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DEVELOPMENT AGREEMENT

BY AND BETWEEN
THE CITY OF BEAUMONT AND
BEAUMONT POINTE PARTNERS LLC

EFFECTIVE DATE: _______________________, 2023

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**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF BEAUMONT AND
BEAUMONT POINTE PARTNERS LLC**

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into this ___ day of _________, 2023 by and between the CITY OF BEAUMONT, a municipal corporation ("City"), and BEAUMONT POINTE PARTNERS LLC, a Delaware limited liability company (as further described in Section 1.2 below, "Owner"). This Agreement is made pursuant to the Development Agreement Laws (defined below). This Agreement refers to the City and Owner collectively as the "Parties" and singularly as the "Party."

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted the Development Agreement Laws to authorize any city, county or city and county to enter into a development agreement with an applicant for a development project, establishing certain development rights in the property which is the subject of the development project application.

B. Owner has a legal and equitable interest in approximately 539.9 acres of land located south of the 60 Freeway and west of Jack Rabbit Trail in the County of Riverside, State of California legally described and depicted on Exhibit "A" attached hereto and incorporated herein by this reference ("Property"). The Property is in the unincorporated area of the County of Riverside and in the Sphere of Influence as such term is defined in Govt. Code Section 56076 ("SOI") of the City of Beaumont.

C. Owner desires to develop the Property in accordance with the requirements of this Agreement and the Beaumont Pointe Specific Plan (as the same may be amended from time to time in accordance with this Agreement, "Specific Plan"). The Specific Plan divides the Property into ten (10) planning areas ("Planning Areas"). Planning Areas 1 and 2 comprise approximately 30.2 acres and are proposed to be developed for commercial uses as "The Experience at Beaumont Pointe", such as community recreation, commercial, retail, restaurant and hospitality land uses, and a 125- room hotel along with related amenities. Planning Areas 3 through 8 comprise approximately 232.6 acres and are proposed to be developed with industrial uses to accommodate users such as industrial incubators, light manufacturing, parcel hub, warehouse/storage, fulfillment center, high cube warehouse, cold storage warehouse, and e-commerce operations ("Industrial Uses"). The list of uses permitted and conditionally permitted on the Property is provided in the Specific Plan. In addition, the Project provides approximately 277.1 acres of open space area along the Property's northern and southern boundaries of which approximately 152.4 acres (Planning Area 10) are designated "Open Space- Conservation" and proposed to be conveyed to the Western Riverside County Regional Conservation Authority ("RCA") or another conservation agency or non-profit organization with the approval of RCA pursuant to the Western Riverside County Multiple Species Conservation Plan ("MSHCP"). The remaining open space (Planning Area 9) is designed to accommodate landscaped manufactured slopes, fuel modification areas, project signage, optional water tank and natural open space to act as a buffer for Planning Area 10. The

buildout of the Property as described in the Specific Plan is referred to in this Agreement as the "Project".

D. Owner is seeking to annex the Property into the City of Beaumont and The Beaumont Cherry Valley Water District ("BCVWD") through the Local Agency Formation Commission for Riverside County ("LAFCO") pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Govt. Code Section 56000 et seq. Owner intends to file the applications for such annexation ("Annexation Applications") with LAFCO following the City's consideration and approval of the Entitlement Applications (defined below). Govt. Code Section 65865(b) provides that a city may enter into a development agreement with respect to unincorporated territory within that city's Sphere of Influence. The City and Owner intend to cooperate in processing the Annexation Applications to effectuate the annexation of the Property into the City and BCVWD ("Annexation"). The Parties jointly understand, intend and agree that this Agreement shall, to the extent legally permissible, serve and be the equivalent of a "Pre-Annexation Agreement" by and between them, and may be interpreted and relied upon as such.

E. This Agreement is voluntarily entered into by Owner to implement the General Plan of the City of Beaumont and in consideration of the rights conferred and the procedures specified herein for the development of the Property. This Agreement is voluntarily entered into by the City in the exercise of its legislative discretion to implement the General Plan and in consideration of the agreements and undertakings of Owner hereunder.

F. On _______________, 2023, the City Council of the City of Beaumont ("City Council") adopted the following land use related entitlements and development rights via approval of: (a) Resolution No. __________ certifying the Beaumont Pointe Specific Plan Project EIR (ENV2019-0008), SCH Number 2020099007 and adopting findings, a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program ("MMRP"); (b) Resolution No. ________ for a General Plan Amendment (PLAN2019-0284) changing the General Plan land use designations of the Property to commercial, industrial and open space ("GPA"); (c) Ordinance No. ______________ for Pre-Zoning the Property to specific plan (PLAN2019-0283); (d) Ordinance No. ______________ for Adoption of the Specific Plan (SP2019-0003); (e) Ordinance No. ______________ for adoption of the Beaumont Pointe Sign Program (PLAN2022-0856) ("Sign Program"); (g) Resolution No. ______________for adoption of Vesting Tentative Parcel Map No. 38161 (PM2022-0014) ("TPM"); (g) Ordinance No. ______________ for adoption of this Agreement (PLAN2023-0906) and (h) Resolution No. ______________ for Minor Amendment to the Western Riverside County Multiple Species Habitat Conservation Plan; (collectively, Owner's application for this Agreement and its related applications for the GPA, Pre-Zoning, Specific Plan, Sign Program, TPM, and EIR inclusive of the MMRP are referenced in the aggregate as the "Entitlement Applications"). The approvals granted as requested by the Entitlement Applications in connection with the development of the Project as intended and proposed, whether effective upon the Effective Date or upon Annexation, and as further itemized on Exhibit "B" are referenced in the aggregate herein as the "Existing Project Approvals".

G. The City has given public notice of its intention to adopt this Agreement, has conducted public hearings thereon pursuant to Govt. Code Section 65867 and the Development Agreement Laws. The City has found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in the General Plan as amended by the Existing Project Approvals and that the terms and conditions of this

Agreement have undergone extensive review by the City, including the City Council, and have been found to be fair, just and reasonable. The City has further concluded that the pursuit of the Project will promote the health, safety and welfare of the City and its citizens and provide substantial benefits to the City and its residents by, among other things, (a) providing the specific public benefits described below, including without limitation the Public Benefits Fee (defined below); (b) providing retail opportunities not currently sufficiently available in the community, including entertainment, recreation, hospitality, and restaurants; (c) creating employment opportunities in the commercial, retail, restaurant, hospitality and warehouse/industrial sectors; (d) conserving 230.82 acres of open space within and adjacent to MSHCP criteria cells and providing access for wildlife movement to Caltrans constructed and proposed wildlife undercrossings along the SR-60 Freeway abutting the northern Project boundary; (e) providing new economic benefit to the City and its residents, including new sales tax, property tax and transit occupancy tax revenues that can be used for City services and sufficient to permit annexation of the Property into the City; (f) creating transportation efficiencies by adding industrial uses along an existing industrial corridor in a location with superior access to the local and regional transportation network, thereby minimizing truck traffic on local streets and reducing vehicle miles traveled in the region; and (g) utilizing existing investment in capital improvements for water, reclaimed water, sewer, storm drain and circulation facilities to further the planned development of land in the City and in its sphere of influence to facilitate local and regional distribution of goods, while minimizing impacts to residents by locating new commercial and industrial facilities at a distance from residences.

H. It is the intent of the City and Owner that this Agreement be a legally binding contract which shall prevail over the provisions of any subsequently enacted moratoria, statutes, ordinances, limitations, or other measures, whether or not enacted by the City, or under the authority of the City by voter initiative or referendum, and whether or not such initiative, moratorium, referendum, statute, ordinance, limitation, or other measure relates, in whole or in part, to the rate, timing, sequence, or phasing of the development or construction of all or part of the Project or the improvements or affecting parcel or subdivision maps, building permits, occupancy certificates, or other entitlement or authorization to use the Property or to provide utilities which are issued by the City, subject only to the rights and powers reserved to the City under the terms of this Agreement and the requirements of California law.

I. The Project will require the construction of substantial public and private improvements, some of which improvements will benefit the Project, other property and developments within the vicinity of the Property and the entirety of the City. This Agreement will eliminate uncertainty in planning for and securing orderly development of the Project, provide the certainty necessary for Owner to make significant investments in public infrastructure and other improvements, assure the timely and progressive installation of necessary improvements, provide significant public benefits to the City that the City would not be entitled to receive without this Agreement and provide public services appropriate to each stage of development. Either of the Parties could easily be discouraged and deterred from making the long-term commitments inherent to the process of developing the Project on the Property. Both Parties desire to enter into this Agreement to reduce and/or eliminate as many development risks and uncertainties as possible.

J. As permitted by law through the City's consideration and approval of the Entitlement Applications filed by Owner and/or by this Agreement, the Parties desire to establish development standards and design guidelines for the Project, the permitted uses for the Project,

and to identify the scope of improvements to be required for the Project and, where appropriate, to provide for the payment or the specification of certain fees.

K. This Agreement will promote and encourage the development of the Property by providing Owner and its lenders and investors with a greater degree of certainty of Owner's ability to expeditiously and economically complete the Project and will provide the City, among other things, with certain public benefits that it could not otherwise obtain. The Parties agree that the consideration to be received by the City pursuant to this Agreement and the rights secured to Owner hereunder constitute sufficient consideration to support the mutual and respective covenants and agreements of the Parties.

L. In exchange for the benefits to the City, Owner desires to receive the assurance that it may proceed with the Project in accordance with the existing land use ordinances, subject to the terms and conditions contained in this Agreement and to secure the benefits afforded Owner by the Development Agreement Laws with respect to the Project. These assurances are of vital concern to Owner to offset or remove the disincentives and uncertainties inherent in development of the Project.

AGREEMENT

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES CONTAINED HEREIN AND THE FOREGOING RECITALS WHICH ARE INCORPORATED HEREIN, THE CITY AND OWNER AGREE AS FOLLOWS:

1. General Provisions.

1.1 Definitions. The terms when used in this Agreement shall have the meanings set forth on Exhibit "F" attached hereto and incorporated herein by this reference.

1.2 Property Ownership and Binding Covenants. Owner represents that it has a legal or equitable interest in the Property and that all other Persons holding legal or equitable interests in the Property agrees to be bound by this Agreement. The Parties intend and determine that the provisions of this Agreement shall constitute covenants which shall run with said Property, and the burdens and benefits hereof shall bind and inure to all successors in interest of the Parties. In order to provide continued notice thereof, the Parties will record this Agreement in the public records of Riverside County. The word "Owner" as previously defined and used herein shall include each and every successor Owner (including but not limited to each and every Assignee), apart from government or quasi-public agencies, of all or any portion of the Property, unless and until such Owner is released pursuant to the terms of this Agreement.

1.3 Effective Date and Term.

1.3.1 **Generally**. The term ("Term") of this Agreement shall commence on the date the Ordinance adopting this Agreement is effective ("Effective Date") and shall extend for a period of ten (10) years thereafter, unless said Term is terminated, modified or extended by circumstances set forth in this Agreement or by mutual consent of the Parties. Each Owner, provided it is not then in default under this Agreement, shall have the right to extend the Term with respect to the portion of the Property owned by it for an additional five (5) years as to the

portion of the Property owned by it by provision of written notice to the City no earlier than one hundred and eighty (180) days and no later than sixty (60) days prior to the expiration of the original Term. Owner shall submit a completed application for annexation of the Property to the City and LAFCO within twelve (12) months of the Effective Date and diligently and consistently pursue to completion of the annexation with LAFCO thereafter. If the Annexation Applications have not been approved by LAFCO on or before the date that is ten (10) years following the Effective Date as such date may be extended by Force Majeure Delay ("Outside Annexation Date") this Agreement shall terminate. In addition, this Agreement shall terminate with respect to Planning Area 10 or any portion thereof upon the conveyance of such land or an easement therein to the RCA or to another conservation agency or non-profit organization approved by RCA to which it is conveyed for conservation purposes.

1.3.2 **Force Majeure Delay**. The Term shall also be extended by Force Majeure Delay as provided herein. If any Party to this Agreement is prevented by Force Majeure Delay from performing its obligations under this Agreement, then on the condition that (a) the Party claiming the benefit of said Force Majeure Delay did not cause or contribute to said Force Majeure Delay and (b) said Force Majeure Delay was beyond said Party's reasonable control, the time for performance by said Party of its obligations under this Agreement shall be extended by a number of days equal to the number of days that said Force Majeure Delay continued in effect, or by the number of days it reasonably takes to repair or restore the damage caused by such Force Majeure Delay to the condition which existed prior to the occurrence of said event(s), whichever is longer, or longer as the Parties may mutually agree. Where there is an event of Force Majeure Delay, the Party prevented from or delayed in performing its obligations under this Agreement must notify the other Party in writing within thirty (30) calendar days from the date on which it becomes aware, or should be aware utilizing reasonable diligence, of such Force Majeure Delay giving such particulars of the event of Force Majeure Delay as are then reasonably known and that are preventing said Party from, or delaying said Party in, performing its obligations under this Agreement. Except as otherwise specifically set forth in this Agreement, all time periods under this Agreement relating to non-monetary obligations under this Agreement, including but not limited to the Term, shall be extended for Force Majeure Delay in accordance with this Section, such that no Party shall be in default for an excused Force Majeure Delay.

1.3.3 **Effect of Termination**. Following the expiration of the Term, this Agreement shall terminate and be of no further force and effect and the City shall cause a written notice of termination to be recorded with the County Recorder; provided that such termination shall not automatically affect any right, obligation or duty on the part of the City or Owner arising from the Project Approvals or actions relating to the Property taken or issued prior to the expiration or termination of the Term.

