if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

13.24 Counterparts. This Agreement is executed in three duplicate originals, each of which is deemed to be an original. This Agreement consists of ___ pages and four (4) exhibits, which constitute the entire understanding and Agreement of the Parties.

13.25 Recordation. Upon execution, this Agreement shall be recorded with the Sacramento County Recorder.

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

EXHIBIT C

13.27 Corporate Citizen. The City encourages the Developer to participate in civic activities sponsored by the City. The City urges the Developer to become involved with local civic organizations and to actively participate in community activities.

CITY OF RANCHO CORDOVA

RANCHO CORDOVA ENTERTAINMENT GROUP

By: _____

By: _____

Dated: _____

Dated: _____

Attest:

Attest:

By: _____

By: _____

Approved as to Form:

Approved as to Form:

Adam Lindgren, City Attorney

Exhibit List:

EXHIBIT C1: Property Description

EXHIBIT C2: Site Plan

EXHIBIT C3: Fee Deferral Loan Promissory Note

EXHIBIT C4: Deed of Trust

1912771.26

JOB NO.
12-076
DATE
7/27/12

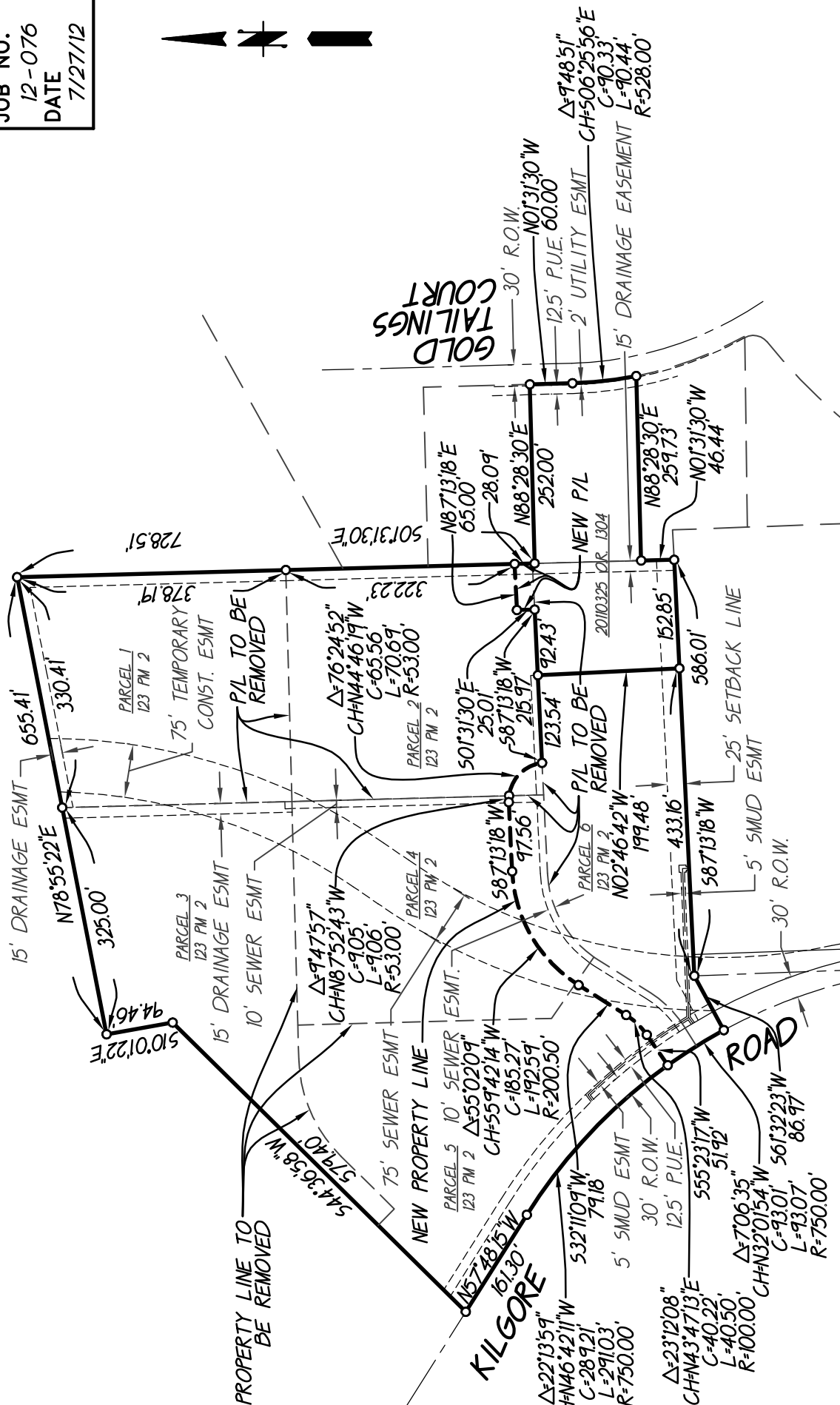


EXHIBIT "B"

BOUNDARY LINE ADJUSTMENT AND LOT MERGER FOR RANCHO CORDOVA POLICE STATION

WARREN LAND SURVEYING, INC.

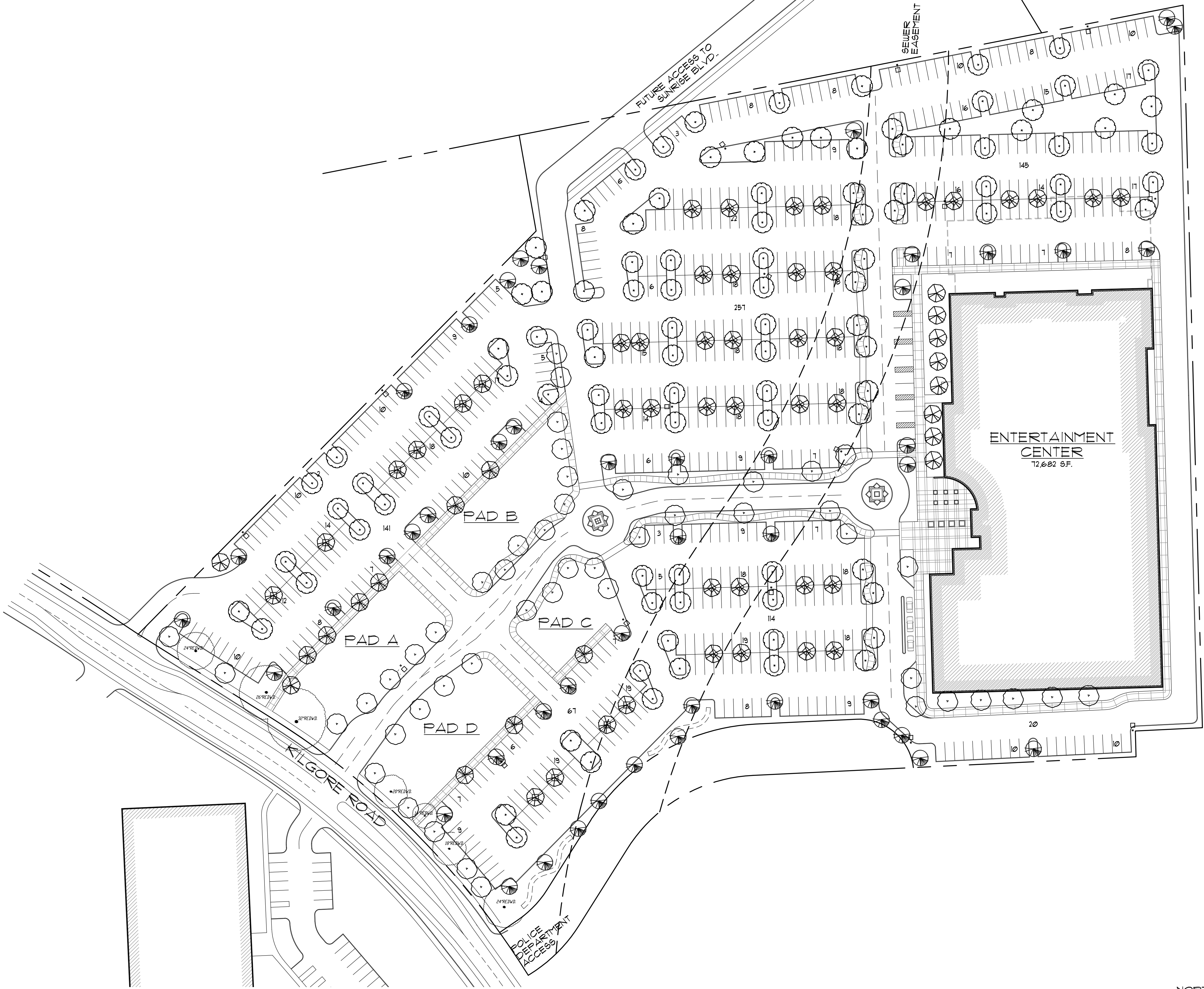
1117 Windfield Way, Suite 110
El Dorado Hills, CA. 95762
916-985-1870

