



**CITY OF PITTSBURG
AGENDA**

FEBRUARY 03, 2025

**CITY HALL COUNCIL CHAMBER
65 CIVIC AVENUE, PITTSBURG, CA**

**REGULAR MEETING
7:00 P.M.**

**CITY COUNCIL
PITTSBURG ARTS AND COMMUNITY FOUNDATION
PITTSBURG POWER COMPANY
SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II
SUCCESSOR AGENCY**

PRESIDING

**Jelani Killings, Mayor/Chair
Dionne Adams, Vice-Mayor/Chair
Angelica Lopez, Council Member/Board Member
Juan Antonio Banales, Council Member/Board Member
Arlene Kobata, Council Member/Board Member**

**FOR HOUSING AUTHORITY:
S.L. Floyd, Housing Authority Member
Annie Hill Herring, Housing Authority Member**

Pittsburg City Council regular meetings are held the first and third Mondays of each month at 7:00 p.m. The Housing Authority meets in conjunction with the City Council on the third Monday of each month. The Pittsburg City Council meets regularly in the Council Chamber at 65 Civic Avenue, unless otherwise noted above. The City Council also sits as the Board of Directors of several other City agencies. The stipends for all agency members conform to state statutes governing compensation amounts. All other Agencies meet on an as needed basis and will be listed above if applicable. Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except from noon to 1:00 p.m. and City holidays). The agenda and reports are also located on the City's website at www.pittsburgca.gov. Additionally, if any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports and documents will also be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

7:00 PM - CONVENE IN OPEN SESSION FOR REGULAR MEETING

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

1. Inspire Pittsburg: 2024 Pittsburg High School Varsity Football Team
2. Black History Month

CITY MANAGER REPORTS/REMARKS

The City Manager may make brief announcements or informal comments at this time and brief the Council on items of interest. (No Action Required)

PUBLIC COMMENTS

Members of the audience who wish to address the City Council or Agency Boards on issues that are not scheduled for the agenda and on any items listed as part of the Consent Calendar should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. (No Action Required)

COMMITTEE REPORTS

Council Members may make a report on their committee assignments at this time. (see attached list of adhoc committees and other public agencies in which Council members participate). (No Action Required)

CONSIDERATION

3. Adoption of Seven City Council Resolutions to Find Developers in Compliance with their Respective Development Agreements for: Southwest (San Marco), Tuscany Meadows, Trans Bay Cable, Edgewater, Sky Ranch II, Montreux, and Columbia Solar

State law requires local jurisdictions to conduct a periodic review of active development agreements (DAs) within the community. For the calendar year 2024, staff has conducted reviews of seven active DAs, including: Southwest (San Marco) Development, Tuscany Meadows Subdivision, Trans Bay Cable, Edgewater Development, Sky Ranch II Subdivision, Montreux Subdivision, and Columbia Solar. Staff has found each developer to be in compliance with the terms of their respective DA, and as such, recommends the City Council adopt seven resolutions finding good faith compliance and authorizing the City Manager to execute Certificates of Compliance as appropriate.

4. Adoption of a City Council Resolution Establishing the Maximum Number of Condominium Conversions for Calendar Year 2025

Section 17.44.070 of the Pittsburgh Municipal Code (PMC), limits the number of apartments (multifamily rental units) that can be converted annually to condominiums to an amount established by the City Council at the beginning of each calendar year. If approved by Council, the proposed resolution would establish the maximum number of condominium conversions for the year 2025.

CONFLICT OF INTEREST STATEMENT

City Council/Agency Members may make any conflict of interest declarations pertaining to Consent Calendar items at this time.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY, SOUTHWEST PITTSBURG GHAD II AND SUCCESSOR AGENCY CONSENT CALENDAR

5. Adoption of a City Council Resolution Authorizing the City Manager to Execute a Contract with Environmental Systems Research Institute, Inc. (ESRI) to Upgrade the ArcGIS Software Subscription

The Information Technology Division (IT) is seeking to upgrade the City's geographic information system (GIS). A GIS system captures, stores, manages, analyzes, and presents all types of geographical data that is used in the City's daily operations.