1.4 Equitable Servitudes and Covenants Running With the Land. Any successors in interest to the City and Owner shall be subject to the provisions set forth in Govt. Code Sections 65865.4 and 65868.5. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do, or refrain from doing, some act with regard to the development of the Property: (a) is for the benefit of and is a burden upon the Property; (b) runs with the Property and each portion thereof; and (c) is binding upon each successor in interest to Owner during ownership of the Property or any portion thereof and upon each successor in interest to the City. Nothing herein shall waive or limit the provisions of Section

1.5, and no successor Owner of the Property, any portion of it, or any interest in it shall have any rights in this Agreement except as Assigned to the successor by Owner in writing pursuant to Section 1.5 below.

1.5 <u>Right to Assign</u>.

1.5.1 Subject to the other provisions of this Agreement, Owner shall have the right to Assign (and each such action is referred to herein as an "Assignment"), in whole or in part, its rights and interests in and to the Property and its related obligations under this Agreement to a third party during the term of this Agreement.

1.5.2 Except as set forth in Sections 1.5.3, 1.5.5 and 1.5.6 below, no Assignment shall be effective until the City, by action of the City Council, approves the Assignment. Approval shall not be unreasonably withheld, conditioned or delayed provided the proposed Assignee provides complete documentation to the City along with the formal request for approval of Assignment that:

(a) The proposed Assignee (or, at the discretion of the Assigning Owner, the Assigning Owner acting as guarantor of Assignee's performance) has the financial ability to meet the obligations proposed to be Assigned and to undertake and complete the obligations of this Agreement affected by the Assignment; and

(b) The proposed Assignee has adequate experience with similar developments of comparable scope and complexity to the portion of the Project that is the subject of the Assignment. Any request for City approval of an Assignment shall be in writing and accompanied by certified financial statements of the proposed Assignee for the three (3) most recent fiscal years and any additional information concerning the identify, financial condition and experience of the proposed Assignee as the City may reasonably request; provided that, any such request for additional information shall be made, if at all, not more than fifteen (15) business days after the City's receipt of the request for approval of the proposed Assignment. If the City wishes to disapprove any proposed Assignment, the City shall set forth in writing and in reasonable detail the grounds for such disapproval. Failure by the City to approve or disapprove the proposed Assignment by the later of the second regularly scheduled City Council meeting following the delivery to the City of Owner's written request for Assignment shall be deemed to be approval of the proposed Assignment by the City if the request for Assignment includes the following warning printed in bold type not smaller than 12 points:

> NOTICE IS HEREBY GIVEN THAT FAILURE TO APPROVE THE REQUESTED MATTER WITHIN 30 DAYS SHALL BE DEEMED AN APPROVAL PURSUANT TO SECTION 1.5.2 OF THE DEVELOPMENT AGREEMENT.

1.5.3 Following issuance of a certificate of occupancy for any completed Building or completion of construction on any parcel, the right of the City to approve any Assignment shall terminate as to such Building and/or parcel, as applicable.

1.5.4 Upon (a) the Assignment of Assigning Owner's interests to an Assignee and, if such consent is required by Section 1.5.2, consent by the City pursuant to Section 1.5.2 and (b) the execution and recording in the Official Records of Riverside County of an assignment and assumption agreement pursuant to which the Assignee assumes the obligations of Assignor (and to which City shall have consented if consent to such Assignment is required by Section 1.5.2), Assigning Owner shall be released from all obligations of Owner under this Agreement assumed by the Assignee under the assignment instrument. Notwithstanding the consent rights of the City set forth in Section 1.5.2, the City shall not have the right to withhold its consent to any Assignment or to the release of any Assigning Owner with respect to compliance with this Agreement, performance of Public Benefits, provision of Public Improvements, payment of Development Fees or satisfaction of Exaction requirements if the same are conditions (whether imposed by the Specific Plan or other Project Rules) to the development of the portion of the Property Assigned to Assignee and such obligations are assumed by Assignee or, as to Public Improvements, if bonds have been posted or other security for such Public Improvements has been provided to the City.

1.5.5 Owner shall have the right upon at least fifteen (15) calendar days prior written notice to the City to Assign all or any portion of the Property to a Lender in connection with the granting of a mortgage or deed of trust, hypothecation, pledge, Assignment for security purposes, bond, grant of taxable or tax exempt funds from a governmental agency or other security interest or any documents constituting or relating to a sale-leaseback transaction without the obligation to comply with Section 1.5.2 and without consent of the City, but only for the purpose of securing loans of funds to be used for financing the acquisition of the Property, the development and construction of improvements on the Property, performance of mitigation and Public Benefits and other development related to the Property, and other necessary and related expenses including but not limited to payment of fees, taxes and assessments. The holder of any mortgage, deed of trust or other security arrangement with respect to the Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all of the terms and conditions of this Agreement. Nothing in this Agreement shall be deemed to construe, 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 and improvements provided for or authorized by this Agreement and the Project Rules, subject to all of the terms and conditions of this Agreement.

1.5.6 Subject to the other applicable requirements of this Section 1.5, Owner shall have the right upon at least fifteen (15) business days prior written notice thereof to City and without the obligation to comply with Section 1.5.2 and without consent of the City: (a) to transfer Control of Owner to an Owner Affiliate, (b) to Assign Owner's interest in the Property and the Project or any portion thereof to an Owner Affiliate; (c) to lease or sell any pad or parcel to a Person operating or proposing to operate a business in any Building or leasable space, whether as an owner or ground lessee of a parcel or Building on the Property, or as a tenant holding a leasehold interest in a leasable space in a Building on the Property, (d) to Assign any portion of the Project or any easement or license interest therein to the City or another governmental entity, including RCA, or another conservation agency or non-profit organization with the approval of RCA, as necessary or desirable for the development of the Project or preservation of open space, or to a property owners' association, maintenance district or any similar entity to the foregoing; or (e) to make an assignment or collateral assignment for the purposes specified in Section 1.5.5 above.

1.5.7 Except as otherwise set forth in Section 1.5.5 or Section 12, following Assignment and assumption of all or any portion of the Project or the Property, each Assignee shall be an Owner having the obligations of an Owner under this Agreement and shall be responsible to complete the improvements within the portion of the Property it acquires and all related Public Improvements not then completed required to serve or otherwise materially benefitting such portion of the Property and the Project to be constructed thereon. In addition, if bonds or other security are then in place to secure obligations under a subdivision map or other obligation, Assignee shall provide for the Assignment of existing security and bonds or issuance of new substitute security or bonds prior to the effective date of such Assignment. However, no act or omission of any Owner ("Defaulting Owner") shall by itself constitute a default by another Owner, and the City shall have no obligation whatsoever to cure any such default for the benefit of any other Owner within the Project.

1.6 Notices. Formal written notices, demands, correspondence and communications between the City and Owner shall be sufficiently given if dispatched by certified mail, postage prepaid, to the principal offices of the City and Owner by the means set forth in Section 8 hereof. Such written notices, demands, correspondence and communications may be directed in the same manner to such other Persons and addresses as either Party may from time to time designate. Owner shall give written notice to the City concurrently with the close of escrow and no later than five (5) calendar days following the Assignment of any portion of the Property and/or Assignment of its rights, interests and obligations under this Agreement, setting forth the portion of the Property Assigned, the name of Assignee and Assignee's mailing address, the name and address of a single person to whom any notice relating to this Agreement shall be given, the effective date of the Assignment and any other information reasonably necessary for the City to consider the approval or any other action the City is required to take under this Agreement.

1.7 Amendment of Agreement. This Agreement may be amended from time to time by mutual consent of the Parties, in accordance with the provisions of Govt. Code Sections 65867 and 65868.

1.8 Major Amendments and Minor Amendments.

1.8.1 **Major Amendments**. Any amendment to this Agreement which affects or relates to (a) the Term of this Agreement; (b) amendment of the uses allowed on the Property; (c) provisions for the reservation or dedication of land; (d) conditions, terms, restrictions or requirements for subsequent discretionary actions; (e) the density or intensity of use of the Property or the maximum height or square footage of proposed Buildings or other structures or improvements; or (f) monetary contributions by Owner, shall be deemed a "Major Amendment" and shall require the giving of notice and approval or disapproval in a public hearing before the Planning Commission and the City Council. Any amendment which is not a Major Amendment shall be deemed a Minor Amendment subject to Section 1.8.2 below. The City Manager or his or her delegee shall have the authority to determine if an amendment is a Major Amendment subject to this section or a Minor Amendment subject to Section 1.8.2 below. The City Manager's determination may be appealed to the City Council. Major Amendments shall apply to the matters outlined in this Section 1.8.1 but shall not apply to modifications specifically called out within the Specific Plan, including but not limited to certain substantial conformance determinations and minor modifications pursuant to Section 5.2.2 of the Specific Plan (note that certain other

substantial conformance determinations require Planning Commission Approval) and further, adoption by the City of a Specific Plan Amendment shall not, in and of itself, require a Major Amendment or Minor Amendment to this Agreement.

1.8.2 **Minor Amendments**. The Parties acknowledge that refinement and further implementation of the Project may demonstrate that certain minor changes may be appropriate with respect to the details and performance of the Parties under this Agreement when a Major Amendment is not required ("Minor Amendment"). The Parties desire to retain a certain degree of flexibility with respect to the details of the Project and with respect to those items covered in the general terms of this Agreement. If and when the Parties find that clarifications, minor changes, or minor adjustments are necessary or appropriate and do not constitute a Major Amendment under Section 1.8.1 above, they shall effectuate such clarifications, minor changes or minor adjustments through a written Minor Amendment approved in writing by Owner and the City Manager. Unless otherwise required by law, no such Minor Amendment shall require prior notice or hearing, nor shall it constitute an amendment to this Agreement. The Authority to enter into such Minor Amendments is hereby delegated to the City Manager and the City Manager is hereby authorized to execute any Minor Amendments without further City Council action.

2. Development of the Property.

2.1 Vested Rights; Permitted Uses and Development Standards. In accordance with and subject to the terms and conditions of this Agreement, Owner shall have the vested right to develop the Project and the Property for the uses and in accordance with and subject to the terms and conditions of this Agreement and the Project Rules. The City covenants that it will not initiate, so long as this Agreement remains in effect, any amendment to the General Plan or the Project's zoning as established by the Specific Plan in a manner that is inconsistent with the Project Rules. To carry out the intent of the Specific Plan, which creates a framework for development that allows for subsequent submittals of plot plans and signage approvals by phase, the Applicable Rules shall apply to and govern the Subsequent Project Approvals. The full list of permitted and conditionally permitted uses is established in the Specific Plan. The City acknowledges that Buildings in the commercial and industrial areas of the Property will be leased and/or conveyed to third parties and that such Buildings may be used for the range of uses described in the Specific Plan.

2.2 Specific Plan Implementation Regulations. The Specific Plan establishes certain implementation regulations including but not limited to development criteria, infrastructure improvement standards, permitted and conditionally permitted uses, development standards and Planning Area standards and provides for a variety of determinations including but not limited to substantial conformance determinations, and approvals with respect to signage, plot plans and other permits and approvals that are incorporated into this Agreement by this reference and are part of the vested rights. The City agrees that it shall process subsequent discretionary approvals and Ministerial Approvals in accordance with such provisions to the extent applicable. Designation of an item in the Specific Plan as subject to administrative review is not a determination that such approval is a discretionary action, provided that the City does not waive its discretion under applicable law. The ultimate uses, densities and intensities of use shall be consistent on an overall basis with the applicable sections of the Specific Plan and any density transfer or change in the size, density, floor area or land use of the Planning Areas or any of them shall fully conform with the requirements of the Specific Plan and this Agreement. Nothing herein shall be deemed or

interpreted to permit development in Planning Area 10. Owner shall have the right to change the use of or modify the size of any Planning Area and/or to increase the density and intensity of use of any Planning Area in excess of the density and intensity limitations specified under the Existing Project Approvals subject to a Specific Plan Amendment under Section 5.2.4 thereof changing the land use or reallocating the density or intensity of uses with the Planning Areas; provided that nothing in this Agreement shall require an amendment of the Specific Plan if the modification of the land use, size, density or intensity of use of any Planning Area requested is authorized pursuant to an alternative modification procedure established by Section 3.3.1, 3.4.1 or 5.2 of the Specific Plan or otherwise. The City shall establish and Owner shall comply with procedures for review and approval of and maintenance of a record of any increase or reduction in the net acreage and/or development intensity of each Planning Area pursuant to a substantial conformance determination under Section 5.2.4 of the Specific Plan or other amendment or modification to the Specific Plan to ensure that the Project does not exceed the authorized development envelope set forth in the Specific Plan and to assure that the rights of each and every Owner within the Property are not adversely affected by such modification without its prior consent. Such procedure shall also allow the City to record lift station flows from each proposed Building and any change in land use in a Planning Area from land uses analyzed in the EIR, and to require compliance with Section 5.2.8 of the Specific Plan as part of Owner's application. The Parties agree that such procedures and modifications do not independently trigger a requirement for new environmental analysis or subject the Project to additional burdens not addressed in the Specific Plan. Additionally, notwithstanding the language of this Section or any other language in this Agreement, all specifications, standards and policies regarding the design and construction of Public Improvements, if any, shall be those that are in effect at the time the applicable Public Improvement plans are being processed for approval.