RANCHO CORDOVA, SACRAMENTO COUNTY, CALIFORNIA

SCALE
1"=200'

AMERICAN FAMILY ENTERTAINMENT CENTER

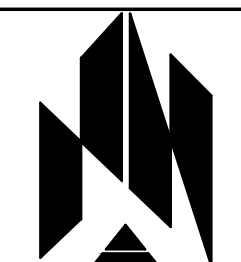
RANCHO CORDOVA - CALIFORNIA



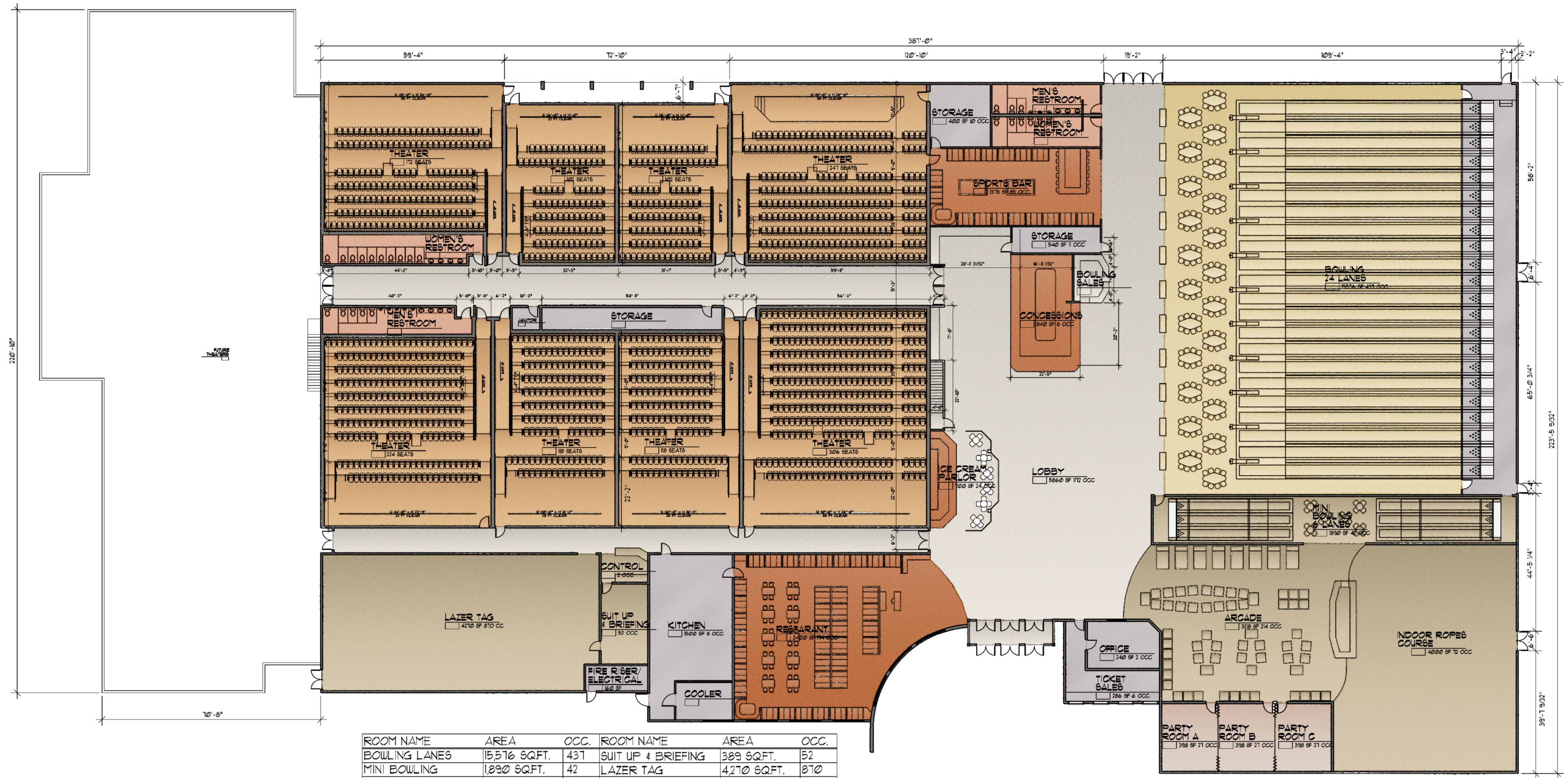
1 SITE PLAN
ASI
0 25 50 100 FEET
SCALE: 1" = 50'-0"



5-16-2013



NICHOLS • NAYLOR
ARCHITECTS
1155 EAST WILMINGTON AVENUE SUITE 250
SALT LAKE CITY, UTAH 84106 (801) 487-3330



ROOM NAME	AREA	OCC.	ROOM NAME	AREA	OCC.
BOWLING LANES	15,516 SQFT.	431	SUIT UP & BRIEFING	389 SQFT.	52
MINI BOWLING	1890 SQFT.	42	LAZER TAG	4,210 SQFT.	810
MINI GOLF	4,000 SQFT.	12	THEATER A	3,928 SQFT.	306
PARTY ROOM A	398 SQFT.	21	THEATER B	2,246 SQFT.	118
PARTY ROOM B	398 SQFT.	21	THEATER C	2,246 SQFT.	118
PARTY ROOM C	398 SQFT.	21	THEATER D	3,092 SQFT.	224
ARCADE	3,218 SQFT.	214	THEATER E	3,462 SQFT.	247
OFFICE	240 SQFT.	2	THEATER F	1,664 SQFT.	102
TICKET SALES	286 SQFT.	6	THEATER G	1,664 SQFT.	102
LOBBY	5,860 SQFT.	1112	THEATER H	2,618 SQFT.	172
ICE CREAM PARLOR	700 SQFT.	24	CONCESSIONS	840 SQFT.	8
RESTAURANT	3,400 SQFT.	174	STORAGE	540 SQFT.	11
KITCHEN	1,500 SQFT.	8	SPORTS BAR	1,375 SQFT.	85
CONTROL	143 SQFT.	2	STORAGE	400 SQFT.	10
			TOTAL	78,550 SQFT.	4,659

AGENDA ITEM 10.1

LOAD BASED ON TABLE 1004 2009 IBC
AL OCC LOAD 4,659
T WIDTH REQ 933.2 INCHES - 4 EXITS REQ
INCHES PROVIDED - 16 EXITS PROVIDED

MAIN LEVEL
FLOOR PLAN (78,550 s.f.)
SCALE: 1/16" = 1'-0"

Ancho Cordova Entertainment Center



NICHOLS • NAYLOR
ARCHITECT

1155 EAST WILMINGTON AVE SUITE 25
SALT LAKE CITY - UTAH 84106 801.487.333

EXHIBIT C3

**FEE DEFERRAL LOAN
PROMISSORY NOTE**
Deferred Impact Fee

Rancho Cordova, California
July ___, 2013

RECITALS

WHEREAS, the City of Rancho Cordova ("**City**"), a California municipal corporation and Rancho Cordova Entertainment Group, LLC ("**Borrower**"), a California limited liability company, entered into that certain Entertainment Center Financing Agreement (the "**Financing Agreement**") dated July ___, 2013 for the development of certain property located on Kilgore Road, between Trade Center Drive and Sun Center Drive, in the City of Rancho Cordova, known as Assessor's Parcel Numbers 072-0260-036; 072-0260-037; 072-0260-038; 072-0260-039; and 072-0260-040 (the "**Property**") as more particularly described in **Exhibit A** attached to this promissory note (this "**Note**") and incorporated herein by this reference; and

WHEREAS, pursuant to the Financing Agreement, Borrower proposes to construct a family-oriented entertainment facility on the Property (the "**Project**"); and

WHEREAS, pursuant to Section 7.1(e) of the Financing Agreement City agreed to permit Borrower to defer payment of development impact fees in the amount of Seven Hundred Seventy-Five Thousand Dollars (\$775,000) upon completion of certain conditions by Borrower; and

WHEREAS, Borrower has met the conditions required for the City to agree to the Deferred Fee; and

WHEREAS, pursuant to the Financing Agreement, Borrower will pay the amount of the deferred fees in one hundred twenty (120) monthly installments, at an annual interest rate of three percent (3%), secured by a deed of trust on the Property.