6. Adoption of a Pittsburgh Arts and Community Foundation Resolution to Accept and Allocate Grant Funds from Keller Canyon Mitigation Fund for FY 24/25 and FY 25/26 Recreation Programs

Pittsburg Arts and Community Foundation (PACF) has been awarded a \$20,000 grant supporting Early Literacy and Art Education. Staff is requesting adoption of a resolution to accept the grants and allocate the appropriate funds to the FY 2024-25 budget.

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

Council Members may request items to be considered for future agendas. An item will only be brought forward with a majority vote and will appear on a future agenda with staff recommendations for further Council consideration.

COUNCIL MEMBER REMARKS

Council Members may make brief announcements or informal comments at this time. (No Action Required)
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ADJOURNMENT TO FEBRUARY 18, 2025

NOTICE TO PUBLIC

GENERAL INFORMATION

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SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given up to three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action taken by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled residents. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at (925) 252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and electronic devices, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

LIVE MEDIA BROADCASTING ADVISEMENT

City Council meetings are webcast live on the City's website at www.pittsburgca.gov on the Agendas and Live Meetings page. Past meetings and approved minutes are also archived on that webpage. Watch the live meeting via the City's webcast (www.pittsburgca.gov - Agendas and Live Meetings), on Comcast Channel 24 Delta TV, AT&T U-Verse Channel 99 Delta TV. Contact the City Clerk's office at (925) 252-4850 for more information

City Council Agency/Liaison/Subcommittee Assignments as of January 21, 2025

OUTSIDE AGENCY BOARDS	COUNCIL MEMBER(S)	TYPE	MEETS	TIME	STAFF
ABAG	Dionne Adams / Jelani Killings Alternate	Standing	Annual		G. Evans
Delta Diablo*	Juan Banales / Jelani Killings Alternate	Standing	2nd Wednesday	4:30 PM	J. Samuelson
East Co. Co. County Habitat Conservancy	Angelica Lopez / Juan Banales Alternate	Standing	4th Monday Bi-Monthly	2:00 PM	J. Davis
East County Water Management	Juan Banales / Jelani Killings Alternate	Standing	Bi-Annual	1:00 PM	J. Samuelson
MCE Clean Energy Board	Arlene Kobata / Angelica Lopez Alternate	Standing	3rd Thursday	6:30 PM	D. Buchanan
TRANSPLAN / ECCRFFA	Juan Banales / Dionne Adams Alternate	Standing	2nd Thursday	6:30 PM	J. Samuelson
Tri-Delta Transit (2 reps)**	Angelica Lopez & Dionne Adams / Jelani Killings Alternate	Standing	4th Wednesday	4:00 PM	J. Samuelson
LIAISON TO	COUNCIL MEMBER(S)	TYPE	MEETS	TIME	STAFF
East Bay League of California Cities	Jelani Killings / Dionne Adams Alternate	Standing	3rd Thursday		G. Evans
Green Empowerment Zone	Dionne Adams/ Jelani Killings Alternate	Standing	3rd Friday Bi-monthly	9:30 AM	J. Davis
Los Medanos Health Advisory Committee	Angelica Lopez & Jelani Killings	Ad Hoc	As needed		M. Aliotti
Mayor's Conference	Jelani Killings / Dionne Adams Alternate	Standing	1st Thursday	6:30 PM	G. Evans
Pittsburg Police Activities League (PAL)	Arlene Kobata & Angelica Lopez / Dionne Adams Alternate	Standing	Monthly		S. Albanese
School Districts Committee (2x2)	Jelani Killings & Angelica Lopez / Juan Banales Alternate	Standing	Quarterly		M. Aliotti
SUBCOMMITTEES	COUNCIL MEMBER(S)	TYPE	MEETS	TIME	STAFF
Budget Sustainability	Juan Banales & Jelani Killings	Ad Hoc	As needed		G. Evans
Community and Economic Development	Jelani Killings & Dionne Adams / Angelica Lopez Alternate	Standing	2nd Wednesday	5:00 PM	J. Davis
Facilities Rental and Usage	Jelani Killings & Dionne Adams	Ad Hoc	As needed		G. Evans
Finance Management	Juan Banales & Jelani Killings / Dionne Adams Alternate	Standing	3rd Friday	4:00 PM	P. Rodrigues
Government Performance	Juan Banales & Jelani Killings	Ad Hoc	4th Friday	4:00 PM	J. Brizel
Infrastructure and Transportation	Juan Banales & Dionne Adams / Angelica Lopez Alternate	Standing	4th Thursday	5:30 PM	J. Samuelson
Life Enrichment	Dionne Adams & Angelica Lopez / Arlene Kobata Alternate	Standing	3rd Wednesday	5:30 PM	K. Simonton
Pittsburg Arts and Community Foundation	Angelica Lopez & Jelani Killings	Standing	As needed		K. Simonton
Public Safety	Arlene Kobata & Angelica Lopez / Jelani Killings Alternate	Standing	1st Wednesday	5:30 PM	S. Albanese
Tobacco, Cannabis, Alcohol Policy Review	Arlene Kobata & Jelani Killings	Ad Hoc	As needed		G. Evans