2.3 Subsequent Project Approvals.

2.3.1 **Discretionary Approvals**. The vested right to develop the Project granted to Owner pursuant to this Agreement may require the Owner seek subsequent discretionary approvals. In reviewing and acting upon these subsequent discretionary approvals, and except as otherwise set forth in this Agreement, the City shall not impose any conditions that preclude the development of the Project for the uses or the density and intensity of use set forth in the Specific Plan. Any subsequent discretionary approvals, including conditional use permits and plot plan approvals, shall become part of the Project Approvals once approved and after all appeal periods have expired or, if an appeal is filed, after the appeal is decided in favor of the approval. In reviewing and approving applications for subsequent discretionary approvals, the City may exercise its discretionary review and may attach such conditions and requirements as may be deemed necessary or appropriate to carry out the policies, goals, standards and objectives of the General Plan and to comply with legal requirements and policies of the City pertaining to such reserved discretionary approvals, so long as such conditions and requirements do not preclude the uses and/or the density and intensity of use set forth in this Agreement and are not inconsistent with the Applicable Rules. The City shall fully comply with the applicable provisions of the Permit Streamlining Act with respect to the review of proposed quasi-judicial permit applications. The City shall process and take final action on Owner's applications for other Subsequent Project Approvals in accordance with all applicable laws. The City shall employ all lawful actions capable of being undertaken by the City to promptly acknowledge all complete applications for Subsequent Project Approvals and process such applications in accordance with the Applicable Rules.

Subsequent Project Approvals for the Project shall not be disapproved, conditioned or delayed by City for reasons inconsistent with the Applicable Rules in effect at the time as a Subsequent Project Approval applicable to the Property is approved by the City in accordance with this Agreement. Any such approval shall become subject to all of the terms and conditions of this Agreement, shall be treated as a Project Approval and shall be vested under this Agreement.

2.3.2 **Ministerial Approvals**. The City shall use reasonable efforts to expedite the processing of requests for and the issuance of all Ministerial Approvals after application is made therefor and, in all events, shall process such requests consistent with City's normal processing timelines for similar permits and approvals.

2.3.3 **Expedited Processing of Entitlement Applications and Plan Check**. The City shall use reasonable efforts to provide expedited processing of entitlement applications, including for discretionary approvals and Ministerial Approvals, and an expedited plan check process for the review of improvement plans and building plans for the Project, and may hire third-party reviewers for such purpose. Within two (2) weeks of a written request by Owner, the City shall determine whether expedited processing or plan check is feasible for the requested work. If the City determines that expedited processing or plan check is feasible and requires the retention of an outside consultant(s) for review of Owner's improvement plans and building plans, and provided that Owner executes a reimbursement agreement whereby it deposits in advance monies needed to retain and pay such outside consultants, the City shall retain such outside consultant(s). The outside consultant(s) shall be at the sole selection of the City and shall be paid for at the sole cost and expense of Owner as further provided in the reimbursement agreement. Upon written request, Owner shall advance a deposit sufficient to cover the City's estimated costs of retaining the outside consultant(s). Such deposit shall be replenished as necessary, from time to time, to assure that the City shall not bear any of the cost of the outside consultant.

2.4 Duration of Maps and Project Approvals. Pursuant to Govt. Code Section 66452.6(a), the duration of all tentative maps filed by Owner with respect to the Property or any portion thereof and approved by the City shall remain in effect for the Term of this Agreement and shall terminate concurrently with the termination of this Agreement if no final map is then recorded. If Owner, in its sole and absolute discretion, chooses to process vesting tentative maps, City shall process such vesting maps in accordance with the Applicable Rules and the Subdivision Map Act. Tentative maps, either vesting or non-vesting, may be processed in phases subject to the Applicable Rules and Subdivision Map Act. In addition, all Existing Project Approvals and all plot plans, conditional use permits, substantial conformance determinations and other permits and approvals issued by the City with respect to the Property pursuant to the Specific Plan shall automatically be extended, without the need for filing extension applications, and shall remain in effect for Term of this Agreement.

2.5 CEQA. The evaluation of environmental impacts for the BEAUMONT POINTE Specific Plan is contained in the project's Environmental Impact Report (ENV2019-0008), a project level environmental impact report certified by the City concurrently with the approval of the Existing Project Approvals. It is the intent of the City, as set forth in the Specific Plan Sections 5.2.1, 5.2.2 and 5.2.6, that applications for plot plans, substantial conformance approvals and other entitlements that are contemplated by and generally consistent with the Specific Plan shall be addressed administratively. The need for subsequent environmental review shall be

evaluated by the Community Development Director pursuant to Public Resource Code Section 21166 and the relevant provisions of the CEQA Guidelines. The Community Development Director shall make the determination as to the level of CEQA documentation, if any, (exemption, addendum, supplemental EIR, supplemental MND, or subsequent EIR) that is appropriate and may request and obtain technical information as necessary to make this determination. Further, because the Project has already been extensively analyzed in the EIR, no new CEQA analysis for Subsequent Project Approvals, including but not limited to individual Buildings or phases of the Project is intended to be required, provided that (a) such Buildings or phases comply with the terms and conditions of the Project Rules and this Agreement, and (b) none of the conditions are present that require further environmental review under CEQA on the Effective Date, in particular Public Resources Code Section 21166.

2.6 Development Timing and Phasing.

2.6.1 **Generally**. The Parties acknowledge that Owner cannot at this time predict with certainty when or the rate at which phases of the Property would be developed. Such decisions depend upon numerous factors which are not all within the control of Owner, such as market orientation and demand, interest rates, competition and other factors. Because the California Supreme Court held in *Pardee Construction Co. v. the City of Camarillo*, 37 Ca1.3d 465 (1984), that the failure of the Parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development controlling the Parties' agreement, it is the intent of the City and Owner to hereby acknowledge and provide for the right of Owner to develop the Project in such order and at such rate and times as Owner deems appropriate within the exercise of its sole and subjective business judgment, subject to the terms, requirements and conditions of the Project Rules, including but not limited to the infrastructure phasing requirements therein, and this Agreement. The City acknowledges that such a right is consistent with the intent, purpose and understanding of the Parties to this Agreement, and that without such a right, Owner's development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Laws and this Agreement. Owner shall use commercially reasonable efforts, in accordance with its reasonable business judgment and taking into consideration market conditions and other economic factors influencing Owner's sole and subjective business judgment, to commence or to continue development, and to develop the Project in a regular, progressive and timely manner in accordance with the provisions and conditions of this Agreement and with the Project Rules, however, Owner shall not, by reason of its entry into this Agreement or commencement of any phase of the Project, have an obligation to commence construction of any phase or portion of the Improvements other than Improvements already commenced and related infrastructure.

2.6.2 **Project Not Subject to Restrictions**. Subject to Development Agreement Laws, Owner and the City intend that, except as otherwise provided herein, this Agreement shall vest the Project Rules against subsequent City resolutions, ordinances, growth control measures, initiatives and referenda (other than a referendum that specifically overturns the City's approval of the Project Approvals) that would directly or indirectly limit the rate, timing or sequencing of development, or would prevent or conflict with the land use designations, permitted or conditionally permitted uses on the Property, design requirements, density and intensity of uses as set forth in the Project Rules, and that any such resolution, ordinance, measure, initiative or referendum shall not apply to the Project Approvals and the Project. In the event of a conflict

between this Agreement and the Specific Plan, this Agreement shall control to the extent of such conflict. The orderly and measured build-out of the Project and the Project Rules will allow for the absorption of the new development into the community and the integration of the Project into the community.

2.6.3 **Infrastructure Improvements and Phasing**. Consistent with this Agreement and the Project Approvals, each final map implementing the TPM shall include a detailed description of the infrastructure improvements and other requirements for the phase shown in the particular final map. As necessary for orderly development of the Project, the City may modify the Public Improvement requirements necessary to serve each phase as shown on particular final maps so long as such modifications substantially comply with the intent of this Agreement and the Applicable Rules. The infrastructure phasing plan for Public Improvements set forth in Section 5.3 of the Specific Plan has been proposed in response to market demands. The exact order in which the Public Improvements are constructed is dependent upon the location of each Planning Area and its expected development timing. The phasing schedules and figures in the Specific Plan are preliminary and conceptual only and may undergo modification as construction commences. The City agrees that Owner may employ phased final maps, approved in accordance with Govt. Code Section 66452.6, in order to implement the TPM. Construction of the development permitted hereby, including but not limited to coordination of final subdivision maps, may be done progressively in stages in any phasing order, provided the Public Improvements are constructed to adequately service the development and as needed to preserve the public health, safety and welfare in each phase of development and further provided that such phase of development conforms substantially with the intent and purpose of the Specific Plan. Due to possible unforeseen changes in market conditions and absorption rates, actual development of the Project may occur at an accelerated or slower rate in fewer or more phases. The Parties acknowledge and agree that Owner may modify the phasing plan at any time, in its sole and absolute discretion, as long as each phase or each Building in each phase is adequately serviced with all necessary Public Improvements. Modifications to the phasing plan shall be not require an amendment to this Agreement or the Specific Plan unless such phasing is inconsistent with this Agreement or the Specific Plan.

2.7 Property Acquisition for Offsite Infrastructure. Owner shall, in a timely manner as determined by the City and consistent with the requirements of the Project and the conditions of approval for the Project, acquire the property rights necessary to construct or otherwise provide the Public Improvements contemplated by this Agreement and the Project Approvals. In any instance where Owner is required to construct any Public Improvement on land within the municipal limits of the City, as the same are determined following the Annexation of the Property into the City, and to which neither Owner nor the City has sufficient title or interest, including fee title, an easement, right of way or license determined necessary by the City, Owner shall make reasonable, good faith efforts to acquire such title or interest for at least 90 days. For the purposes of this Section, “reasonable good faith efforts” shall include proof that Owner made a written offer to purchase the property interest at fair market value, in accordance with an appraisal conducted by an MAI appraiser. If Owner is unable to acquire such title or interest despite demonstrating to the City such reasonable, good faith efforts, Owner may request of the City in writing and the City shall, subject to compliance with all applicable laws governing notice, hearing and deliberation, consider the acquisition of such title or interest by condemnation provided Owner funds the cost of such activities in advance. If the City intends to approve the acquisition of such title or interest

by condemnation, Owner shall first be required to enter into a reimbursement agreement with City whereby Owner deposits monies with City to all costs associated with such acquisition or condemnation proceedings including but not limited to attorneys' fees, expert witness fees, cost of the property interest being acquired and jury awards of any kind and all of the legal, appraisal and other costs reasonably incurred by City related to the acquisition of such title or interest by condemnation in accordance with applicable law. Upon acquisition of the necessary interest in land, or upon obtaining a right of entry, either by agreement or court order, Owner shall commence and complete the public improvements. This requirement shall be included, and, if necessary, detailed, in any subdivision improvement agreement entered into between Owner and the City pursuant to Govt. Code § 66462. If Owner does not perform its obligations under this Agreement after the City Council approves the proposed acquisition through adoption of a resolution of necessity to condemn, the City, in its discretion, may suspend the issuance and effectiveness of the Project Approvals, entitlements and subsequent discretionary approvals (if any) for the Property.

2.8 Fee Credits and/or Reimbursement for Construction of Certain Facilities.

2.8.1 **Traffic and Transportation Improvements**. Subject to the terms of Section 5.2.8 of the Specific Plan and as a condition to issuance by the City of a certificate of occupancy for the first Building in the phase of the Project for which that improvement or fee is identified in the Traffic Analysis dated September 22, 2023, prepared by Urban Crossroads Inc. ("Traffic Study"), Owner shall (a) pay for and, if requested by the City, construct the traffic and transportation improvements listed on Exhibit "D" to this Agreement ("Offsite Traffic Improvements") and (b) pay Fair Share Fees, other Development Fees and Riverside County Transportation Uniform Mitigation Fees ("TUMF"), applicable to the Project as identified in Table 1-4 of the Traffic Study. All Fair Share Fees and other Development Fee payments made by Owner shall be dedicated by the City to funding the cost to construct such improvements. TUMF is administered by WRCOG.

2.8.2 **Fee Credits**. The Offsite Traffic Improvements to be constructed directly by Owner are oversized Public Improvements in that Owner is conditioned to construct such improvements that the Parties agree are identified in the DIF Study and for which the cost will exceed the fees due for such improvements from the Project as specifically provided in the Traffic Study and approved by the City. In consideration for Owner, at its own cost and expense or through a community facilities district, funding and, if requested by the City, constructing such oversized Offsite Traffic Improvements, Owner shall receive credits towards the payment of amounts otherwise due and payable by Owner as Development Fees ("Owner's Fee Credit") provided the oversized Offsite Traffic Improvements are specifically identified in the DIF Study. TUMF credits are subject to the approval of WRCOG and only WRCOG can grant fee credits to TUMF in its discretion and subject to its rules. The City has no liability or obligations to collect or administer TUMF fees at this time. Alternatively, at the election of the Owner, oversized Public Improvements may be recovered by Owner under the procedures in Section 2.8.3(b) applicable to Additional Capacity

2.8.3 **Crossroads Lift Station Upgrades; Reimbursement Agreement**.

(a) **Crossroads Lift Station Upgrade Requirements**. Prior to receiving the first certificate of occupancy for any Building on the Property, Owner will be

required to make certain upgrades and improvements ("Crossroads Lift Station Upgrades") to the existing off-site Beaumont Crossroads sewer lift station ("Crossroads Lift Station") as specified in the Preliminary Design Memorandum for the Improvements to the Beaumont Crossroads Lift Station dated October 4, 2023 ("Crossroads Design Memorandum"). The Crossroads Lift Station Upgrades are designed to accommodate the flow from the On-Site Lift Station (defined in Section 2.12) servicing the Project plus additional wet well capacity as provided below. Certain technical matters in the Crossroads Design Memorandum have not been approved by City and remain subject to further study and analysis by the City's consultants; therefore, the Crossroads Design Memorandum shall be subject to such modification and change as determined by the City's consultant, and such study with changes and modifications shall be deemed and defined as the Crossroads Design Memorandum. The Parties agree that the land uses, building square footage and acreage for the Project upon which the projected sewer flows from the On-Site Lift Station and the size of the Crossroads Lift Station Upgrades are based on data identified on Table 1 in Exhibit "E" to this Agreement. In addition, the peak sewer generation flows for each Planning Area within the Project are based upon the uses, square footage and acreage in Table 1 and Table 2 in Exhibit "E" to this Agreement. The Crossroads Lift Station Upgrades will allow 514 gallon per minute flows ("New Pumping Capacity"). The Crossroads Lift Station Upgrades include construction of a wet well that is designed to accept capacity in excess of that required for the anticipated projected ultimate build out of the Project ("Additional Wet Well Capacity").