AGREEMENT

NOW, THEREFORE, FOR VALUE RECEIVED, Borrower promises to pay to City at 2729 Prospect Park Dr., Rancho Cordova CA 95670, or such other place as City may from time to time designate by written notice to Borrower, in lawful money of the United States, the principal sum of Seven Hundred Seventy-Five Thousand Dollars (\$775,000) (the "**Deferred Fee**"), together with interest on the outstanding principal balance in accordance with the terms set forth in this Note. A memorandum of this Note (the "**Memorandum**"), substantially in the form attached hereto as **Exhibit A**, dated as of the date hereof and executed by Borrower will be recorded against the Property in the Official Records of Sacramento County.

EXHIBIT C3

1. **Interest.** Commencing on the date of issuance of a Certificate of Occupancy by the City (the “**Commencement Date**”) for the occupancy of the Project and continuing through the date that all indebtedness and other amounts payable under this Note are paid in full, interest on the Deferred Fee will accrue at the rate of three percent (3%) simple interest per annum on the unpaid principal outstanding from time to time computed on the basis of a 360 day year and 30 day calendar months.
2. **Deferred Fee Repayment.** Commencing one year following the Commencement Date and continuing for one hundred twenty (120) months, Borrower agrees to make monthly payments of principal and interest of [Seven Thousand Four Hundred Eighty-Three Dollars and Forty-Six Cents (\$7,483.46)] as set forth in the amortization schedule attached to this Note as **Exhibit B** and incorporated herein by this reference. The entire outstanding principal balance of this Note, and all other sums due hereunder, is due and payable in full on the earlier of (i) the eleventh anniversary of the Commencement Date; or (ii) the occurrence of an Event of Default (as defined in Section 5), or (iii) sale or transfer of the Property.
3. **Restrictions on Assignment and Assumption.** This Note may be assigned by Borrower in accordance with Section 13.10 of the Finance Agreement.
4. **Security for the Note.** Borrower shall execute a Deed of Trust and Security Agreement securing the Property for the benefit of Agency (the “**Deed of Trust**”), substantially in the form attached as **Exhibit C** to this Note and incorporated herein by this reference.
5. **Events of Default; Acceleration of Payment.** Each of the following events will constitute an event of default (each, an “**Event of Default**”) under this Note:
 - a) Failure to pay when due the principal and interest payable under this Note and such failure continues for ten (10) days;
 - b) Commencement of a trustee sale or judicial foreclosure under any deed of trust recorded against the Property.
 - c) A default occurs under the terms the Financing Agreement which default is not cured within sixty (60) days following the written notice of default by City to Borrower.
 - d) A Default occurs under the terms of the Deed of Trust securing the Property, which default is not cured within sixty (60) days following the recordation of notice of default by the trustee under the deed of trust;
 - e) The filing by or against Borrower of a voluntary or involuntary petition in bankruptcy or the adjudication of the Borrower as bankrupt or insolvent, or the filing of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under present or any future federal bankruptcy act or any other

EXHIBIT C3

present or future applicable federal, state or other statute or law, or the seeking or consenting to or acquiescing in the appointment of any trustee, receiver, liquidator of Borrower or any substantial part of or all of the property of Borrower, and if any such proceeding is not dismissed within sixty (60) days or the Borrower is named in any such proceeding and the same is not dismissed within one hundred twenty (120) days;

- e) Borrower fails to observe or perform any covenant, condition, or agreement to be observed or performed by Borrower under this Note.

6. **Consequences of Default.** Upon the occurrence of an Event of Default, a delinquency charge of ten percent (10%) of the outstanding and unpaid principal balance due under this Note will be assessed and added to such principal balance (the “**Default Balance**”). In addition, penalty interest will accrue at the rate of one and one-half percent (1½%) per month on the Default Balance commencing upon the date of such Event of Default.

7. **Remedies.** Upon the occurrence of any Event of Default, in addition to its other rights under this Note, at law or in equity, City may exercise any one or more of the following rights and remedies without prior demand:

- a) accelerate and declare the entire unpaid balance of the Deferred Fee together with all accrued interest thereon, if any, and all other sums owed to the City immediately due and payable; and
- b) proceed at law or in equity to require Borrower to perform its obligations and covenants under this Note; and
- c) foreclose on the Property pursuant to the Deed of Trust.

The remedies provided herein are cumulative and not exclusive of, and do not prejudice any other remedy provided by law.

8. **Application of Payments.** All payments received on account of this Note will be first applied to accrued interest, if any, and the remainder will be applied to the reduction of principal.

9. **Attorney’s Fees.** Borrower agrees to pay all costs and expenses, including reasonable attorney’s fees, which City may incur in the collection or enforcement of this Note, whether or not suit is filed.

10. **No Offset; Borrower’s Waivers.** Borrower hereby waives any rights of offset it now has or may hereafter have against City, its successors and assigns, and agrees to make the payments called for hereunder in accordance with the terms of this Note. Borrower hereby waives diligence, presentment, protest, and demand, and notice of protest, notice of dishonor and notice of nonpayment of this Note, and expressly waives any rights to be released by reason of any extension of time or change in terms of

EXHIBIT C3

payment, or change, alteration or release of any security given for the payments hereof, and expressly waives the right to plead any and all statutes of limitation as a defense to any demand on this Note.

11. **Notices.** Except as may be otherwise specified herein, any approval, notice, direction, consent, request or other action by the City must be in writing and must be communicated to the Borrower at the address of the Property, or at such other place or places as the Borrower shall designate to the City in writing, from time to time, for the receipt of communications from the City. Mailed notices will be deemed delivered and received five (5) working days after deposit in the United States mail in accordance with this provision.

City: City of Rancho Cordova
2729 Prospect Park Dr.
Rancho Cordova CA 95670
Attn: City Manager

Borrower: Rancho Cordova Entertainment Group, LLC

Attn: _____

12. **Prepayment.** Borrower may prepay the outstanding principal on this Note in full at any time without premium or penalty.

13. **Governing Law.** This Note is construed in accordance with and is governed by the laws of the State of California.

14. **Severability.** If any provision of this Note is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof are not in any way affected or impaired thereby.

15. **No Waiver by City; Remedies Cumulative.** No waiver of any breach, default or failure of condition under this Note, may be implied from City's failure or delay in declaring a default or exercising any of City's rights or remedies with respect to such breach, default or failure, or from any previous waiver of any similar or unrelated breach, default or failure. Without limiting the generality of the foregoing, City's failure to declare any amount due hereunder does not constitute a waiver of City's right to declare such sum due in the event of any subsequent event that triggers Borrower's payment obligations hereunder. Any waiver of any term or provision of this Note, or any of the obligations secured thereby must be made in writing and is limited to the express written terms of such waiver. The rights and remedies of the City are cumulative, and the exercise or failure to exercise one or more of such rights or remedies does not preclude the exercise of any right or remedy for the same default or any other default.

16. **Joint and Several Obligations.** If this Note is executed by more than one person as Borrower, the obligations of each borrower will be joint and several.

EXHIBIT C3

17. **Entire Agreement; Amendments in Writing.** This Note, together with the Financing Agreement, Memorandum and the Deed of Trust, sets forth the entire understanding and agreement of Borrower and City with respect to the subject matter hereof. Any amendment to this Note must be in writing signed by both City and Borrower.