*Stipend of \$170 per month

** Stipend of \$100 per month



City of Pittsburg
65 Civic Avenue
Pittsburg, California 94565-3814

Proclamation

BLACK HISTORY MONTH FEBRUARY 2025

WHEREAS, February has been designated as Black History Month and the theme for this year is “African Americans and Labor” which focuses on the various and profound ways that labor of all kinds intersect with the collective experiences of Black people; and

WHEREAS, work is at the very center of much of Black History and culture and has been transformational throughout the nation; and

WHEREAS, the theme sets out to highlight and celebrate the potent impact of this work; and

WHEREAS, African American’s work through the widest perspectives provides versatile and insightful platforms for examining Black life and culture through time and space; and

WHEREAS, we want to celebrate the many achievements and contributions made by African Americans to our economic, cultural, spiritual, and political development; and

WHEREAS, this observance affords the special opportunity to become more knowledgeable about African American heritage, and to honor the many African American leaders who have contributed to the progress of our nation.

NOW, THEREFORE, I, Jelani Killings, Mayor, on behalf of the entire City Council of the City of Pittsburg, do hereby proclaim the month of February 2025 to be Black History Month in our community and I encourage all residents to celebrate our diverse heritage and culture and continue our efforts to create a world that is more just, peaceful and prosperous for all.



Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk





**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

DATE: February 3, 2025

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of Seven City Council Resolutions to Find Developers in Compliance with their Respective Development Agreements for: Southwest (San Marco), Tuscany Meadows, Trans Bay Cable, Edgewater, Sky Ranch II, Montreux, and Columbia Solar

EXECUTIVE SUMMARY:

State law requires local jurisdictions to conduct a periodic review of active development agreements (DAs) within the community. For the calendar year 2024, staff has conducted reviews of seven active DAs, including: Southwest (San Marco) Development, Tuscany Meadows Subdivision, Trans Bay Cable, Edgewater Development, Sky Ranch II Subdivision, Montreux Subdivision, and Columbia Solar. Staff has found each developer to be in compliance with the terms of their respective DA, and as such, recommends the City Council adopt seven resolutions finding good faith compliance and authorizing the City Manager to execute Certificates of Compliance as appropriate.

FISCAL IMPACT:

None. The City has adopted fees to recover staff costs associated with processing periodic reviews of Development Agreements, and as such, each developer will reimburse the City for the staff time required.

RECOMMENDATION:

City Council adopt the seven attached resolutions finding:

- 1) SEECON Financial and Construction Co., Inc., in good faith compliance with the San Marco DA; and
- 2) SEECON Built Homes, Inc., in good faith compliance with the Tuscany Meadows DA; and
- 3) Trans Bay Cable, LLC, in good faith compliance with the Trans Bay Cable DA; and
- 4) Sunnyside Pittsburg, LLC, in good faith compliance with the Edgewater Apartments DA; and
- 5) SkyRanch Land Investors, LLC, in good faith compliance with the Sky Ranch II DA;

- and
- 6) Altec Homes, Inc., in good faith compliance with the Montreux DA; and
 - 7) Columbia Solar – in Good faith compliance with the Columbia Solar DA.