(b) **Reimbursement Agreement**. Owner shall be entitled to receive a reimbursement for Additional Wet Well Capacity for the Crossroads Lift Station and, if applicable pursuant to Section 2.8.2, Offsite Traffic Improvements (collectively, "Additional Capacity") from future parties who will benefit from such Additional Capacity provided that when Owner becomes aware of any future property that would be subject to this reimbursement requirement the Owner provides written notice to City prior to issuance of entitlements for development on such property identifying such future property and the amount of the reimbursement proposed. The City shall enter into an agreement to reimburse Owner from development agreement fees, CFD funds, grants or other fees paid for the Additional Capacity by developers of other properties contributing their fair share to such Additional Capacity or funded by the CFD funds. Owner shall have no obligation to construct the Crossroads Lift Station Upgrades or Offsite Transportation Improvements, if applicable pursuant to Section 2.8.2, prior to execution of a reimbursement agreement or reimbursement agreements for such improvements and the applicable provisions of Govt. Code Sections 66485-66489 (each a "Reimbursement Agreement" and, collectively, "Reimbursement Agreements") between Owner and the City, to recover the total amount financed as and when such projects receive grading permits. The Parties acknowledge that the goal of any such Reimbursement Agreement is to seek to assure that all future projects pay their fair share of the cost of the Additional Capacity, as determined by the City. Without limiting the effect of the foregoing , the City will have no direct financial or other liability to Owner under any Reimbursement Agreement; but will only administer reimbursements from projects that benefit from the Additional Capacity. Such separate agreement shall have a term of no longer than twenty-five (25) years. To ensure that owners of property and municipalities which reasonably benefit from the Additional Capacity ("Benefiting Parties") pay their fair share for such improvements, the City hereby agrees that to the extent that it has legal authority to do so it shall condition or otherwise require that Benefiting Parties pay for such improvements, either through development agreements, subdivision improvement agreements or other mechanisms with the City or by

requiring that such Benefiting Parties and municipalities enter into agreements with Owner directly. The Reimbursement Agreement between the City and Owner shall provide that if and when a particular property benefiting from the Additional Capacity is developed, the City shall either reimburse Owner for the pro rata share of the costs of the Additional Capacity actually received by it or shall enforce the condition or obligation for payment set forth in any separate agreement or the right to so enforce the separate agreement to Owner. Owner shall have no recourse against the City under the Reimbursement Agreement except that the City shall have obligation, enforceable by Owner, to pay to Owner, until Owner is fully reimbursed for the costs of the Additional Capacity, any monies it receives from developers or other sources for the Additional Capacity, including but not limited to grant funding. Similarly, if the Benefiting Party fails to reimburse Owner for the Additional Capacity, Owner shall have no recourse against the City; however, Owner shall retain all rights against the Benefiting Parties and benefited property, if any. In no case shall the City be obligated to reimburse Owner from general funds of the City. Whenever in this Agreement or in future reimbursement agreements the City is making reimbursements to Owner, the reimbursements shall be made on a quarterly basis. The City shall not reimburse Owner for costs of interim temporary improvements (improvements with a service life of less than 5 years) as determined by the City.

2.8.4 **Application of Fee Credits and Reimbursement Rights**. Owner's Fee Credit or right of reimbursement for Offsite Traffic Improvements shall vest for each improvement upon payment, or construction, as specified in Section 2.8.1 or 2.8.3 (b), as applicable. Owner's Fee Credit or right of reimbursement for Additional Wet Well Capacity shall vest upon completion of construction of the Additional Wet Well Capacity described in Section 2.8.3(a). Owner's Fee Credit and reimbursement amounts may reflect actual "hard" and "soft" costs of design, construction and land acquisitions and/or right of way acquisition costs arising from or related only to Owner transactions with third parties in Owner's performance under this Agreement as to the Offsite Traffic Improvements and Additional Wet Well Capacity.

2.9 Rules, Regulations and Official Policies; Future Rules.

2.9.1 **Applicable Rules**. During the Term, the rules, regulations, ordinances and official policies governing the permitted uses of land, the density and intensity of use, conceptual architecture, and improvement of the Property including but not limited to the maximum height and size of proposed Buildings and other structures and improvements on the Property, shall be those rules, regulations and official policies in force on the effective date of the ordinance enacted by the City Council approving this Agreement. Except as otherwise provided in this Agreement, (a) the permitted uses of the Property shall include construction of commercial and/or industrial Buildings and appurtenant structures, installation of all improvements and infrastructure reasonably incident thereto, and all other uses permitted under the Specific Plan approved contemporaneously with this Agreement, as the same may be amended from time to time in accordance with the provisions of this Agreement, and this Agreement. The density and intensity of use of the Property and the maximum height and size of proposed Buildings shall be as set forth in the Specific Plan and the other Project Rules. To the extent any future changes in the General Plan, Specific Plan, zoning codes or any future rules, ordinances, regulations or policies adopted by the City purport to be applicable to the Property but are not consistent with the terms and conditions of this Agreement, the terms of this Agreement and the Applicable Rules in effect prior to such changes shall prevail.

2.9.2 **Reservation of Rights**. Unless permitted pursuant to clauses (a) through (e) of this Section 2.9.2, any future changes in the General Plan, Specific Plan, zoning codes or future rules, ordinances, regulations or policies including any moratorium, whether adopted by initiative or referendum or otherwise, shall be deemed to be inconsistent with the vested rights conferred by this Agreement and shall therefore not be deemed Future Rules and shall not be applicable to the development of the Property or the Project; provided that the following are deemed not to be inconsistent with the Applicable Rules:

(a) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure excluding those specifically set forth in the Specific Plan or this Agreement.

(b) The application to development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations. To the extent that any actions of federal or state agencies (or actions of regional and local agencies, including the City, required by federal or state agencies) have the effect of preventing, delaying or modifying development of the Property, the City shall not in any manner be liable for any such prevention, delay or modification of said development. Owner is required, at its cost and without cost to or obligation on the part of the City, to participate in such regional or local programs and to be subject to such development restrictions as may be necessary or appropriate by reason of such actions of federal or state agencies (or such actions of regional and local agencies, including the City, required by federal or state agencies). In the event state or federal laws or regulations enacted after this Agreement is entered into are inconsistent with or prevent or preclude compliance with one or more provisions of this Agreement and/or require changes in Project Approvals, each Party shall provide the other Party with a copy of such law or regulation and written notice concerning the conflict with this Agreement or the required change in Project Approvals. The Parties shall, within thirty (30) days of the first such notice, meet and confer in good faith in a reasonable attempt to modify this Agreement and/or the Project Approvals to comply with such law or regulation in the manner that is least disruptive to the vested rights and Applicable Rules in effect prior to such new law and the purpose and intent of this Agreement. In the event that no modifications are agreed upon, Owner shall have the right to terminate this Agreement.

(c) Regulations that may be inconsistent with the Applicable Rules but that are reasonably necessary to protect the public health and safety. In determining whether any such regulations are reasonably necessary to protect the public health and safety as set forth above, the City Council shall make findings, based on evidence presented to and accepted by the City Council, that the changes are reasonably necessary to protect the public health or safety. The provisions of this Section do not apply to any measure adopted by initiative. To the extent possible, any such regulations shall be applied and construed to minimally impact Owner's rights provided under this Agreement. No such subsequently adopted changes in the General Plan, Specific Plan, zoning codes or rules, ordinances, regulations or policies of the City shall apply if its application to the Property would physically prevent development of the Property for the uses and to the density or intensity of development set forth in the Existing Project Approvals, as the same may be amended in accordance with the requirements of this Agreement.

(d) Regulations that are not inconsistent with the Project Rules.

(e) Regulations that are inconsistent with the Applicable Rules provided each Owner to which such regulations would be applicable has given written consent to the application of such regulations to development of the Property.

If application of a subsequently enacted law, rule, regulation or policy under Section 2.9.2(b) through (e) above results in a reduction in the scope of the Project (as by reducing the permitted square footage, use or density of development), then the Exactions required hereunder shall be equitably reduced.

2.9.3 The Project shall be constructed in accordance with the applicable standards, requirements and prohibitions of the Uniform Building, Mechanical, Plumbing, Electrical, Fire Codes and other codes, City standard construction specifications and details and Title 24 of the California Code of Regulations (California Building Standards Code) in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for the infrastructure improvements required by the Project Approvals, such improvements shall be constructed in accordance with the provisions of the codes delineated herein in effect at the start of construction of such infrastructure. Ordinances, resolutions, rules, regulations and official policies governing the design, improvement and construction standards and specifications applicable to Public Improvements to be constructed by Owner shall be those in force and effect at the time the applicable permit for the construction of such improvements is issued. If no permit is required for the Public Improvements, the date of the permit shall be deemed the date construction for the Public Improvements is commenced.

2.10 Fees, Exactions, Conditions and Dedications.

2.10.1 Development Fees. Impact fees and sewer and water connection and capacity fees shall be those in effect at the time of the issuance of a building permit and due and payable by Owner prior to the issuance of the building permit for the Building in question. For the sake of clarity, as a condition to building permit issuance for each Building, Owner shall pay the development impact fees listed on Exhibit "C" for such Building in the amount in effect at the time the building permit for such Building is issued, as well as any new or increased development impact fees authorized by this Agreement. The City retains discretion to prospectively revise such fees as the City deems appropriate, in accordance with applicable law, and to adopt new development impact fees. The City may apply subsequently adopted development impact fees to the Project if the same are applied uniformly to development either throughout the City or with a defined area of benefit that includes the Property if the subsequently adopted Exaction is not applied on an ad hoc basis solely to the Project and the subsequently adopted fee does not physically prevent development of the Property for the uses and to the density and intensity of development set forth in this Agreement. The development impact fees listed on Exhibit "C", as the same may be modified pursuant to this Agreement are referred to herein as "Development Fees". For the sake of clarity, Owner shall pay the development fees at the time of and in the amount as determined by the City at the time the building permit is issued for such building and such payments shall be paid as a condition of building permit issuance or at such other time as required by the Beaumont Municipal Code.

2.10.2 **Limitations; Future Impacts**. Except as otherwise specifically set forth in this Agreement, in the Existing Project Approvals or in the Applicable Rules, the City shall not

impose any obligations on Owner to dedicate land or to construct improvements, or impose any Exactions to defray all or a portion of Public Improvements, public services, community amenities or for other municipal purposes, mitigation measures, obligations for construction of on-site or offsite improvements or dedication or reservation requirements upon Owner that apply to the Property, the Project or any improvements thereon or permit or Project Approval therefor without the prior written consent of Owner. Notwithstanding the foregoing, if the Project or any part thereof is modified by Owner in a manner that increases density, intensity of use or square footage or changes use, the City shall have the right to require mitigation of impacts associated with such modifications. The Parties acknowledge that the MMRP and the conditions of approval for the Vesting Tentative Parcel Map provide the City Engineer and other City staff with the right to review and approve technical studies and reports implementing the Project to confirm the technical adequacy of the determinations therein and in that context may require refinement of the Project plans as well as mitigation of impacts, provided the same are not inconsistent with the Project Rules.

2.10.3 **Processing Fees**. The City may charge and Owner shall pay fees for processing applications for governmental approvals, plan check fees, inspection fees and similar fees permissible under California Constitution Article XIII C Section 1(e)(1)-(7), judicial interpretations thereof or any successor provision(s) of law including, but not limited to those for reviewing and inspecting such applications and the construction being or to be performed pursuant thereto which are in force and effect on a city-wide basis at the time the application is submitted for those permits.

2.10.4 **Regional Impact Fees**. Unless otherwise relieved by agreement with such agencies (i.e., TUMF and/or MSHCP fee credit agreement or similar agreement), Owner shall be required to pay the regional development impact fees, including but not limited to TUMF and MSHCP fees, in effect and in the amount due at the time of applying for a building permit.

2.10.5 **Assignment**. The benefit of or credit for Development Fees and processing fees paid by Owner may be Assigned by Owner to any Assignee provided that a written Assignment of the credit clearly identifying the source, amount and type of credit executed by the assignor and assignee is provided to the City Manager for the City Manager's record keeping.

2.10.6 **Fair Share Fees**. The Project entails payment by Owner of fair share transportation fees which are in addition to the fees referred to in Section 2.10.1 ("Fair Share Fees"). Owner shall pay such fees to the City to be held by City prior to and as a condition of the payment of the first building permit applicable to the Project. City shall have no obligation to segregate such amounts or to pay interest on such fees.

2.11 <u>Completion of Improvements</u>. The City generally requires that all improvements necessary to service new development be completed prior to issuance of building permits. The Parties acknowledge that some of the backbone or in-tract improvements associated with the development of the Property may not need to be completed to adequately service portions of the Property as such development occurs. Therefore, as and when portions of the Property are developed, only the backbone or in-tract infrastructure improvements required to service such portion of the Property in accordance with the Project Rules (e.g., pursuant to specific tentative

map conditions or other land use approvals) shall be completed prior to issuance of any building permit or certificate of occupancy within such portion of the Property as determined by the City.

2.12 <u>Sewer</u>.

2.12.1 **Beaumont Point Development On-Site Sewer Lift Station**. The Project requires the construction of the new onsite Beaumont Pointe Development Sewer Lift Station ("On-Site Lift Station") that is separate and upstream from the Crossroads Lift Station referenced in Section 2.8.3(a)). The On-Site Lift Station shall be constructed by Owner within the Project prior to receiving the first certificate of occupancy for the Project.