18. **Nonliability for Negligence, Loss or Damage.** Borrower acknowledges and agrees that the relationship between Borrower and City is solely that of borrower and lender, and that City neither undertakes nor assumes any responsibility for or duty to Borrower to select, review, inspect, supervise, pass judgment on or inform Borrower of the quality, adequacy or suitability of the Property or any other matter. City owes no duty of care to protect Borrower against negligent, faulty, inadequate or defective building or construction, or any condition of the Property, and Borrower agrees that neither Borrower nor any of Borrower's heirs, successors or assigns shall ever claim, have or assert any right or action against City for any loss, damage or other matter arising out of or resulting from any condition of the Property.

19. **Time.** Time is of the essence in the performance of the terms and conditions of this Note.

20. **Headings.** The headings within this Note are for the purpose of reference only and do not limit or otherwise affect any of the terms of this Note.

Executed as of the date first written above:

Rancho Cordova Entertainment Group, LLC

By: _____

Title: _____

EXHIBIT C3

EXHIBIT A

FORM OF MEMORANDUM

Recording Requested by
and when Recorded, return to:

City of Rancho Cordova
2729 Prospect Park Dr.
Rancho Cordova CA 95670
Attn: City Manager

EXEMPT FROM RECORDING FEES
PER GOVERNMENT CODE §§6103, 27383

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

MEMORANDUM OF AGREEMENT TO PAY DEFERRED IMPACT FEE

This Memorandum of Promissory Note (this "**Memorandum**") dated as of July ____, 2013 is entered into by and between the City of Rancho Cordova ("**City**"), a California municipal corporation and Rancho Cordova Entertainment Group, LLC ("**Borrower**"), a California limited liability company.

1. Borrower has given a promissory note (the "**Note**") to City to evidence the repayment of certain impact fees (the "**Impact Fee**") due from Borrower to City with respect to the property known as APNs 072-0260-036; 072-0260-037; 072-0260-038; 072-0260-039; and 072-0260-040 (the "**Property**") as more particularly described in **Exhibit 1** attached hereto and incorporated herein by this reference.
2. Among other conditions, the Note provides that (i) all amounts owed under the Note are due and payable upon sale of the Property, and (ii) the Note may not be assigned by Borrower.
3. Borrower and City have executed and recorded this instrument to give notice of the Note and the City's rights thereunder. Copies of the Note are available at the offices of the City, 2729 Prospect Park Drive, Rancho Cordova.
4. Note is incorporated by reference in its entirety in this Memorandum. In the event of any inconsistency between this Memorandum and the Note, the Note shall control.
5. This Memorandum shall be interpreted and enforced in accordance with California law without regard to principles of conflict of laws.
6. The Note shall bind and inure to the benefit of the City and its respective successors and assigns.

EXHIBIT C3

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

CITY OF RANCHO CORDOVA

By: _____
City Manager

BORROWER

RANCHO CORDOVA ENTERTAINMENT GROUP, LLC.

By: _____

Title: _____

SIGNATURES MUST BE NOTARIZED.

EXHIBIT 1

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B
AMORTIZATION SCHEDULE

EXHIBIT C4

Recording Requested by
and when Recorded, return to:

City of Rancho Cordova
2729 Prospect Park Dr.
Rancho Cordova CA 95670
Attn: City Manager

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING ("**Deed of Trust**") is made as of July __, 2013 ("**Effective Date**"), the Rancho Cordova Entertainment Group, LLC ("**Trustor**") to the City of Rancho Cordova, a municipal corporation ("**Trustee**"), for the benefit of the City of Rancho Cordova, a municipal corporation ("**Beneficiary**").

WHEREAS, the Beneficiary entered into that certain Entertainment Center Financing Agreement (the "**Financing Agreement**") dated July __, 2013 for the development of certain property located at Kilgore Road, between Trade Center Drive and Sun Center Drive, in the City of Rancho Cordova, known as Assessor's Parcel Numbers 072-0260-036; 072-0260-037; 072-0260-038; 072-0260-039; and 072-0260-040 (the "**Property**") as more particularly described in **Exhibit A** attached to this Deed of Trust and incorporated herein by this reference; and

WHEREAS, pursuant to the Financing Agreement, Trustor proposes to construct a family-oriented entertainment facility on the Property (the "**Project**"); and

WHEREAS, pursuant to Section 7.1(e) of the Financing Agreement Beneficiary agreed to permit Trustor to defer payment of development impact fees in the amount of Seven Hundred Seventy-Five Thousand Dollars (\$775,000) (the "**Deferred Fee**") upon completion of certain conditions by Trustor; and

WHEREAS, Trustor has executed a promissory note (the "**Note**") to secure repayment of the Deferred Fee; and

WHEREAS, pursuant to the Financing Agreement, Trustor and Beneficiary have also entered into that certain revenue sharing agreement dated July __, 2013 (the "**Revenue Agreement**"); and

EXHIBIT C4

WHEREAS, pursuant to the Financing Agreement, Trustor will pay the amount of the deferred fees in one hundred twenty (120) monthly installments, at an annual interest rate of three percent (3%), secured by a deed of trust on the Property; and

WHEREAS, as a condition precedent to the execution of the Revenue Agreement and the deferral of the impact fees, Beneficiary has required that Trustor enter into this Deed of Trust and grant to Trustee for the benefit of Beneficiary, a lien and security interest in the Property (as defined below) to secure repayment of the Note and the revenues under the Revenue Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows.

1. Grant in Trust.

Trustor, in consideration of the foregoing and the indebtedness herein recited, hereby irrevocably and unconditionally grants, conveys, transfers and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all estate, right, title and interest which Trustor now has or may later acquire in the Land and all of the following, whether presently owned or hereafter acquired:

a. All buildings, structures, and improvements, now or hereafter located or constructed on the Land ("**Improvements**");

b. All machinery, equipment, fixtures, goods and other personal property of the Trustor, whether moveable or not, now owned or hereafter acquired by the Trustor and now or hereafter located at or used in connection with the Land, the Improvements or Appurtenances, and all improvements, restorations, replacements, repairs, additions or substitutions thereto (collectively, "**Equipment**");

2. All of the above-referenced interests of Trustor in the Land, Improvements, Appurtenances, and Equipment, as hereby conveyed to Trustee or made subject to the security interest herein described are collectively referred to herein as the "**Property**."

3. Obligations Secured. This Deed of Trust is given for the purpose of securing payment and performance of the following (the "**Secured Obligations**"): (i) all present and future indebtedness evidenced by the Note and Revenue Agreement (collectively the "**Agreements**") and any amendment thereof, including principal, interest and all other amounts payable under the terms of the Note; (ii) all additional present and future obligations of Trustor to Beneficiary under any other agreement or instrument acknowledged by Trustor (whether existing now or in the future) which states that it is or such obligations are, secured by this Deed of Trust; (iii) all modifications, supplements, amendments, renewals, and extensions of any of the foregoing, whether evidenced by new or additional documents; and (iv) reimbursement of all amounts advanced by or on behalf of Beneficiary to protect Beneficiary's interests under this Deed of Trust or any

EXHIBIT C4

Agreement. The Note and this Deed of Trust are collectively referred to in this Deed of Trust as the **"Impact Fee Documents."**

4. Security Agreement. The parties intend for this Deed of Trust to create a lien on the Property in favor of Beneficiary. The parties acknowledge that some of the Property may be determined under applicable law to be personal property or fixtures. To the extent that any Property may be personal property, Trustor as debtor hereby grants to Beneficiary as secured party a security interest in all such Property to secure payment and performance of the Secured Obligations. This Deed of Trust constitutes a security agreement under the California Uniform Commercial Code, as amended or recodified from time to time (the "**UCC**"), covering all such Property. To the extent such Property is not real property encumbered by the lien granted above, and is not absolutely assigned by the assignment set forth above, it is the intention of the parties that such Property shall constitute "proceeds, products, offspring, rents, or profits" (as defined in and for the purposes of Section 552(b) of the United States Bankruptcy Code, as such section may be modified or supplemented) of the Land and Improvements.