BACKGROUND:

California Government Code Section 65864 *et seq.* authorizes and regulates the execution of development agreements (DAs) between Cities and persons who desire to develop property within the City's jurisdiction. Pursuant to the law, the City establishes procedures for the consideration of the DA applications, as well as procedures for reviewing the DAs. State law also requires the periodic review of a Development Agreement, at which time the Developer must demonstrate good faith compliance with the terms of the DA.

The last periodic reviews were conducted by the City in 2023 for the seven DAs listed above.

SUBCOMMITTEE FINDINGS

The item was not presented to a sub-committee.

STAFF ANALYSIS:

If the City Council finds that the respective developers are in compliance with their respective Development Agreements, then the City would issue a "Finding of Compliance" for each project, which may be recorded against the properties. If, as a result of the review, the City Council finds and determines, on the basis of substantial evidence, that a developer has not complied in good faith with the terms and conditions of their DA, then the City may terminate or modify the associated DA. Pursuant to the City's procedures, the City would then issue a "Finding of Non-Compliance," identifying the areas of non-compliance, the terms of compliance and a time period for the Developer to bring the project into compliance with the DA.

At this time, all current terms of the agreements associated with each DA reviewed have either been addressed or will be addressed when appropriate by the respective developer or are being addressed in coordination with the developer on an on-going basis. As such, staff recommends the adoption of all seven proposed resolutions, finding good faith compliance by Developers with the terms of the DAs.

ATTACHMENTS:

1. Resolution for San Marco
Exhibit 1 – San Marco 2024 Summary Table
2. Resolution for Tuscany Meadows
Exhibit 1 – Tuscany Meadows 2024 Summary Table
3. Resolution for Trans Bay Cable
Exhibit 1 – Trans Bay Cable 2024 Summary Table
4. Resolution for Edgewater
Exhibit 1 – Edgewater 2024 Summary Table
5. Resolution for Sky Ranch
Exhibit 1 – Sky Ranch 2024 Summary Table
6. Resolution for Montreux
Exhibit 1 – Montreux 2024 Summary Table

7. Resolution for Columbia Solar
Exhibit 1 – Columbia Solar 2024 Summary Table

Report Prepared By: Maurice Brenyah-Addow, Senior Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Periodic Review of Southwest (San)
Marco) Development Agreement)
Between The City of Pittsburg and)
Seecon Financial and Construction)
Co. Inc. and Determination as to)
Compliance With Development)
Agreement)

RESOLUTION NO. 25-

WHEREAS, a Development Agreement between the City of Pittsburg and Seecon Financial and Construction Co., Inc., was recorded on August 1, 1990, for the Southwest (San Marco) Development Area; and

WHEREAS, a 1st Amendment to the Development Agreement was executed on November 1, 2001; and

WHEREAS, a 2nd Amendment to the Development Agreement was executed on July 19, 2010; and

WHEREAS, a 3rd Amendment to the Development Agreement was executed on April 8th, 2013; and

WHEREAS, California Government Code Section 65864 *et seq.* ("Development Agreement Statutes") authorizes and regulates the execution of development agreements ("DAs") between certain public entities and persons who desire to develop private property within a public entity's jurisdiction; and

WHEREAS, pursuant to the Development Agreement Statutes, the City established procedures for the consideration of DA applications by property owners or other persons having an interest in property within City's jurisdiction; and

WHEREAS, Section 65865.1 requires City to conduct a periodic review of the City's active Development Agreements, at which time each respective developer is required to demonstrate good faith compliance with the terms of the Development Agreement ("Periodic Review"); and

WHEREAS, if, as a result of the Periodic Review, the City finds and determines, on the basis of substantial evidence, that a developer has not complied in good faith with the terms and conditions of the Development Agreement, the City may terminate or modify the DA pursuant to the Development Agreement Statutes; and

WHEREAS, the last periodic review of the Southwest (San Marco) Development Agreement was conducted, and on April 15, 2024, the City Council determined that the developer was in compliance with the terms of the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg finds and determines as follows.