2.12.2 **Project Demand**. Peak sewer flow from the Project's On-Site Sewer Lift Station is derived from the Beaumont Pointe Development Sewer Lift Station and Force Main Preliminary Design Report dated October 2023 ("On-Site PDR"). The On-Sight PDR identifies a peak dry weather sewer flow of 170 GPM from the Project and a peak sewer flow of 233 GPM from the On-Site Sewer Lift Station to the Beaumont Crossroads Lift Station ("Reserved Off-Site Flow"). The Crossroads Design Memorandum for the downstream Crossroads Lift Station (as defined in 2.8.3) sizes the Crossroads Lift Station Upgrades based on this peak sewer flow of 233GPM. The On-Site PDR derives the peak sewer information based upon the land uses, building square footage and acreage for the Project as provided in the Crossroads Design Memorandum and Table 1 in Exhibit "E" to this Agreement. The Crossroads Design Memorandum (Table 2 to Exhibit "E") also identifies the peak sewer generation flows for each Planning Area within the Project based upon the uses, square footage and acreage in Table 1 of Exhibit "E" to this Agreement. The On-Site PDR has not been approved by City and is subject to further study and analysis by the City's consultants. Therefore, the On-Site PDR and Exhibit "E" are subject to such modification and change as determined by the City's consultant and such study with changes and modifications shall be deemed and defined as the On-Site PDR. Except as set forth in this Section 2.12, peak sewer flow from the Project to the Crossroads Lift Station shall be limited to the Reserved Off-Site Flow. In light of the construction by Owner of the Crossroads Lift Station Upgrades creating the Reserved Off-Site Flow, the Reserved Off-Site Flow for the Project is reserved as a vested right. If the Reserved Off-Site Flow to the Crossroads Lift Station is modified in any revised On-Site PDR, the Parties shall record a Minor Amendment to this Agreement establishing the new Reserved Off-Site Flow and the sizing of the Crossroads Lift Station Upgrades shall be adjusted accordingly. The On-Site PDR and the Crossroads Design Memorandum shall not impose a requirement on Owner to design or construct peak sewer flow capacity over and above that required for the Project except with regards to the Additional Wet Well Capacity (as defined in 2.8.3).

2.12.3 **Effect of Project Modifications**. At each Plot Plan review within the Project or at such other intervals as determined by City, the City shall identify and record the anticipated flows from the proposed use and, to determine available remaining capacity, shall deduct such anticipated flows from the total Reserved Off-Site Flow. Following occupancy, the Parties, or either of them, may calculate actual sewer flows from each Building to conform City records to the as-built sewer flow condition. However, if, at consideration of any Plot Plan, it is determined by the City that the projected maximum flow from the proposed use, together with actual measured flow generated by the Project, exceeds or will exceed the total Reserved Off-Site Flow such impacts shall be mitigated at the sole cost and expense of the Owner. Owner agrees not

to challenge such impact mitigation based on any argument that the impact was not caused by the Owner and agrees to mitigate the same. If an established use of a Building after the issuance of the initial Plot Plan approval is changed in a manner that increases the impact to the sewer system and the projected maximum flow from the proposed use, together with actual measured flow generated by the Project, exceeds or will exceed the total Reserved Off-Site Flow, the City reserves the right to require such Owner to mitigate such increase from the inception of such use in connection with any future approval of a Plot Plan, building permit or certificate of occupancy. City may enforce Owner's obligation by requiring Owner to pay for such mitigation impacts and they shall be due upon demand. City may also require the Owner to build such improvements or alter its use of the Project accordingly to resolve such sewer capacity issues. All sewer discharges from the Project shall comply with the applicable provisions of law, regulations, policies, and orders including, but not limited to, those contained in the Beaumont Municipal Code.

3. Obligations of Owner.

If Owner exercises its vested right to develop the Project and proceeds to develop the Project, Owner shall develop the Property in accordance with and subject to the terms and conditions of this Agreement and the Project Rules. The failure of Owner to comply with any term or condition of or fulfill any obligation of Owner under this Agreement, the Project Rules or this Agreement shall constitute a default by Owner under this Agreement; provided that failure of Owner to construct all or any portion of the Project, or to commence or complete the public benefits or any Public Improvements shall not be a default under this Agreement unless the Project is completed and such public benefits and Public Improvements are not then provided. Any default pursuant to this Section shall be subject to cure by Owner as set forth in Section 4 hereof.

4. Default, Remedies, Termination.

4.1 General Provisions. Subject to extensions of time by mutual consent in writing and as set forth in Section 1.3.2 of this Agreement with respect to Force Majeure Delay, failure or unreasonable delay by either Party to perform any term or provision of this Agreement shall constitute a default. In the event of default of any terms or conditions of this Agreement, the Party alleging such default shall give the other Party notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured; such period of time shall provide not less than fifteen (15) days from the date of receipt of such notice to cure any monetary default and thirty (30) days from the date of receipt of such notice to cure any non-monetary default, provided, however, for non-monetary defaults if the amount of time reasonably required to cure the breach exceeds thirty (30) days, the breaching Party shall have such longer time period as may be reasonably required provided that Owner has commenced to cure such default and is diligently prosecuting such cure to completion. During any such cure period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings. After notice and expiration of the cure period, if such default has not been cured or if cure has been commenced but is not being diligently pursued in the manner set forth in the notice, the other Party to this Agreement may at its option:

(a) Terminate this Agreement (provided that if any portion of the Project or Property has previously been Assigned, such termination shall only affect the portion of the Property and/or Project owned by Owner claiming City default or the defaulting Owner, as

applicable), in which event neither Party shall have any further rights against or liability to the other with respect to this Agreement or the Property; provided that if the City commences such termination proceedings, it shall give not less than forty-five (45) days prior written notice thereof to Owner, which notice shall specify the affected Parcel or Parcels and the precise grounds for termination and shall set a date, time and place for a public hearing before the City Council. At the noticed public hearing, Owner and/or its designated representative, shall be given an opportunity to make a full and public presentation to the City and to respond to the City's evaluation of Owner's performance, either orally or in a written statement, at such Owner's election. If, following the taking of evidence and the hearing of testimony at said public hearing, the City finds, based upon substantial evidence, that Owner is not in compliance with a specific, material term or provision of this Agreement, then the City may (unless the Parties otherwise agree in writing to modify the Agreement) terminate this Agreement as to the applicable portion of the Property owned by the defaulting party only.

(b) Institute legal or equitable action to cure, correct or remedy any default, including but not limited to an action for injunctive relief or specific performance of the terms of this Agreement; provided, however, that in no event shall either Party be liable to the other for money damages for any default or breach of this Agreement except as specifically provided to the contrary in this Section 4.1(b). If any portion of the Project or Property has prior to such default been Assigned, such termination shall only affect the portion of the Property and/or Project owned by Owner claiming City default or the defaulting Owner, as applicable. Nothing herein shall preclude either Party from seeking reimbursement for amounts expressly required to be paid by one Party to the other under this Agreement including but not limited to application fees, Development Fees, reimbursement of consultants' fees to City, or TUMF credit agreement or any other reimbursement or credit agreement fees to Owner or to recover attorneys' fees if it is the prevailing Party as provided herein.

It is expressly recognized that (a) except as set forth above, injunctive relief and specific enforcement of this Agreement are the proper and desirable remedies and that Owner's sole legal remedy for a breach or violation of this Agreement by the City shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement or to terminate this Agreement and (b) no act or omission of any Defaulting Owner shall by itself constitute a default by another Owner, and the City shall have no obligation whatsoever to cure any such default for the benefit of any other Owner within the Project.

4.2 **<u>Owner's Default; Enforcement</u>**. No building permit for a Building within a Planning Area shall be issued or building permit application accepted for the building shell of any structure on such Planning Area if the applicant or any Person controlling such applicant for the permit is in default under the terms and conditions of this Agreement unless such default is cured. Owner shall cause to be placed in any covenants, conditions and restrictions applicable to the Property, or in any ground lease or conveyance thereof, an express provision permitting an Owner

of the Property, lessee or the City acting separately or jointly to enforce the provisions of this Agreement and to recover attorneys' fees and costs for such enforcement.

4.3 Annual Review.

4.3.1 **Process**. Without limiting the effect of Section 4.1, the City Manager shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Owner with the terms and conditions of this Agreement since the preceding annual review. Such periodic review shall be limited in scope to compliance with the terms and conditions of this Agreement pursuant to Govt. Code Section 65865.1. The Planning Director shall begin the review proceeding by giving thirty (30) days prior written notice to Owner that the Planning Commission intends to undertake period review of the Agreement. Notice of such annual review shall include the statement that any review may result in amendment or termination of this Agreement. The Planning Commission shall conduct a public hearing at which the Owner shall demonstrate good faith compliance with the terms of this Agreement. The Planning Commission shall determine upon the basis of substantial evidence whether or not Owner has, for the period under review, complied in good faith with the terms and conditions of this Agreement.

(a) If the Planning Commission finds and determines on the basis of substantial evidence that Owner has complied in good faith with the terms and conditions of the Agreement during the period under review, the review for that period is concluded and, if requested by Owner, the City shall issue the Certificate described in Section 4.3.5.

(b) If the Planning Commission finds and determines on the basis of substantial evidence that Owner has not complied in good faith with the terms and conditions of the Agreement during the period under review, the City shall provide written notice to Owner of the determination by registered mail.

The Planning Commission shall make its decision regarding compliance within twenty (20) days after the close of each public hearing. Notice of the decision shall be filed by the Planning Director with the City Clerk, together with a report of the proceedings, and a copy mailed by registered mail to Owner.

4.3.2 **Appeal; City Council Review**. The decision of the Planning Commission shall be final unless, within fifteen (15) days of the mailing of said decision, Owner or any interested person files an appeal or unless the City Council orders the matter set for public hearing. If the Planning Commission is unable to make a decision, that fact shall be reported to the City Council in the same manner for reporting decisions and the failure to make a decision shall constitute a denial of the application. The City Council may refer the matter back to the Planning Commission for further proceeding or for report and recommendation, provided that the City Council shall make the final decision.

4.3.3 **Owner Right to Respond and Cure**. Proceedings related to modification or proposed termination of this Agreement shall be conducted in accordance with Section 4.1(a). At each public hearing, Owner shall be provided an opportunity to respond to any report or finding; any such response submitted in writing shall be included by the City Manager in

the submittal to the City Council. Except as specifically provided to the contrary in this Agreement, failure to prosecute the Project alone shall not be a default under this Agreement or a cause for finding of noncompliance at annual review. If there is more than one Owner, then the finding of the Planning Commission and City Council shall be made with respect to the conduct of each Owner individually and the noncompliance applicable to one Owner shall not be a basis to find noncompliance by other Owner(s) in the absence of a determination that the other Owner(s) are also noncompliant under this Agreement. Prior to any modification or termination of this Agreement, Owner shall be provided a right to cure any alleged default in accordance with Section 4.1.

4.3.4 **Effect of No Review**. Failure of the City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement nor shall Owner have or assert any defense to such enforcement by reason of any such failure to conduct an annual review. Owner shall not be penalized in the event that the City fails to request periodic review as contemplated in this Section. Any finding of non-compliance with this Agreement shall be made solely on the basis of substantial evidence that Owner has not complied in good faith with the terms and conditions of this Agreement at or following a public hearing.

4.3.5 **Certificate of Agreement Compliance**. If, at the conclusion of a periodic review, Owner is found to be in compliance with this Agreement, the City shall, upon written request of the Owner, issue a Certificate (the “Certificate”) to Owner stating that after the most recent periodic review and based upon the information known or made known to the Planning Commission that: (a) this Agreement remains in effect, and (b) Owner is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, and shall state the anticipated date of commencement of the next periodic review. Owner may record the Certificate with the County Recorder. If the City does not find Owner to be in compliance with this Agreement, it shall not be obligated to issue the Certificate.

4.4 Limitation on Liability. In no event shall the City, or its public officials, officers, agents or employees or Owner or its employees, officers, members or partners, be liable in damages for any breach or violation of this Agreement.

4.5 Applicable Law, Venue and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California exclusive of its choice of law rules and the venue for any legal action concerning this Agreement shall be in Riverside County Superior Court. Owner acknowledges and agrees that the City has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity or meaning of this Agreement shall be that accorded legislative acts of the City. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing Party of such action shall be entitled to reasonable attorneys' fees, expert witness fees, court costs and such other costs as may be fixed by the Court.

4.6 Invalidity of Agreement. If this Agreement shall be determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid or

unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any state or federal law which becomes effective after the date of this Agreement and either Party in good faith determines that such provision is material to its entering into this Agreement, either Party may elect to terminate this Agreement as to all obligations then remaining unperformed in accordance with the other provisions of this Agreement. In all other cases, the Parties shall negotiate in good faith for amendments to this Agreement that will cure the invalidity or unenforceability.

4.7 **Termination for Reasons Other than Owner or City Default**. Notwithstanding that there is no default by either Party under this Agreement, this Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the Term or failure of LAFCO to approve the Annexation Applications within the time period set forth in Section 1.3.1.

(b) Entry after all appeals have been exhausted, of a final judgment or issuance of a final order by a court of competent jurisdiction directing the City to set aside, void or annul the adoption of the ordinance approving this Agreement or the adoption of the Existing Project Approvals, provided the time for filing any return to writ has also expired.

(c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement and the Existing Project Approvals or any thereof.

(d) Owner's election to terminate this Agreement. If Owner elects not to develop Property as a commercial and industrial project in substantial conformance with the Project Approvals or elects to terminate this Agreement pursuant to Section 2.9.2 or Section 13.2 of this Agreement, Owner shall provide notice of said election to the City.

Upon the termination of this Agreement pursuant to Section 4.6 or this Section 4.7, no Party shall have any further right or obligation hereunder, except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement. Termination of this Agreement shall not affect any of the covenants of the City or Owner specified in this Agreement to continue after the termination of this Agreement.