5. Financing Statements. Pursuant to the UCC, Trustor, as debtor, hereby authorizes Beneficiary, as secured party, to file such financing statements and amendments thereof and such continuation statements with respect thereto as Beneficiary may deem appropriate to perfect and preserve Beneficiary's security interest in such Property, without requiring any signature or further authorization by Trustor. If requested by Beneficiary, Trustor shall pay all fees and costs that Beneficiary may incur in filing such documents in public offices and in obtaining such record searches as Beneficiary may reasonably require. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall not be construed as in any way derogating from or impairing this Deed of Trust or the rights or obligations of the parties under it.

Everything used in connection with the Property and/or adapted for use therein and/or which is described or reflected in this Deed of Trust is, and at all times and for all purposes and in all proceedings both legal or equitable shall be regarded as part of the estate encumbered by this Deed of Trust irrespective of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Beneficiary, or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (1) rights in or to the proceeds of any fire and/or hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for lessening of value, or (3) Trustor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the property conveyed hereby, whether pursuant to lease or otherwise, shall not be construed as in any way altering any of the rights of Beneficiary as determined by this instrument or impugning the priority of Beneficiary's lien granted hereby or by any other recorded document. Such mention in any financing statement is declared to be solely for the protection of Beneficiary in the event any court or judge shall at any time hold, with respect to the

EXHIBIT C4

matters set forth in the foregoing clauses (1), (2), and (3), that notice of Beneficiary's priority of interest is required in order to be effective against a particular class of persons, including but not limited to the federal government and any subdivisions or entity of the federal government.

6. Fixture Filing. This Deed of Trust is intended to be and constitutes a fixture filing pursuant to the provisions of the UCC with respect to all of the Property constituting fixtures, is being recorded as a fixture financing statement and filing under the UCC, and covers property, goods and equipment which are or are to become fixtures related to the Land and the Improvements. Trustor covenants and agrees that this Deed of Trust is to be filed in the real estate records of Sacramento County and shall also operate from the date of such filing as a fixture filing in accordance with Section 9502 and other applicable provisions of the UCC. This Deed of Trust shall also be effective as a financing statement covering minerals or the like (including oil and gas) and accounts subject to the UCC, as amended. Trustor shall be deemed to be the "debtor" and Beneficiary shall be deemed to be the "secured party" for all purposes under the UCC. The full name of Trustor and the mailing address of Trustor are set forth in Section 9.2 of this Deed of Trust.

7. Trustor's Representations, Warranties and Covenants

7.1 Representations and Warranties. Trustor represents and warrants that: (i) Trustor owns the Land, (ii) Trustor has or will have good title to all of the Property; (iii) subject only to encumbrances of record and senior liens permitted pursuant to the Note or otherwise approved in writing by Beneficiary ("**Permitted Encumbrances**"), this Deed of Trust creates a valid monetary lien on Trustor's entire interest in the Property; and (iv) there is no financing statement affecting the Property on file in any public office.

Trustor further represents and warrants that this Deed of Trust and all other documents delivered or to be delivered by Trustor in connection herewith: (a) have been duly authorized, executed, and delivered by Trustor; (b) are binding obligations of Trustor; and (c) do not violate the provisions of any agreement to which Trustor is a party or which affects the Property. Trustor further represents and warrants that and that there are no pending, or to Trustor's knowledge, threatened actions or proceedings before any court or administrative agency which may adversely affect Trustor's ownership of the Property.

7.2 Payment and Performance of Secured Obligations. Trustor shall promptly pay and perform all obligations of Trustor arising in connection with the Secured Obligations in accordance with the respective terms thereof.

7.3 Preservation and Maintenance of Property; Compliance with Laws. Trustor shall keep the Land and Improvements in good repair and condition, and from time to time shall make necessary repairs, renewals and replacements thereto so that the Property shall be preserved and maintained. Trustor covenants to comply with all federal, state and local laws, regulations, ordinances and rules applicable to the

EXHIBIT C4

Property. Trustor shall not remove, demolish or materially alter any Improvement without Beneficiary's consent, shall complete or restore promptly and in good and workmanlike manner (provided such restoration or repair is financially feasible) any building, fixture or other improvement which may be constructed, damaged, or destroyed thereon, and shall pay when due all claims for labor performed and materials furnished therefor. Trustor shall use the Land and Improvements solely for purposes authorized by the Impact Fee Documents, shall not commit or allow waste of the Property, and shall not commit or allow any act upon or use of the Property which would violate any applicable law or order of any governmental authority, nor shall Trustor bring on or keep any article on the Property or cause or allow any condition to exist thereon which could invalidate or which would be prohibited by any insurance coverage required to be maintained on the Property pursuant to the Impact Fee Documents and the Lease.

8. Rights and Duties of the Parties.

8.1 Restrictions on Transfer and Encumbrance; Acceleration. It shall be an Event of Default hereunder if any transfer of the Property, any part thereof, or interest therein ("**Transfer**") occurs in violation of the requirements of the Impact Fee Documents or the Finance Agreement. If any such Transfer shall occur in violation of such requirements, without limiting the provisions of Section 7 hereof, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, at the option of Beneficiary, and without demand shall immediately become due and payable, subject to any applicable cure period.

8.2 Inspections; Books and Records. Beneficiary and its agents and representatives shall have the right at any reasonable time upon reasonable notice to Trustor to enter upon and inspect the Property to ensure compliance with the Note. Trustor shall maintain complete and accurate books of account and other records (including copies of supporting bills and invoices) adequate to reflect the operation of the Property, and copies of all written contracts, leases and other instruments which affect the Property. The books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Beneficiary following two (2) business days prior notice.

8.3 Charges, Liens, and Assessments. Trustor shall immediately discharge or cause to be discharged any lien on the Property (other than encumbrances approved by Beneficiary as of the date hereof in writing) to which Beneficiary provides written objection. Trustor shall pay when due each obligation secured by or reducible to a lien, charge or encumbrance which now does or later may encumber or appear to encumber all or part of the Property or any interest in it, whether or not such lien, charge or encumbrance is or would be senior or subordinate to this Deed of Trust. Trustor shall not be required to pay any tax, levy, charge or assessment so long as its validity is being actively contested in good faith and by appropriate actions and/or proceedings.

EXHIBIT C4

8.4 Subrogation. Beneficiary shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Beneficiary in accordance with this Deed of Trust and the Note.

8.5 Indemnity. Trustor shall indemnify, defend and hold Beneficiary and its elected and appointed officials, officers, agents and employees (collectively, “**Indemnitees**”) harmless from and against any and all loss, claim, liability, damage, demand, judgment, order, penalty, fine, injunctive or other relief, cost, expense (including reasonable fees and expenses of attorneys, expert witnesses, and other professionals advising or assisting Beneficiary), action, or cause of action, arising in connection with the breach of Trustor’s covenants and obligations set forth in this Section. The foregoing indemnity includes, without limitation, all costs of investigation, assessment, containment, removal, remediation of any kind, and disposal of hazardous materials as defined in **Exhibit B** hereto (“**Hazardous Materials**”), all costs of determining whether the Land is in compliance with Environmental Laws, all costs associated with bringing the Land into compliance with all applicable Environmental Laws, and all costs associated with claims for damages or injury to persons, property, or natural resources.

Without limiting the generality of the foregoing, Trustor shall, at Trustor’s own cost and expense, do all of the following: (i) pay or satisfy any judgment or decree that may be entered against any Indemnatee or Indemnitees in any legal or administrative proceeding incident to any matters against which Indemnitees are entitled to be indemnified under this Deed of Trust; (ii) reimburse Indemnitees for any expenses paid or incurred in connection with any matters against which Indemnitees are entitled to be indemnified under this Deed of Trust; and (iii) reimburse Indemnitees for any and all expenses, including without limitation out-of-pocket expenses and fees of attorneys and expert witnesses, paid or incurred in connection with the enforcement by Indemnitees of their rights under this Deed of Trust, or in monitoring and participating in any legal or administrative proceeding.