Section 1. Findings

The City Council hereby finds and determines that the above recitals are true and correct and have served as the basis, in part, for the findings and actions of the City Council set forth below.

Section 2. Compliance with Development Agreement

The City Council hereby finds and determines that, based on the information provided by the Developer and City Staff, as well as the information contained in the "San Marco DA – 2024 Annual Review" summary table, attached hereto and incorporated herein by reference as "Exhibit 1," the Developer has demonstrated good faith compliance with the Southwest (San Marco) Development Agreement.

Section 3. Certificate of Compliance

The City Council hereby directs and authorizes the City Manager to issue a certificate codifying the "Finding of Compliance" for Southwest (San Marco) Development Agreement in a form that can be recorded by the Developer.

Section 4. Certification

The City Clerk shall certify the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Exhibit - 1 - San Marco DA - 2024 Annual Review Summary Table

DA Section	Condition/Requirement	Status	Comments	Action Items
Recitals				
A	To strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the public and private economic risks of development, the Legislature of the State of California adopted Sections 65864 et seq. of the Government Code ("Development Agreement Statute") which authorizes City to enter into a development agreement with a person having a legal or equitable interest in real property, for the development of property. Under the authority of the Development Agreement Statute, City adopted Resolution No. 89-7466 on June 5, 1989, establishing procedures and requirements for the consideration of development agreements.	Not Applicable		
B	Developer is the owner of approximately 639± acres of property located near the City of Pittsburg, within Contra Costa County and described more specifically in Exhibit "A" attached (the "Property") located within the Southwest area described in paragraph E.	Not Applicable		
C	It is the intent of City and Developer to establish certain development rights in the Property which will be the subject of property development applications and this Development Agreement.	Not Applicable		
D	Developer desires to develop and construct on the Property, in phases, a complex of buildings for 2938 single and multifamily residential units plus walk and bicycle paths, play and picnic areas, park areas, and similar open spaces, swimming pools, parking facilities, interior roadways and other related infrastructure improvements (collectively the "Project").	Not Applicable		
E	On May 4, 1987, by Resolution No. 87-7138, the City Council determined that the approximately 639± acre area located adjacent and contiguous to the southwest boundary of City ("Southwest Area") should be included in the Pittsburg sphere of influence and then annexed and developed as part of City.	Not Applicable	On 7/19/10, the City Council approved the 2nd Amendment to the Southwest DA (Ordinance No. 10-1326), which revised the map exhibit of the DA to remove 1.41 acres for which the developer intended to pursue commercial rather than residential land use entitlements (gas station).	Village B is not completed but a large portion has been built out. They anticipate San Marco Villas extension at some point in the future. Also, because there are multiple vesting tentative maps, I would say:
F	On June 15, 1987, by Resolution No. 87-7202, the City Council of City determined, on the basis of mutual interests of City and property owners in the Southwest Area, that City would enter into development agreement(s) with property owners in that area. The agreements are intended to insure orderly urbanization and the housing needs of existing and future City residents in a manner which makes maximum utilization of resources and reduces economic costs of development.	Not Applicable		
G	On August 3, 1987 by Resolution No. 87-7209, City adopted a General Plan amendment to the Southwest Area. On September 6, 1988, by Resolution No. 88-7357 the City adopted an updated General Plan. The General Plan established goals, objectives, policies and criteria to guide the development of this area, and it is the parties' intent that this area be developed consistent with those land use categories specified in the Land Use Element Map of the General Plan and applicable land use regulations as modified herein.	Not Applicable		Plot plans continue to be reviewed for conformance with approved vesting tentative maps.
H	Developer intends to develop the Property which is described in Exhibit "A" in accordance with this Agreement.	Not Applicable		
I	The Southwest Area has been studied and the City has determined that development of the area must be done in an environmentally sensitive manner. City and Developer recognize that its particular development requires coordi-nation and compliance with the City General Plan, but that certain aspects of developing the Property will require flexibility and variation from other applicable City land use regulations will be necessary and appropriate to implement the Project. To the extent that the proposed Project, (as described in paragraph D above and as shown on the Land Use Element of the General Plan), differs from the current zoning regulations, the provisions of this agreement shall prevail.	Not Applicable		