5. Hold Harmless Agreement.

5.1 **Hold Harmless Agreement**. Owner hereby agrees to and shall hold the City, its elective and appointive council members, boards, commissions, officers, agents and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage, which may arise from Owner or Owner's contractors, subcontractors, agents or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, or by any one or more Person(s) directly or indirectly employed by or acting as agent for Owner or any of Owner's contractors or subcontractors provided that the foregoing shall not extend to (a) any breach by the City of its obligations under this Agreement, or (b) any claim that is the result of the gross negligence or willful misconduct of the City. In the event of any legal action instituted by a third Party or any

governmental entity or official arising out of the approval, execution or implementation of this Agreement (exclusive of any such actions brought by the City, any official of the City, or Owner), Owner agrees to and shall cooperate fully and join in the defense by the City of such action, and Owner shall pay the cost including attorney's fees arising from such defense as such expenses are incurred by the City, but in no event later than forty-five (45) days after receipt of the City's demand. In the event that this Agreement or any of the Project Approvals or the Annexation are the subject of legal challenge, and Owner is unable to proceed with the Project because of the litigation, the term of and timing of obligations imposed pursuant to this Agreement related to or affected by such legal challenge shall be automatically tolled during the pendency of the litigation. The Parties shall cooperate in the defense of all third-party challenges to the Project, the Project Approvals, this Agreement or the Annexation Applications, and shall keep each other informed of all developments relating to defense of such matters subject only to confidentiality requirements that may prevent the communication of such information. The City Manager is authorized to negotiate and enter into a joint defense agreement in a form reasonably acceptable to the City Attorney. Any joint defense agreement shall also provide that any proposed settlement of litigation or other challenge shall be subject to the Parties' approval, each in its reasonable discretion. Notwithstanding the foregoing, Owner may elect not to defend a challenge to the Project, the Project Approvals, this Agreement or the Annexation Applications. In such event, the City shall have the right, in its sole discretion, to defend against such action at its sole cost and expense or to elect not to defend such action. If Owner, and thereafter City, each elects not to defend against the action, Owner shall remain obligated to indemnify and hold Agency and City harmless from and against any damages, attorneys' fees or cost awards that are actually awarded; provided that Owner shall have the right, in its sole discretion, to withdraw on behalf of the City from or to settle such action or take other steps to minimize the costs of such challenge provided that the settlement agreement does not impose any monetary obligation on the City the cost of which is not paid by Owner. It is agreed by the City that Owner shall take the lead role defending against any legal action to which this Section applies and Owner may, in its sole discretion, elect to be represented by the legal counsel of its choice. The City may, in its sole discretion, elect to be separately represented by the City Attorney and/or outside legal counsel of its choice in any such action or proceeding with the reasonable costs of such representation to be paid by Owner. Notwithstanding the foregoing, the Parties intend that the City's role under this Section shall be primarily oversight although the City reserves the right to protect its interests, and the City shall make good faith efforts to maximize coordination and minimize its City Attorney, and any outside legal costs (for example, minimizing filing separate briefs, and duplication of effort to the extent feasible).

5.2 **<u>Prevailing Wages</u>**. Without limiting the foregoing, Owner acknowledges the requirements of California Labor Code §1720*, et seq.*, and 1770 *et seq*., as well as California Code of Regulations, Title 8, Section 1600 *et seq.* ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects, as defined by the Prevailing Wage Laws. If work pursuant to this Agreement is being performed by Owner as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation under the contract in question is $1,000 or more, Owner agrees to fully comply with such Prevailing Wage Laws. Upon Owner's request, the City shall provide a copy of the then current prevailing rates of per diem wages. Owner shall make available to interested Parties upon request, copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the work

subject to Prevailing Wage Laws and shall post copies at Owner's principal place of business and at the Property. Owner shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless pursuant to the indemnification provisions of this Agreement from any claim or liability arising out of any failure or alleged failure by Owner to comply with the Prevailing Wage Laws associated with any “public works” or “maintenance” projects associated with Project development.

5.3 **Survival of Provisions**. The provisions of this Section 5 shall survive the termination of this Agreement with respect to matters arising during the Term.

6. **Project as a Private Undertaking**.

It is specifically understood and agreed by and between the Parties that the development of the Property is a separately undertaken private development. No partnership, joint venture or other association of any kind between Owner and the City is formed by this Agreement. The only relationship between the City and Owner is that of a governmental entity regulating the development of private property and Owner of such private property.

7. **Consistency with General Plan**.

The City hereby finds and determines that execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with the General Plan, as amended by the GPA.

8. **Notices**.All notices required by this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid or overnight mail delivery service, to the addresses of the Parties as set forth below. Notice required to be given to the City shall be addressed as follows:

the City of Beaumont
550 East 6th Street
Beaumont CA 92223
Attn: the City Manager

Notice required to be given to Owner shall be addressed as follows:

Beaumont Pointe Partners LLC
c/o Mike Masterson
18032 Lemon Drive, Suite 367
Yorba Linda, CA 92886

Either Party may change the address stated herein by giving notice in writing to the other Party, or by modifying the address for written notice in a written Assignment agreement submitted to the City pursuant to the requirements of this Section and recorded against the Property or applicable portion thereof. Thereafter notices shall be addressed and transmitted to the new address. If there is more than one Owner, notices shall be sent by the City to each and every Owner unless otherwise specified in an assignment and assumption agreement recorded against the Property.

9. **Recordation**.

When fully executed, this Agreement shall be recorded in the official records of Riverside County, California. Any amendments to this Agreement shall also be recorded in the official records of Riverside County.

10. **Estoppel Certificates**.

Either Party may, at any time, and from time to time, but no more often than quarterly, unless in connection with an Assignment, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (a) this Agreement is in full force and effect and a binding obligation of the Parties, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications, and (c) the requesting Party is not in default in the performance of its obligations under this Agreement to the knowledge of the responding Party, or if in default, to describe therein the nature and extent of any such defaults. The City Manager shall be authorized to execute any certificate hereunder. Each Party from which an estoppel certificate is requested shall provide a fully executed certificate within thirty (30) calendar days following the date of written request.

11. **Financial Commitments and Public Benefits**.

11.1 Community Facilities District. The City intends to form a community facilities district over the Property or to annex the Property into an existing community facilities district (the "CFD") to pay for the costs of certain infrastructure and municipal services. The Developer agrees to provide commercially reasonable cooperation to City at all times in connection with the formation or annexation to the CFD and not to oppose a determination or other action by the City to form the CFD or to annex the Property into an existing CFD, including a determination to subject all or any portion of the Property and the improvements thereon to such CFD in compliance with the terms of this paragraph. Provided that as of the date of issuance of the first certificate of occupancy for a building on the Property: (a) the City has facilitated or approved all steps required for such formation or annexation, (b) the City has formed the CFD or annexed the Property into an existing CFD, (c) the formation or annexation is finally approved and not subject to challenge or litigation then formation of or annexation to the CFD shall be a condition precedent to the issuance of the first certificate of occupancy on the Property. Special taxes in the CFD shall be levied on all parcels of property subject to a certificate of occupancy at a rate of $0.05 per square foot of building square footage annually which special tax shall escalate at a rate of two percent (2%) annually. The CFD special tax shall have a term of not less than 50 years. The costs of formation of the CFD shall be paid by the Developer and shall be reimbursed to the Developer from the Bond proceeds, if any, received by the City. If the CFD elects to issue bonds secured by the special taxes, the Developer agrees to cooperate with the CFD in the issuance of such bonds, including but not limited to providing any information related to the Developer, the Property and the Developer's development, sales, leasing and financing plans necessary to comply with federal securities laws and to enter into a written agreement to provide annual or semi-annual continuing

disclosure to owners of the bonds if determined by the CFD to be necessary in connection with the issuance of such bonds.

11.2 Public Benefits and Public Improvements.

11.2.1 Following its commencement of construction of any phase of the Project and in all cases subject to Sections 2.6 and 3 of this Agreement, Owner will construct the Public Improvements required by the Existing Project Approvals or any Subsequent Project Approvals in phases concurrent with the development of each Building of each phase of the Project and in accordance with the phasing plan set forth in the Specific Plan.

11.2.2 The Project provides for certain public benefits including but not limited to the following:

(a) Full cost of build out and dedication of 4th Street and Jack Rabbit Trail on the Property as new public roads.

(b) The Public Benefits Fee described in Section 11.3.

(c) Expansion of the sewer lift station at 4th Street and Potrero Boulevard to increase capacity required to serve the Project, providing capacity for the Project and Additional Wet Well Capacity available to the City.

(d) Payment of TUMF, school fees, MSHCP fees, Development Fees, and utility connection fees subject to fee credits as described in this Agreement.

(e) Construction of Offsite Traffic Improvements and/or payment of fair share contributions towards traffic improvements as described on Exhibit "D".

(f) Conveyance of 230.82 acres of land, including 152.42 acres on the Property (Planning Area 10) and 78.40 acres of land offsite, to RCA or to another conservation agency or non-profit organization with the approval of RCA to further wildlife interests, providing access for wildlife movement to Caltrans constructed and proposed wildlife undercrossings along the SR-60 Freeway abutting the northern Project boundary and construction of fencing around property perimeter to support the function of Proposed Core 3 of the MSHCP, consistent with the MSHCP goals of providing live-in habitat and facilitating movement of wildlife.

(g) Increase in local tax revenues including sales and property taxes and transit occupancy taxes.

(h) Increase in employment opportunities in local area.

11.3 Public Benefit Fee. As consideration for City's approval and performance of its obligations set forth in this Agreement, Owner shall voluntarily pay to City a fee that shall be in addition to any other fee or charge to which the Property and the Project would otherwise be subject (herein, the "Public Benefit Fee") in the sum of One Dollar ($1.00) per square foot of Building Square Footage (as that term is defined in the Specific Plan) for Industrial uses listed as permitted or conditional Industrial uses in the Specific Plan. Owner shall pay the Public Benefit

Fee for each Building within the Project prior to the issuance of a certificate of occupancy with respect to such Building. Owner acknowledges by its approval and execution of this Agreement that it is voluntarily agreeing to pay the Public Benefit Fee, that its obligation to pay the Public Benefit Fee is an essential term of this Agreement and is not severable from City's obligations and Owner's vesting rights to be acquired hereunder, and that Owner expressly waives any constitutional, statutory, or common law right it might have in the absence of this Agreement to protest or challenge the payment of such fee on any ground whatsoever, including without limitation pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, California Constitution Article I Section 19, the Mitigation Fee Act (California Government Code Section 66000 et seq.), or otherwise. In addition to any other remedy set forth in this Agreement for Owner's default, if Owner shall fail to timely pay any portion of the Public Benefit Fee prior to issuance of the certificate of occupancy for any Building the City shall have the right to withhold issuance of the certificate of occupancy for such Building until the Public Benefit Fee for that Building is paid, provided that the City shall not have the right to withhold building or occupancy permits or other permits or approvals from a different Owner for another portion of the Project or another Building within the Project based on that default alone.

12. **Provisions Relating to Lenders**.

12.1 **Lender Rights and Obligations**.

12.1.1 **Prior to Lender Possession**. Owner may enter into mortgages, deeds of trust and other security instruments described in the following sentence secured by Owner's interest in the Property. The holder or beneficiary of any indenture of mortgage or deed of trust, hypothecation, pledge, assignment for security purposes, bond, grant of taxable or tax exempt funds from a governmental agency or other security interest or any documents constituting or relating to a sale-leaseback transaction ("Lender") shall have no obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion, and shall not be obligated to pay any fees or charges which are liabilities of Owner or Owner's successors-in-interest, but such Lender shall otherwise be bound by all of the terms and conditions of this Agreement which pertain to the Property or such portion thereof in which Lender holds an interest.

12.1.2 **Lender in Possession**. A Lender who comes into possession of the Property, or any portion thereof, pursuant to foreclosure of a mortgage or deed of trust, or a deed in lieu of foreclosure, shall not be obligated to pay any fees or charges which are obligations of Owner and which remain unpaid as of the date such Lender takes possession of the Property or any portion thereof. Provided, however, that a Lender shall not be eligible to apply for or receive Project Approvals with respect to the Property, or otherwise be entitled to develop the Property or devote the Property to any uses or to construct any improvements thereon other than the development contemplated or authorized by this Agreement and subject to all of the terms and conditions hereof, including payment of all fees (delinquent, current and accruing in the future) and charges, and assumption of all obligations of Owner hereunder; provided, further, that no Lender, or successor thereof, shall be entitled to the rights and benefits of Owner hereunder or entitled to enforce the provisions of this Agreement against the City unless and until such Lender or successor in interest qualifies as a recognized Assignee of this Agreement and makes payment of all delinquent and current City fees and charges pertaining to the Property.

12.1.3 **Notice of Owner's Breach Hereunder**. If the City receives notice from a Lender having a secured interest in the property within the Project requesting a copy of any notice of default given to Owner hereunder and specifying the address for notice thereof, then the City shall deliver to such Lender, concurrently with service thereon to Owner, any notice given to Owner with respect to any claim by the City that Owner is in default, and if the City makes a determination of non-compliance, the City shall likewise serve notice of such noncompliance on such Lender concurrently with service thereof on Owner.