Trustor’s obligation to indemnify the Indemnitees shall not be limited or impaired by any of the following, or by any failure of Trustor to receive notice of or consideration for any of the following: (i) any amendment or modification of any Impact Fee Documents; (ii) any extensions of time for performance required by any Impact Fee Documents; (iii) any provision in any of the Impact Fee Documents limiting Beneficiary’s recourse to property securing the Secured Obligations, or limiting the personal liability of Trustor, or any other party for payment of all or any part of the Secured Obligations; (iv) the accuracy or inaccuracy of any representation and warranty made by Trustor under this Deed of Trust or by Trustor or any other party under any Impact Fee Documents, (v) the release of Trustor or any other person, by Beneficiary or by operation of law, from performance of any obligation under any Impact Fee Documents; (vi) the release or substitution in whole or in part of any security for the Secured Obligations; and (vii) Beneficiary’s failure to properly perfect any lien or security interest given as security for the Secured Obligations.

EXHIBIT C4

The provisions of this Section shall be in addition to any and all other obligations and liabilities that Trustor may have under applicable law, and each Indemnitee shall be entitled to indemnification under this Section without regard to whether Beneficiary or that Indemnitee has exercised any rights against the Property or any other security, pursued any rights against any guarantor or other party, or pursued any other rights available under the Impact Fee Documents or applicable law. The obligations of Trustor to indemnify the Indemnitees under this Section shall survive any repayment or discharge of the Secured Obligations, any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the lien of this Deed of Trust.

Without limiting any of the remedies provided in this Deed of Trust, Trustor acknowledges and agrees that each of the provisions in this Section is an environmental provision (as defined in Section 736(f)(2) of the California Code of Civil Procedure) made by Trustor relating to real property security (the "**Environmental Provisions**"), and that Trustor's failure to comply with any of the Environmental Provisions will be a breach of contract that will entitle Beneficiary to pursue the remedies provided by Section 736 of the California Code of Civil Procedure ("**Section 736**") for the recovery of damages and for the enforcement of the Environmental Provisions. Pursuant to Section 736, Beneficiary's action for recovery of damages or enforcement of the Environmental Provisions shall not constitute an action within the meaning of Section 726(a) of the California Code of Civil Procedure or constitute a money judgment for a deficiency or a deficiency judgment within the meaning of Sections 580a, 580b, 580d, or 726(b) of the California Code of Civil Procedure.

"**Environmental Law**" means all federal, state or local statutes, ordinances, rules, regulations, orders, decrees, judgments or common law doctrines, and provisions and conditions of permits, licenses and other operating authorizations regulating, or relating to, or imposing liability or standards of conduct concerning (i) pollution or protection of the environment, including natural resources; (ii) exposure of persons, including employees and agents, to any Hazardous Material (as defined in **Exhibit B** hereto) or other products, raw materials, chemicals or other substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities; (iv) the manufacture, use or introduction into commerce of chemical substances, including without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal; or (v) the use, release or disposal of toxic or hazardous substances or Hazardous Materials or the remediation of air, surface waters, groundwaters or soil, as now or may at any later time be in effect, including but not limited to the Toxic Substances Control Act [15 U.S.C. 2601, et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, et seq.], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, et seq.], the Resource Conservation and Recovery Act [42 U.S.C. 6901, et seq.], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, et seq.], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, et seq.],

EXHIBIT C4

the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, et seq.], the California Hazardous Waste Act [California Health and Safety Code Section 25100, et seq.], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, et seq.], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, et seq.], as they now exist or are hereafter amended, together with any regulations promulgated thereunder.

8.6 Notice of Claims; Defense of Security; Reimbursement of Costs.

(a) Notice of Claims. Within three (3) business days Trustor shall provide written notice to Beneficiary of any uninsured or partially uninsured loss affecting the Property through fire, theft, liability, or property damage in excess of an aggregate of Fifty Thousand Dollars (\$50,000). Trustor shall use best efforts to ensure that Beneficiary shall receive timely notice of, and shall have a right to cure, any default under any other financing document or other lien affecting the Property and that provisions mandating such notice and allowing such right to cure shall be included in all such documents. Within three (3) business days of Trustor's receipt thereof, Trustor shall provide Beneficiary with a copy of any notice of default Trustor receives in connection with any financing document secured by the Project or the Land.

(b) Defense of Security. At Trustor's sole expense, Trustor shall protect, preserve and defend the Property and title to and right of possession of the Property, the security of this Deed of Trust and the rights and powers of Beneficiary and Trustee created under it, against all adverse claims.

(c) Compensation; Reimbursement of Costs. Trustor agrees to pay all reasonable fees, costs and expenses charged by Beneficiary or Trustee for any service that Beneficiary or Trustee may render in connection with this Deed of Trust, including without limitation, fees and expenses related to provision of a statement of obligations or related to a reconveyance. Trustor further agrees to pay or reimburse Beneficiary for all costs, expenses and other advances which may be incurred or made by Beneficiary or Trustee in any efforts to enforce any terms of this Deed of Trust, including any rights or remedies afforded to Beneficiary or Trustee or both of them under this Agreement, whether or not any lawsuit is filed, or in defending any action or proceeding arising under or relating to this Deed of Trust, including reasonable attorneys' fees and other legal costs, costs of any disposition of the Property under the power of sale granted hereunder or any judicial foreclosure and any cost of evidence of title.

(d) Notice of Changes. Trustor shall give Beneficiary prior written notice of any change in the location of its chief executive office, the location of any Property, including books and records pertaining to the Property, and its name or business structure.

EXHIBIT C4

8.7 Indemnification.

(a) Trustor shall indemnify, defend, and hold harmless the Indemnitees (as defined in Section 8.5) from and against, and shall pay on demand, any and all losses, liabilities, damages, costs, claims, demands, penalties, fines, orders, judgments, injunctive or other relief, expenses and charges (including reasonable attorney's fees and expenses) (all of the foregoing are collectively referred to as "**Liabilities**") arising directly or indirectly in any manner in connection with or as a result of (a) any breach of Trustor's covenants under any Impact Fee Documents, (b) any representation by Trustor in any Impact Fee Documents which proves to be false or misleading in any material respect when made, (c) injury or death to persons or damage to property or other loss occurring on the Land or in any improvement located thereon, whether caused by the negligence or any other act or omission of Trustor or any other person or by negligent, faulty, inadequate or defective design, building, construction or maintenance or any other condition or otherwise, (d) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee which relates to or arises out of the Property, or any Impact Fee Documents or any transaction contemplated thereby, or any failure of Trustor to comply with all applicable state, federal and local laws and regulations applicable to the Property, provided that no Indemnitee shall be entitled to indemnification under this Section for matters caused by such Indemnitee's gross negligence or willful misconduct. The obligations of Trustor under this Section shall survive the repayment of the Deferred Fee and shall be secured by this Deed of Trust. Notwithstanding any contrary provision contained herein, the obligations of Trustor under this Section shall survive any foreclosure proceeding, any foreclosure sale, any delivery of a deed in lieu of foreclosure, and any release or reconveyance of this Deed of Trust.

(b) Limitation of Liability. Beneficiary shall not be directly or indirectly liable to Trustor or any other Person as a consequence of any of the following: (i) Beneficiary's exercise of or failure to exercise any rights, remedies or powers granted to Beneficiary in this Deed of Trust; (ii) Beneficiary's failure or refusal to perform or discharge any obligation or liability of Trustor under any agreement related to the Property or under this Deed of Trust; or (iii) any loss sustained by Trustor or any third party resulting from any act or omission of Beneficiary in managing the Property after an Event of Default, unless the loss is caused by the willful misconduct, gross negligence, or bad faith of Beneficiary. Trustor hereby expressly waives and releases all liability of the types described in this Section, and agrees that Trustor shall assert no claim related to any of the foregoing against Beneficiary.

8.8 Insurance and Condemnation Proceeds. Proceeds of casualty insurance policies and condemnation awards shall be disbursed in accordance with and subject to the conditions set forth in the Deferred Fee in accordance with any applicable senior deed of trust but if none is existing to the Beneficiary for application to the remaining indebtedness of the Note, secured hereby and then to the Trustor

EXHIBIT C4

8.9 Release, Extension, Modification. At any time and from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note for endorsement, Trustee may release or reconvey all or any part of the Property, consent to the making of any map or plat of the Land or part thereof, join in granting any easement or creating any restriction affecting the Property, or join in any extension agreement or other agreement affecting the lien or charge hereof. At any time and from time to time, without liability therefor and without notice, Beneficiary may (i) release any person liable for payment of any Secured Obligation, (ii) extend the time for payment or otherwise alter the terms of payment of any Secured Obligation; (iii) accept additional real or personal property of any kind as security for any Secured Obligation, or (iv) substitute or release any property securing the Secured Obligations.