Exhibit - 1 - San Marco DA - 2024 Annual Review Summary Table

J	In accordance with the California Environmental Quality Act ("CEQA"), City will prepare and adopt the appropriate environmental documents for the administration of this Development Agreement and the approvals necessary to carry out the Project.	Compliant	A Subsequent Environmental Impact Report (SEIR, SCH #91073029) was prepared for the San Marco Development Plan Area and certified by the Planning Commission on October 13, 1992.	
K	The Property proposed for the Project is presently located in the unincorporated territory of the County of Contra Costa but within the City's sphere of influence. In accordance with section 65865(b) of the Development Agreement Statute, City and Developer may enter into a Development Agreement before annexation, provided that the Agreement shall not become operative unless annexation of the Property to the City is completed within the period of time specified by the Agreement or by any extension of time provided for by the Agreement. City and Developer desire to complete annexation as soon as possible.	Not Applicable		
L	By entering into this Agreement, City has determined it is in the City's public interest and the interest of its citizens to do so.	Not Applicable		
M	Following compliance with CEQA and after conducting duly noticed public hearings, the Planning Commission recommended approval and the City Council approved this Agreement, authorized its execution and found that this Agreement is consistent with the General Plan. The Agreement was approved by City Ordinance No.	Not Applicable		
N	Development of the Project in accordance with this agreement and subsequent discretionary approvals will provide for orderly growth conformance with the policies and goals set forth in the General Plan in accordance with paragraph "G" and "I".	Not Applicable		
O	For the reasons recited, Developer and City have determined that the Project is a development for which this Agreement is appropriate. This Agreement eliminates uncertainty in planning for and in securing orderly development of the Project. Developer desires to receive the assurance that it may proceed with the Project in accordance with the existing ordinances, resolutions and regulations as of the effective date of this agreement and subject to the terms and conditions in this Agreement, and subject to review and approval and the grant of land use entitlements by the appropriate reviewing body (Planning Commission or City Council) as to each specific proposal for development.	Not Applicable		
P	By entering into this Agreement, City recognizes and hereby acknowledges that approvals herein constitute a present exercise of the governmental authority of City.	Not Applicable		
Agreement Sections				
1	Operative date of Agreement. Under Government Code section 65856(b), the annexation of Property to City must occur on or before July 1, 1993. This agreement does not become operative unless annexation is complete by that date. The parties may, however, extend this completion date for annexation beyond July 1, 1993.	Compliant		
2	Term. The duration of this Agreement shall extend to October 1, 2032, unless terminated, modified or extended by mutual written consent of the parties.	Compliant	On 10/1/01, the City Council approved the 1st Amendment to the Southwest DA to extend its term from the original horizon year of 2002 to an amended horizon year of 2020 (Ordinance No. 01-1187). On 4/15/13, the City Council approved the 3rd Amendment to the DA which extended the term of the DA from its prior expiration year of 2020 to a new expiration year of 2032 in exchange for a revision to the developer's park obligations and a \$10,000 annual payment for development agreement compliance reviews.	
3	Effect of Agreement on Land Use Regulations			
(a)	Permitted Uses. The permitted uses of the property are those uses designated in the Land Use Element of the General Plan adopted on September 6, 1988. A copy of the Land Use Element Map is attached as Exhibit "B".	Compliant		