12.1.4 **Lender's Right to Cure**. Each Lender shall have the right (but not the obligation) for a period of sixty (60) days after the expiration of the time period for cure provided to Owner pursuant to Section 4.1 to cure or remedy, or to commence to cure or remedy, the default claimed or the areas of noncompliance set forth in the City's notice. If the default or such noncompliance is of a nature which can only be remedied or cured by such Permitted Mortgagee upon obtaining possession, such Permitted Mortgagee may seek to obtain possession with diligence and continuity through a receiver or otherwise and may thereafter remedy or cure the default or noncompliance within sixty (60) days after obtaining possession. If any default or noncompliance cannot, with diligence, be remedied or cured within such sixty (60) day period, then such Permitted Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such default or noncompliance if such Permitted Mortgagee commences cure during such sixty (60) day period and thereafter diligently pursues completion of such cure to completion. Notwithstanding the foregoing, nothing in this Agreement shall be deemed to permit or authorize any Permitted Mortgagee to undertake or continue construction or completion of any improvements comprising the Project (beyond the extent necessary to conserve or protect improvements or construction already. completed) without first having expressly assumed Owner's obligations under this Agreement.

12.1.5 **Other Notices by the City**. A copy of all other notices given by the City to Owner pursuant to the terms of this Agreement shall also be sent to any Lender who has requested such notices at the address provided to the City by the Lender.

12.2 <u>Right to Encumber</u>. The City agrees and acknowledges that this Agreement shall not prevent or limit Owner of any interest in the Property, or any portion thereof, at any time or from time to time in any manner, at such Owner's sole discretion, from encumbering the Property, the improvements thereon, or any portion thereof with any mortgage, deed of trust, sale and leaseback arrangement or other security device.

12.3 <u>Reasonable Modifications</u>. The City agrees that it shall consider and adopt as Minor Amendments such other industry standard provisions requested by Owner to obtain financing if the same is requested by a Lender in order to protect its collateral under any deed of trust, mortgage or other security instrument, provided the same does not materially diminish the interests of the City under this Agreement.

13. <u>Annexation</u>.

13.1 <u>Annexation</u>. The City and Owner shall cooperate and use their good faith efforts to cause the Property to be annexed into the City, subject only to the Project Rules and the mitigation measures in the MMRP and such other conditions as may be imposed by LAFCO. The

City shall approve a resolution supporting the Annexation. Owner and the City shall diligently pursue the filing and approval of the Annexation Applications with LAFCO in good faith at all times until a final decision is obtained from LAFCO. If LAFCO does not approve the Annexation Applications on or before the Outside Annexation Date, this Agreement shall automatically terminate and be of no further force or effect. The City shall, if requested by Owner, execute in recordable form and cause to be recorded in the Official Records, a memorandum or amendment of this Agreement confirming the Annexation and establishing the Annexation Date.

13.2 Effect of Denial of Annexation. The Parties agree that if LAFCO denies the Annexation Applications, or any one thereof, or any successor annexation application prepared by either of the Parties, the Parties will negotiate in good faith to preserve this Agreement and the Project Approvals to the maximum extent that same may be consistent with that denial and the Parties' commercial concerns. Notwithstanding this commitment to negotiate in good faith, Owner reserves the absolute right to terminate this Agreement if LAFCO denies the Annexation Applications, or either of them, or any successor annexation application prepared by either of the Parties.

14. Western Riverside County Multiple Species Habitat Conservation Plan.

14.1 Criteria Refinement; Map Amendment; Agreement. On behalf of the City and Owner, Glenn Lukos Associates, Inc. prepared a Criteria Refinement analysis (Technical Appendix C2 to the EIR) ("Criteria Refinement") demonstrating that the proposed Criteria Refinement would be at least equivalent to the existing criteria of the MSHCP as it applies to Effects on Habitats, Effects on Covered Species, Effects on Core Areas, Effects on Linkages and Constrained Linkages, Effects on Non-Contiguous Habitat Blocks, Effects on MSHCP Conservation Area Configuration and Management, Effects on Ecotones, and Acreage Contributed to the MSHCP Conservation Area. The Criteria Refinement was approved and determined to be in concurrence with the MSHCP by the RCA and the Wildlife Agencies on November 9, 2022. On November 9, 2022, the Wildlife Agencies issued a letter to the City concurring with the RCA's Findings that the proposed Revised Criteria Refinement is superior or equivalent to conservation described within Proposed Core 3. In furtherance of the findings, the Project will be constructed in compliance with the Criteria Refinement. The Project requires a Minor Amendment of the MSHCP for any annexation associated with the Project and to allow RCA to conform the mapping information for the MSHCP to the Criteria Refinement. The City shall initiate and process to completion all required amendments of the MSHCP mapping information to conform that mapping information to reflect the annexation and the approved Criteria Refinement.

14.2 Effect of Approvals. The City agrees that the Joint Project Review (JPR), Determination of Biologically Equivalent or Superior Preservation (DBESP) and Cell Criteria Refinement for the Project approved by RCA and concurred in by the Wildlife Agencies shall apply to all further discretionary actions and provided that the Project remains consistent with the Applicable Rules, the City will not refer future discretionary actions to RCA for further review.

15. Cooperation and Defense of Agreement.

15.1 Further Actions and Instruments. The Parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all

obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute, with acknowledgement or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement. The Parties further agree to mutually cooperate with one another in carrying out the purposes of this Agreement.

15.2 **Defense of Agreement**. The City agrees to and shall timely take all actions which are reasonably necessary or required to uphold the validity and enforceability of this Agreement and the Project Rules. If this Agreement is adjudicated and determined to be invalid or unenforceable, the City agrees, subject to all legal requirements, to consider and implement all modifications to this Agreement which are reasonably necessary or required to render it valid and enforceable to the extent permitted by applicable law.

15.3 **No Moratorium**. No future amendment of any existing City ordinance or resolution, or future adoption of any ordinance, resolution or other action, that purports to limit the rate or timing over time of development or construction of all or any part of the Project or alter the sequencing of development phases or alter or limit entitlements to use or service (including but not limited to water and sewer), whether imposed by ordinance, initiative, resolution, policy, order or otherwise, and whether adopted or imposed by the City Council, an agency of the City or through the initiative or referendum process, shall apply to the Property or any portion thereof, provided, however, the provisions of this Section shall not affect City's compliance with moratoria or other limitations mandated by other governmental agencies or court-imposed moratoria or other limitations; provided that the City shall not comply with any such moratoria or other limitations that are inconsistent with the Project Rules unless required pursuant to Section 2.9.2(b) or (c).

15.4 **Certificate of Performance**. Upon the completion of the Project, or the development of any Parcel, or upon performance of this Agreement or its earlier revocation and termination, the City shall provide Owner, upon Owner's request, with a statement ("Certificate of Performance") evidencing said completion or revocation and the release of Owner from further obligations hereunder, provided that if the release relates to the completion of only a phase or particular parcels, the release shall pertain solely to the parcel or parcels which have been completed. The Certificate of Performance shall be signed by the appropriate agents of Owner of the affected parcel(s) or phase and the City and shall be recorded in the official records of Riverside County, California. Such Certificate of Performance is not a notice of completion.

16. **General**.

16.1 **Entire Agreement**. This Agreement is executed in duplicate originals, each of which is deemed to be an original. This Agreement constitutes the entire understanding and

agreement of the Parties. Unless specifically stated to the contrary, the reference to an exhibit by designated letter or number shall mean that the exhibit is made a part of this Agreement.

16.2 **Section Headings**. All article, section and subsection headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Amendment.

16.3 **Singular and Plural**. As used herein, the singular of any word includes the plural.

16.4 **Time of Essence**. Time is of the essence in the performance of the provisions of this Amendment as to which time is an element.

16.5 **Waiver**. Failure by a Party to insist upon the strict performance of any of the provisions of this Amendment by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Amendment thereafter.

16.6 **No Third Party Beneficiaries**. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other Person shall have any right to action based upon any provision of this Amendment.

16.7 **Recitals; Exhibits**. The Parties agree that the Recitals above are true and correct and intend to be bound by same. The Parties further agree to the incorporation by reference herein of said Recitals, together with all definitions provided and exhibits referenced in this Agreement, including in said Recitals.

16.8 **Counterparts**. This Amendment may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

[SIGNATURES FOLLOW]

CITY:

CITY OF BEAUMONT

By:_____________________________________
Mayor, the City of Beaumont

Attest:_____________________________________
the City Clerk of the City of Beaumont

OWNER:

BEAUMONT POINTE PARTNERS LLC,
a Delaware limited liability company

By: _____________________________________
Name _________________________________
Its: ___________________________________

CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _________________________________ }

On _________________ before me, ____,
Date (Insert Name and Title of the Officer)

personally appeared ____
Name(s) of Signer(s)

____,

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.

Place Notary Seal and/or Stamp above

Signature: ________________________________
Signature of Notary Public

CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of ________________________________ }

On _________________ before me, ____,
Date (Insert Name and Title of the Officer)

personally appeared ____
Name(s) of Signer(s)

____,

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.

Place Notary Seal and/or Stamp above

Signature: ________________________________
Signature of Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION AND DEPICTION OF PROPERTY

EXHIBIT "B"

EXISTING PROJECT APPROVALS

1. General Plan Amendment (PLAN2019-0284)
2. Pre-Zoning and Adoption of Specific Plan (No. SP2019-0003)
3. Sign Program (No. ______________________)
4. Vesting Tentative Parcel Map No. ______________
5. Development Agreement (_____________)
6. EIR (ENV2019-0008), SCH Number 2020099007

EXHIBIT "C"

DEVELOPMENT FEES IN EFFECT AS OF EFFECTIVE DATE

City of Beaumont Development Related Fee Schedule Effective July 1, 2023
[See Attached]

EXHIBIT "D"

OFFSITE TRAFFIC IMPROVEMENTS*

Traffic Study Intersection No	Intersection Location	Jurisdiction	Improvement	Complete Prior To:	DIF
4	Potrero Boulevard & 4th Street	County of Riverside	• Add 2nd EB left turn lane • Modify traffic signal to implement overlap phasing for the SB right turn lane	First Certificate of Occupancy for Phase 2 (any Industrial Uses on the Property above 1,379,191 square feet)	Yes (DIF) Yes (DIF)
5	Desert Lawn Drive & Oak Valley Parkway	City of Beaumont	Install a traffic signal	First Certificate of Occupancy for any permanent use on the Property	Yes (DIF

*Source: Traffic Impact Analysis by Urban Crossroads, dated September 22, 2023 as approved by City.

EXHIBIT “E”

EXCERPTS FROM CROSSROADS DESIGN MEMORANDUM AND ON-SITE PDR

[see attached]

The following table identifies the proposed land uses and square footage and acreage for each Planning Area within the Project.

Table 1: Beaumont Pointe Development – Land Uses

Planning Area	Land Uses Within Planning Area	Land Use Quantities	
		Quantity	Units
P.A.1	Restaurant	30,000.0	sq. ft
	Entertainment	4.96	acres
P.A.2	Hotel	125	# of Rooms
P.A.3	Industrial Warehouse	26,000 (0.60)	sq. ft (acres)
P.A.4	Industrial Warehouse	1,379,880 (31.7)	sq. ft (acres)
P.A.5	Industrial Warehouse	994,340 (22.83)	sq. ft (acres)
P.A.6	Industrial Warehouse	675,400 (15.5)	sq. ft (acres)
P.A.7	Industrial Warehouse	589,240 (13.5)	sq. ft (acres)
P.A.8	Industrial Warehouse	1,294,800 (29.7)	sq. ft (acres)
P.A.9	Recreation and Conservation	0.0	acres
P.A.10	Conservation	0.0	acres

The following table identifies the sewer generation peak flows for each Planning Area within the Project.

Table 2: Beaumont Pointe Development – Average Dry Weather Flows

Planning Area	Land Uses Within Planning Area	Land Use Quantities		ADWF Generation Rate Factor		ADWF (GPD)	ADWF (GPM)
		Quantity	Units	Factor	Units		
P.A.1	Restaurant	30,000.0	sq. ft	0.75	GPD/sq. ft	22,500	15.6
	Entertainment	4.96	acres	1,175.00	GPD/acre	5,828	4.0
P.A.2	Hotel	125.0	# of Rooms	80.00	GPD/room	10,000	6.9
P.A.3	Industrial/Warehouse	0.6	acres	413.82	GPD/acre	248	0.2
P.A.4	Industrial/Warehouse	31.7	acres	413.82	GPD/acre	13,118	9.1
P.A.5	Industrial/Warehouse	22.83	acres	413.82	GPD/acre	9,448	6.6
P.A.6	Industrial/Warehouse	15.5	acres	413.82	GPD/acre	6,416	4.5
P.A.7	Industrial/Warehouse	13.5	acres	413.82	GPD/acre	5,587	3.9
P.A.8	Industrial/Warehouse	29.7	acres	413.82	GPD/acre	12,290	8.5
P.A.9	Recreation and Conservation	0.0	acres	0.00	-	0	0.00
P.A.10	Conservation	0.0	acres	0.00	-	0	0.00
Total Average Dry Weather Flow						**85,433**	**59.3**
Total Peak Dry Weather Flow						**245,193**	**170.3**

The following table shows the current firm pumping capacity requirements and the capacity of the Beaumont Point Lift Station as of the Effective Date.

Table 3: Beaumont Crossroads Lift Station – Interim – Required Firm Pumping Capacity

Parameter	Flow (GPD)	Flow (GPM)
Total Peak Dry Weather Flow	245,761	170.67
Required Pump Capacity Design Factor	1.20	
Total Required Firm Pumping Capacity	**294,913**	**204.80**
Current Firm Pumping Capacity		**300.00**

The following table shows the firm pumping capacity requirements including the Beamont Pointe Project, the capacity of the Beaumont Crossing lift station as of the Effective Date, and the proposed capacity of the lift station following the construction of the Crossroads Lift Station Upgrades.

Table 4: Beaumont Crossroads Lift Station – Interim + Beaumont Pointe – Required Firm Pumping Capacity

Parameter	Flow (GPM)
Total Peak Dry Weather Flow	403.67
Required Pump Capacity Design Factor	1.20
Total Required Firm Pumping Capacity	**484.00**
Current Firm Pumping Capacity	**300.00**
Proposed Firm Pumping Capacity Provided by Beaumont Pointe Development Team	**514**

The following table shows the peak dry weather flows from the Project.