8.10 Reconveyance. Upon written request of Beneficiary stating that all of the Secured Obligations have been paid in full, and upon surrender of this Deed of Trust, and the Note, Trustee shall reconvey, without warranty, the Property or so much of it as is then held under this Deed of Trust. The recitals in any reconveyance executed under this Deed of Trust of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustor shall pay all fees of Trustee and all recordation fees related to such reconveyance.

9. Default and Remedies

9.1 Events of Default. Trustor acknowledges and agrees that an Event of Default shall occur under this Deed of Trust upon the occurrence of any one or more of the following events:

a) Beneficiary's declaration of an Event of Default under any Impact Fee Documents, subject to the expiration of any applicable cure period set forth in such documents;

b) Trustor fails to perform any monetary obligation which arises under this Deed of Trust, and does not cure that failure within thirty (30) days following written notice from Beneficiary or Trustee;

c) If Trustor's interest in the Property or any part thereof is voluntarily or involuntarily sold, transferred, leased, encumbered, or otherwise conveyed in violation of this Agreement and Trustor fails to rescind such action or Transfer within thirty (30) days following written notice from Beneficiary or such longer period as Beneficiary may agree upon in writing;

d) Subject to Trustor's right to contest such charges as provided herein, Trustor fails to pay any charge that may result in a lien on the Land or the Project, and Trustor fails to cure such default within thirty (30) days;

EXHIBIT C4

e) Any representation or warranty of Trustor contained in or made in connection with the execution and delivery of this Deed of Trust or in any certificate or statement furnished pursuant hereto or in any other Impact Fee Documents proves to have been false or misleading in any material adverse respect when made;

f) If, pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors ("Bankruptcy Law"), Trustor or any general partner thereof (i) commences a voluntary case or proceeding; (ii) consents to the entry of an order for relief against Trustor or any general partner thereof in an involuntary case; (iii) consents to the appointment of a trustee, receiver, assignee, liquidator or similar official for Trustor or any general partner thereof; (iv) makes an assignment for the benefit of its creditors; or (v) admits in writing its inability to pay its debts as they become due;

g) If a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (i) is for relief against Trustor or any general partner thereof in an involuntary case, (ii) appoints a trustee, receiver, assignee, liquidator or similar official for Trustor or any general partner thereof or substantially all of such entity's assets, (iii) orders the liquidation of Trustor or any general partner thereof, or (iv) issues or levies a judgment, writ, warrant of attachment or similar process against the Property or the Project, and in each case the order or decree is not released, vacated, dismissed or fully bonded within sixty (60) days after its issuance;

h) The holder of any other debt instrument secured by a mortgage or deed of trust on the Property or part thereof declares an event of default thereunder and exercises a right to declare all amounts due under that debt instrument immediately due and payable, subject to the expiration of any applicable cure period set forth in such holder's documents; or

i) Trustor fails to perform any obligation arising under this Deed of Trust other than one enumerated in this Section, and does not cure that failure either within thirty (30) days ("**Initial Cure Period**") after written notice from Beneficiary or Trustee in the event of a monetary default, or within sixty (60) days after such written notice in the event of a nonmonetary default (or such longer time as Beneficiary may agree upon in writing), provided that Trustor commences to cure the default within the Initial Cure Period and thereafter prosecutes such cure with due diligence and in good faith.

9.2 **Remedies.** Subject to the applicable notice and cure provisions set forth herein and the nonrecourse provisions set forth in the Note, at any time after an Event of Default, Beneficiary and Trustee shall be entitled to invoke any and all of the rights and remedies described below, and may exercise any one or more or all, of the remedies set forth in any Impact Fee Documents, and any other remedy existing at law or in equity or by statute; provided however, neither Trustor nor any of its general or limited partners shall have any personal liability for repayment of the Deferred Fee, and the sole recourse of Beneficiary under the Impact Fee Documents for

EXHIBIT C4

repayment of the Deferred Fee shall be the exercise of Beneficiary's rights against the Property and related security. All of Beneficiary's rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies. Beneficiary shall be entitled to collect all expenses incurred in pursuing the remedies provided hereunder, including without limitation reasonable attorneys' fees and costs of title evidence.

a) Acceleration. Beneficiary may declare any or all of the Secured Obligations to be due and payable immediately.

b) Receiver. Beneficiary may apply to any court of competent jurisdiction for, and obtain appointment of, a receiver for the Property.

c) Entry. Beneficiary, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that Beneficiary may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: taking and possessing copies of all of Trustor's or the then owner's books and records concerning the Property; entering into, enforcing, modifying, or canceling leases on such terms and conditions as Beneficiary may consider proper; obtaining and evicting tenants; fixing or modifying rents; collecting and receiving any payment of money owing to Trustor; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Beneficiary so requests, Trustor shall assemble all of the Property that has been removed from the Land and make all of it available to Beneficiary at the site of the Land. Trustor hereby irrevocably constitutes and appoints Beneficiary as Trustor's attorney-in-fact to perform such acts and execute such documents as Beneficiary in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Trustor's name on any instruments. Regardless of any provision of this Deed of Trust, Beneficiary shall not be considered to have accepted any property other than cash or immediately available funds in satisfaction of any obligation of Trustor to Beneficiary, unless Beneficiary has given express written notice of Beneficiary's election of that remedy in accordance with UCC Section 9621, as it may be amended or recodified from time to time.

d) Cure; Protection of Security. Either Beneficiary or Trustee may cure any breach or default of Trustor, and if it chooses to do so in connection with any such cure, Beneficiary or Trustee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Beneficiary or Trustee under, this Deed of Trust; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Beneficiary's or Trustee's sole judgment is or may be senior in priority to this Deed of Trust, such judgment of Beneficiary or Trustee to be conclusive as among Beneficiary, Trustee and Trustor; obtaining insurance and/or paying any premiums or charges for

EXHIBIT C4

insurance required to be carried hereunder; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Beneficiary or Trustee. Beneficiary and Trustee may take any of the actions permitted under this Subsection either with or without giving notice to any Person except as required for notices required under applicable law. Any amounts disbursed by Beneficiary pursuant to this paragraph shall become additional indebtedness secured by this Deed of Trust.

e) UCC Remedies. Beneficiary may exercise any or all of the remedies granted to a secured party under the UCC.

f) Judicial Action. Beneficiary may bring an action in any court of competent jurisdiction to foreclose this instrument or to obtain specific enforcement of any of the covenants or agreements of this Deed of Trust.

10. Trustor's Waivers. To the fullest extent permitted by law, Trustor waives: (i) all statutes of limitations as a defense to any action or proceeding brought against Trustor by Beneficiary; (ii) the benefit of all laws now existing or which may hereafter be enacted providing for any appraisal, valuation, stay, extension, redemption or moratorium; (iii) all rights of marshalling in the event of foreclosure; and (iv) all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Deed of Trust and of the existence, creation, or incurring of new or additional indebtedness, and demands and notices of every kind.

11. Miscellaneous Provisions.

11.1 Additional Provisions. The Impact Fee Documents grant further rights to Beneficiary and contain further agreements and affirmative and negative covenants by Trustor which apply to this Deed of Trust and the Property.

11.2 Notices. Except for any notice required under applicable law to be given in another manner, all notices to be sent pursuant to this Deed of Trust shall be made in writing, and sent to the parties at their respective addresses specified below or to such other address as a party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

a) personal delivery, in which case notice shall be deemed delivered upon receipt;

b) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered two (2) business days after deposit, postage prepaid in the United States mail; or

c) nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) day after deposit with such courier.

EXHIBIT C4

Beneficiary: City of Rancho Cordova
 2729 Prospect Park Drive
 Rancho Cordova, CA
 Attn: City Manager

Trustor: Rancho Cordova Entertainment Group, LLC

Trustee: City of Rancho Cordova
 2729 Prospect Park Drive
 Rancho Cordova, CA
 Attn: City Manager

11.3 Successors and Assigns. The terms, covenants and conditions of this Deed of Trust shall be binding on and inure to the benefit of the heirs, successors, and assigns of the parties.