Table 5: Beaumont Development – Peak Dry Weather Flows

Parameter	Flow (GPD)	Flow (GPM)
Average Dry Weather Flow[1]	85,433	59.30
Peak Dry Weather Flow Peaking Factor[2]	2.87	
Peak Dry Weather Flow	**245,193**	**170.3**

The following table shows the design criteria for the Project's On-Site Sewer Lift Station.

Table 6: Beaumont Pointe Development Sewer Lift Station Pumps – Design Criteria

Design Criteria	Value
Design Flow	230 GPM
Total Dynamic Head	105-110 feet
Motor Rated Voltage	480 V, 3 phase
Motor Rated Horsepower	12 HP
Maximum Operating Speed	3510 RPM
Type	Submersible
Impeller Type	Adaptive, Solids Handling, Non-Clogging and Self-Cleaning
Inlet Diameter	6 inches
Discharge Diameter	3 inches

EXHIBIT "F"

DEFINITIONS

For purposes of this Agreement, the following initially capitalized terms shall have the meanings set forth below.

"Additional Capacity" is defined in Section 2.8.3(b) to this Agreement.

"Additional Wet Well Capacity" is defined in Section 2.8.3(a) to this Agreement.

"Agreement" is defined in the first paragraph to this Agreement.

"Annexation" is defined in Recital D to this Agreement.

"Annexation Applications" is defined in Recital D to this Agreement.

"Annexation Date" is defined in Section 1.3 to this Agreement.

"Applicable Rules" means (a) the existing land use regulations of the City, including but not limited to the General Plan, the Existing Project Approvals and other laws, statutes, ordinances, rules and regulations and official policies governing permitted uses of land, density, design and improvement applicable to development of the Project on the Property as of the Effective Date, including but not limited to those governing the issuance of permits and approvals for the Project and the planning and zoning laws applicable to the Project and (b) Future Rules that are not inconsistent with the foregoing and made applicable to the Project in accordance with the requirements of this Agreement or are agreed to by Owner and the City.

"Assign" or "Assigns" means and includes any voluntary or involuntary transfer, sale, encumbrance, assignment, collateral assignment, assignment for security purposes, or other security interest or any documents constituting or relating to a sale-leaseback transaction (including but not limited to a Lender as described in Section 1.5.5 and/or Section 12 of this Agreement), conveyance, lease or other transfer, of all or any portion of the Property, or any rights or obligations of Owner to any Person and/or the transfer of Control with respect to any Owner.

"Assignee" means any Person to which Owner Assigns all or any portion of its interest in the Property and this Agreement pursuant to Section 1.5 below. Following an Assignment to an Assignee as set forth in Section 1.5, such Assignee shall be an Owner under this Agreement.

"Assignment" is defined in Section 1.5.1 to this Agreement.

"BCVWD" is defined in Recital D to this Agreement.

"Benefiting Parties" is defined in Section 2.8.3(b) to this Agreement.

"Building" means each building or structure constructed on the Property for which a certificate of occupancy is required to be issued.

"Certificate" is defined in Section 4.3.2 to this Agreement.

"CEQA" means the California Environmental Quality Act, codified at Govt. Code Section 21100 et seq. and the guidelines thereto, 14 C.C.R. Section 15000 et seq.

"Certificate of Performance" is defined in Section 15.4 to this Agreement.

"CFD" is defined in Section 11.1 to this Agreement.

"City" is defined in the first paragraph to this Agreement.

"City Council" is defined in Recital F to this Agreement.

"Control", "Controlled" or "Controlling", as used with respect to any Person, means the possession, directly or indirectly (including through one or more intermediaries), of the power to direct or cause the direction of the management and policies of such Person, including, without limitation, through the ownership or control of voting securities, partnership interests, membership interests, or other equity interests, acting as the manager of a limited liability company, or otherwise.

"Controlling Person" means (a) any Person who Controls Owner and (b) any Person who Controls a Controlling Person. The Controlling Person of Beaumont Pointe Partners LLC as of the Effective Date is JRT BP 1 LLC, a California limited liability company. In addition, Philip W. Cyburt and Michael Masterson are together and individually deemed a Controlling Person of Beaumont Pointe Partners LLC.

"Criteria Refinement" is defined in Section 14.1 to this Agreement.

"Crossroads Design Memorandum" is defined in Section 2.8.3(a) to this Agreement.

"Crossroads Lift Station" is defined in Section 2.8.3(a) to this Agreement.

"Crossroads Lift Station Upgrades" is defined in Section 2.8.3(a) to this Agreement.

"Defaulting Owner" is defined in Section 1.5.7 to this Agreement.

"Development Agreement Laws" means Article 11, Section 7 of the California Constitution and Govt. Code Section 65864 et seq.

"Development Fees" is defined in Section 2.10.1 to this Agreement.

"DIF Study" means the City of Beaumont Engineering Department Transportation Infrastructure Needs Analysis adopted by the City prior to the Effective Date.

"Effective Date" is defined in Section 1.3.1 to this Agreement.

"Entitlement Applications" is defined in Recital F to this Agreement.

"Existing Lift Station" is defined in Section 2.8.3(a) to this Agreement.

"Existing Project Approvals" is defined in Recital F to this Agreement.

"Exactions" means any requirement of the City in connection with or pursuant to any Project Rule for the dedication of land, the construction of Public Improvements, or the payment of

Development Fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests, including without limitation payment of fees.

"Fair Share Fees" is defined in Section 2.10.6 to this Agreement.

"Force Majeure Delay" means the occurrence of any event beyond the reasonable control of the claiming Party and such Party's contractors and consultants and not due to an act or omission of such Party or any consultant, contractor or other Person for whom such Party may be contractually or legally responsible, which directly, materially and adversely affects the ability of the claiming Party to meet its non-monetary obligations under this Agreement, or the ability of Owner to complete the Project or any phase or improvement comprising a portion thereof, and which events (or the effect of which events) could not have been avoided by due diligence and use of reasonable efforts by the Party claiming Force Majeure Delay and comprising any of the following: (a) an epidemic, pandemic, quarantine or other national, state, or local mass medical emergencies; (b) rebellion, blockade, war, insurrection or similar hostilities, act of terrorism, riot, act of sabotage, civil commotion, act of a public enemy, freight embargo, or lack of transportation; (c) strikes or other labor problems; (d) changes in state or federal laws or regulations that impose moratoria or limit or restrict development of the Project in accordance with this Agreement; (e) floods, earthquakes, fires casualties or other acts of God; (f) moratoria enacted by governmental entities or agencies, or as a result of voter action, that limit or restrict Owner's ability to obtain utility service for the Project or to construct the Project in accordance with or perform its material obligations under this Agreement; (g) any lawsuit seeking to restrain, enjoin, challenge or delay any issuance of any Project Approval, the Annexation Applications(s) or CEQA determination or seeking to restrain, enjoin, challenge, or delay construction of the Project, (h) inability to satisfy the conditions of any approval or permit necessary for the development of the Project for reasons outside the reasonable control of Owner (such as inability to identify a mitigation bank that is accepting requests to provide mitigation required by MSHCP, state or federal permits or Project mitigation); (i) severe inclement weather conditions not reasonably anticipatable or (j) other matters outside of the control of the Party claiming Force Majeure Delay, provided that no claim of Force Majeure Delay by the City shall impede, limit or restrict the vested rights granted under this Agreement.

"Future Rules" means any and all future rules, ordinances, regulations or policies adopted by the City that are applicable to or affect the Property or the development of the Project and are not inconsistent with the Applicable Rules and are adopted in accordance with the requirements of this Agreement, including the reservation of authority to the City set forth in Section 2.9.2(a) through (e). For purposes of this Agreement, Future Rules adopted consistent with the Applicable Rules and the requirements of this Agreement shall be deemed Applicable Rules once approved.

"General Plan" is defined in Recital E to this Agreement.

"GPA" is defined in Recital F to this Agreement.

"Inconsistent with" (whether or not initially capitalized) means a subsequently adopted law, ordinance, rule or regulation, referendum (other than a referendum challenging the Project Approvals), initiative or moratorium that materially (a) frustrates the intent or purpose of the Applicable Rules in relation to the Project, (b) precludes compliance with any vested right or other

provision of this Agreement; (c) materially and substantially limits or restricts the availability of public utilities, services, infrastructure or facilities (for example, but not by way of limitation, water rights, water connection or sewage capacity rights, sewer connections, etc.) to the Project, (e) imposes limits or controls in the rate, timing, phasing or sequencing of development of the Project or provision of utilities, or (f) reduces the Project square footage, reduces the permitted uses, or limits the rate, timing or sequencing of development of the Property or has a substantial economic impact that materially obstructs the development and construction of the Project.

"Industrial Uses" is defined in Recital C to this Agreement.

"LAFCO" is defined in Recital D to this Agreement.

"Lender" is defined in Section 12.1.1 to this Agreement.

"Ministerial Approvals" means any and all actions involving approval or disapproval of a permit or other entitlement which only require the determination of conformance with the Applicable Rules or conditions of approval, including but not limited to approval of plot plans under Section 5.2.1.1(a) and (b) of the Specific Plan (plot plans under Section 5.2.1.2 of the Specific Plan require Planning Commission approval), grading plans, signage plans and permits, improvement plans, building plans and specifications, and ministerial issuance of one or more final maps, zoning clearances, improvement permits, wall permits, lot line adjustments, encroachment permits, temporary use permits, demolition permits, and the issuance of grading, demolition, or building permits.

"MMRP" is defined in Recital F to this Agreement.

"MSHCP" is defined in Recital C to this Agreement.

"Major Amendment" is defined in Section 1.8.1 to this Agreement.

"Minor Amendment" is defined in Section 1.8.2 to this Agreement.

"New Pumping Capacity" is defined in Section 2.8.3(a) to this Agreement.

"Offsite Traffic Improvements" is defined in Section 2.8.1 to this Agreement.

"On-Site Lift Station" is defined in Section 2.12.1 to this Agreement.

"On-Site PDR" is defined in Section 2.8.3 to this Agreement.

"Outside Annexation Date" is defined in Section 1.3.1 to this Agreement.

"Owner" is defined in the first paragraph to this Agreement and is further described in Section 1.2 to this Agreement.

"Owner Affiliate" means (a) any Person for which Beaumont Pointe Partners LLC or its any Controlling Person of Beaumont Pointe Partners LLC has the authority and responsibility for day to day management of the Project or applicable portion or phase of the Project, including, as then applicable, to oversee development, construction, leasing, and operation of the Project or such phase and (b) as to any Person who becomes an Owner, any Controlling Person of such Owner and any other Person Controlled by such Controlling Person; and/or (c) as to Beaumont Pointe

Partners LLC, any Person that is Controlled by, under common Control with or has one or more of the same Controlling Persons as Beaumont Pointe Partners LLC.

"Owner's Fee Credit" is defined in Section 2.8.2 to this Agreement.

"Parties" is defined in the first paragraph to this Agreement.

"Party" is defined in the first paragraph to this Agreement.

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

"Planning Areas" is defined in Recital C to this Agreement.

"Pre-Annexation Agreement" is defined in Recital D to this Agreement.

"Prevailing Wage Laws" is defined in Section 5.2 to this Agreement.

"Project" is defined in Recital C to this Agreement.

"Project Approvals" means all land use and building approvals, permits, and entitlements and other actions to implement development of the Property that require either discretionary approvals or Ministerial Approval pursuant to the Applicable Rules in order to implement the Project, including but not limited to general plan amendments, adoption or amendment of the Zoning Code, the Specific Plan, or the Sign Program, tentative and final tract maps and parcel maps, subdivision agreements, variances, zoning approvals, use permits, preliminary and final development plans, plot plans, development plans, building, signage or landscape plans, design review, environmental review, site plan review, lot-line adjustments, demolition, site clearance, grading and building permits, and certificates of occupancy which have been requested by Owner and granted or issued by the City.

"Project CFD(s)" is defined in Section 11.1 to this Agreement.

"Project Rules" means the Applicable Rules, the Existing Project Approvals, and any amendments to this Agreement or Subsequent Project Approvals as may, from time to time, be approved pursuant to and consistent with the requirements of this Agreement.

"Property" is defined in Recital B to this Agreement.

"Public Benefit Fee" is defined in Section 11.3 to this Agreement.

"Public Improvements" means public infrastructure and public facilities, including but not limited to water (potable and recycled) facilities, sewer facilities, flood control facilities, storm drains, utilities, roads, road improvements, lighting facilities and traffic control and other similar infrastructure and facilities servicing the Project.

"RCA" is defined in Recital C to this Agreement.

"Reimbursement Agreement" and "Reimbursement Agreements" are each defined in Section 2.8.3(b) to this Agreement.

“Reserved Off-Site Flow” is defined in Section 2.12.2 to this Agreement.

“Sign Program” is defined in Recital F to this Agreement.

“SOI” is defined in Recital B to this Agreement.

“Specific Plan” is defined in Recital C to this Agreement.

“Subsequent Project Approvals” means any and all Project Approvals approved after the date of approval of this Agreement in connection with development of the Property that are not inconsistent with the Applicable Rules and adopted in accordance with the requirements of this Agreement, including the reservation of authority to the City set forth in Section 2.9.2(a) through (e). For purposes of this Agreement, Subsequent Project Approvals adopted consistent with the Applicable Rules and the requirements of this Agreement shall be deemed Project Rules once approved.

“Term” is defined in Section 1.3. to this Agreement.

“TPM” is defined in Recital F to this Agreement.

“Traffic Study” is defined in Section 2.8.1 to this Agreement.

“TUMF” is defined in Section 2.8.1 to this Agreement.

“Wildlife Agencies” means the U.S. Fish and Wildlife Services and the California Department of Fish and Wildlife Services, collectively.