11.4 Substitution of Trustee. Beneficiary may from time to time or at any time substitute a trustee or trustees to execute the trust hereby created, and when any such substitution has been filed for record in the office of the Recorder of Sacramento County, it shall be conclusive evidence of the appointment of such trustee or trustees, and such new trustee or trustees shall succeed to all of the powers and duties of the Trustee named herein.

11.5 Attorneys' Fees and Costs. In any action or proceeding to foreclose this Deed of Trust or to enforce any right of Beneficiary or of Trustee, Trustor shall pay to Beneficiary and Trustee all costs of such action or proceeding, including reasonable attorneys' fees.

11.6 Governing Law; Severability; Interpretation. This Deed of Trust shall be governed by the laws of the State of California without regard to principles of conflicts of laws. If any provision of this Deed of Trust is held unenforceable or void, that provision shall be deemed severable from the remaining provisions, and shall in no way affect the validity of this Deed of Trust. The captions used in this Deed of Trust are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained. In this Deed of Trust, whenever the context so requires, the singular number includes the plural.

11.7 Waiver, Modification and Amendment. Each waiver by Beneficiary or Trustee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Beneficiary or Trustee to take action on account of any default of Trustor. Consent by Beneficiary or Trustee to any act or omission by Trustor shall not be construed as consent to any other or subsequent act or

EXHIBIT C4

omission or to waive the requirement for Beneficiary's or Trustee's consent to be obtained in any future or other instance. No amendment to or modification of this Deed of Trust shall be effective unless and until such amendment or modification is in writing, executed by Trustor and Beneficiary. Without limiting the generality of the foregoing, Beneficiary's acceptance of payment of any sum secured hereby after its due date shall not constitute a waiver by Beneficiary of its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

11.8 Action By Beneficiary. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, or consent by the Beneficiary is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the Executive Director or his or her designee, without further approval by the Agency.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the Effective Date first written above.

TRUSTOR:

Rancho Cordova Entertainment Group, LLC

By: _____

By: _____

SIGNATURES MUST BE NOTARIZED.

EXHIBIT A

DESCRIPTION OF THE LAND

EXHIBIT B

HAZARDOUS MATERIALS

“Hazardous Materials” means any substance, material or waste which is or becomes regulated by any federal, state or local governmental authority, and includes without limitation (i) petroleum or oil or gas or any direct or indirect product or by-product thereof; (ii) asbestos and any material containing asbestos; (iii) any substance, material or waste regulated by or listed (directly or by reference) as a “hazardous substance”, “hazardous material”, “hazardous waste”, “toxic waste”, “toxic pollutant”, “toxic substance”, “solid waste” or “pollutant or contaminant” in or pursuant to, or similarly identified as hazardous to human health or the environment in or pursuant to, the Toxic Substances Control Act [15 U.S.C. 2601, et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, et seq.], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, et seq.], the Resource Conservation and Recovery Act [42 U.S.C. 6901, et seq.], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, et seq.], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, et seq.], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, et seq.], the California Hazardous Waste Act [California Health and Safety Code Section 25100, et seq.], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, et seq.], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, et seq.], as they now exist or are hereafter amended, together with any regulations promulgated thereunder; (iv) any substance, material or waste which is defined as such or regulated by any “Superfund” or “Superlien” law, or any Environmental Law; or (v) any other substance, material, chemical, waste or pollutant identified as hazardous or toxic and regulated under any other federal, state or local environmental law, including without limitation, asbestos, polychlorinated biphenyls, petroleum, natural gas and synthetic fuel products and by-products.

EXHIBIT C4**ACKNOWLEDGMENT**

State of California)
) ss.
 County of Sacramento)

On _____ before me, _____,
 a Notary Public, personally appeared _____, personally known
 to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose
 name(s) is/are subscribed to the within instrument and acknowledged to me that
 he/she/they executed the same in his/her/their authorized capacity(is), and that by
 his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
 which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

 NOTARY PUBLIC

2014949.4

EXHIBIT C4

EXHIBIT D

NOTICE



NEIGHBORHOOD
SERVICES
POLICE
DEPARTMENT



ATTACHMENT 2

FOLSOM RESEARCH INVESTMENTS INC
4115 TALLADEGA DR
SPARKS, NV 89436

CONRAD ETHAN
1300 NATIONAL DR 100
SACRAMENTO, CA 95834

OBRIEN TIMOTHY F
5101 FLORIN PERKINS RD
SACRAMENTO, CA 95826

JB MANAGEMENT LP
1825 BELL ST 100
SACRAMENTO, CA 95825

SFP-B LIMITED PARTNERSHIP
PO BOX 5350
BEND, OR 97708

BERRUETA FAMILY REVOCABLE
TRUST/BYPASS
1600 FRONTERO AVE
LOS ALTOS, CA 94024

VOLEN PROPS 6 LLC
3350 WATT AVE E
SACRAMENTO, CA 95821

GREENSHADE INVESTORS LLC
2870 GOLD TAILINGS CT
RANCHO CORDOVA, CA 95670

ROXANNE K NIELSEN REVOCABLE
TRUST
50 HACIENDA CIR
ORINDA, CA 94563

KENNETH & LIELANIE STEERS
REVOCABLE TRUST
4901 TRAILS END RD
CAMERON PARK, CA 95682

NADER/NASSRIN KHOSRAVIFARD
FAMILY TRUST
8924 FAIR OAKS BLVD
CARMICHAEL, CA 95608

LOMANTO/BELL FAMILY TRUST
10385 PINE CONE DR
TRUCKEE, CA 96161

11190 SUN CENTER LLC
3308 EL CAMINO AVE 300 4
SACRAMENTO, CA 95821

HNJ FARMS
PO BOX 4039
DAVIS, CA 95617

PINEBROOK VILLAGE LP
8022 FOLSOM-AUBURN RD
FOLSOM, CA 95630

WCKD SUN CENTER LLC
PO BOX 269110
SACRAMENTO, CA 95826

MCKESSON CORPORATION
PO BOX 819066
DALLAS, TX 75381

SNG L P
2443 FAIR OAKS BLVD 343
SACRAMENTO, CA 95825

GKII RANCHO CORDOVA LLC
PO BOX 130174
CARLSBAD, CA 92013

OCCUPANT
11101 TRADE CENTER DR
RANCHO CORDOVA, CA 95670

OCCUPANT
11135 TRADE CENTER DR
RANCHO CORDOVA, CA 95670

OCCUPANT
2807 KILGORE RD
RANCHO CORDOVA, CA 95670

OCCUPANT
2735 KILGORE RD
RANCHO CORDOVA, CA 95670

OCCUPANT
2756 SUNRISE BLVD
RANCHO CORDOVA, CA 95742

OCCUPANT
2738 SUNRISE BLVD
RANCHO CORDOVA, CA 95742

OCCUPANT
2838 SUNRISE BLVD
RANCHO CORDOVA, CA 95742

OCCUPANT
2925 KILGORE RD
RANCHO CORDOVA, CA 95670

OCCUPANT
11171 SUN CENTER DR
RANCHO CORDOVA, CA 95670

OCCUPANT
2860 GOLD TAILINGS CT
RANCHO CORDOVA, CA 95670

OCCUPANT
2851 GOLD TAILINGS CT
RANCHO CORDOVA, CA 95670

ATTACHMENT 2

OCCUPANT
11190 SUN CENTER DR
RANCHO CORDOVA, CA 95670

OCCUPANT
2880 SUNRISE BLVD
RANCHO CORDOVA, CA 95742

OCCUPANT
11187 SUN CENTER DR
RANCHO CORDOVA, CA 95670

OCCUPANT
11093 SUN CENTER DR
RANCHO CORDOVA, CA 95670

OCCUPANT
11000 TRADE CENTER DR
RANCHO CORDOVA, CA 95670

OCCUPANT
2920 KILGORE RD
RANCHO CORDOVA, CA 95670

OCCUPANT
2870 KILGORE RD
RANCHO CORDOVA, CA 95670