Exhibit - 1 - San Marco DA - 2024 Annual Review Summary Table

(b)	Density and Land Use Intensity. At its option, the Developer may construct up to a maximum of 2,938 residential units consisting of a mix of single-family and multiple-family residential units as shown on the General Plan Map attached as Exhibit "B". The location and configuration of lots is subject to City's review and approval under the Subdivision Map Act. The parties recognize that in order for the project site to accommodate up to 2,938 mixed residential units, grading in excess of that permitted under the applicable Hillside regulations will be necessary. City agrees that in its review and approval of Developer's grading plans, it shall permit additional grading, which is necessary to construct infrastructure and building pads to effectively and efficiently accommodate the maximum number of units Developer is permitted and proposes to construct, subject to the normal property development process of the City.	Compliant	Plot plans continue to be reviewed for conformance with the approved vesting tentative map. As of the date of this periodic review, Villages A, E, F, G, H, J, K, and L have been completed. Village D (Positano at San Marco) is under construction. Villages C, M, N, and O have not been constructed yet. Village B is not completed but a large portion has been built out. San Marco Villas extension is anticipated at some point in the future. Plot plans continue to be	
(c)	Applicable Land Use Regulations. Except as provided in subparagraph (b) relating to density and grading, the land use regulations applicable to the project shall be those land use regulations in effect on the date this agreement is entered into. The rules, regulations and policies governing the approval and the design, improvement and construction standards and specifications applicable to development of the property shall be those rules, regulations and policies in force on the date this Agreement is entered into except as specifically provided in this Agreement (e.g., subparagraphs (d) and (e) of this para graph).	Compliant		
(d)	Application of Building Codes. Developer is subject to changes in the Uniform Building Codes occurring from time to time subsequent to the date this Agreement is entered into which are not inconsistent with subparagraphs (a) and (b) of this para- graph and if the changes (i) are found by the City Council to be in the best interest of the health and safety of its citizens and (ii) are applicable to all other developments in the City.	Compliant		
(e)	Subsequent Land Use Entitlements. In subsequent land use entitlement actions concerning the property, the City may only apply those existing rules, regulations and policies that were in force and effect on the effective date of this Development Agreement with respect to the property.	Compliant		
4	Fees, Charges and Assessments.			
(a)	City to Adjust Existing Fees. City recently adopted a new fee schedule for fees and charges which it levies in connection with land use entitlements, including subdivisions. Developer agrees that this new fee schedule (attached to this agreement as Exhibit "C") will govern the fees and charges applicable to the project and that it is the intent of the City not to impose additional fees, exactions, dedications or regulations through the exercise of the police power or the taxing power unless they are solely for unanticipated health and safety reasons as a direct result of this project and are consistent with Government Code Sections 66000 et. seq. Any additional fees shall in no event include, for example: child care, public art, libraries, community centers or other similar fees not essential to health and safety. The limitations on fees contained in this subparagraph shall not preclude the City from instituting procedures to impose taxes or assessments on the property (as opposed to development fees) pursuant to districts which may be formed under the provisions of by way of example, the Community Facilities Financing Act (Mello- Roos), or Limited Obligation Revenue Bonds (Marks-Roos) or the Landscaping Lighting and Maintenance Act. The Developer hereby reserves the right to protest the formation of and the participation of the property in any such district.	Compliant		
(b)	Exceptions to Limitations on City's Right to Impose Fees, Taxes, and Assessments. Notwithstanding subparagraph (a) of this section limiting the right of the City to impose fees, charges, and assessments in connection with land use entitlements and subdivisions, the City may impose the following additional fees consistent with Government Code section 66000 et seq., and taxes and assessments without protest from the developer: (i) a fee imposed or mandated by another governmental agency; or (ii) a fee imposed for citywide traffic or drainage mitigation purposes; or (iii) a fee in the form of a capital improvement facility fee for sewer purposes or water purposes. (iv) an assessment to be imposed on residential units pursuant to a Mello Roos or Marks Roos District for the exclusive purpose of providing police services to the property. (v) an assessment imposed for the benefit of the property pursuant to the Landscape Lighting and Maintenance District Act.	In Progress	Fees, taxes, and assessments the City currently imposes on projects within the San Marco PD area include: Facilities Reserve Charge (PMC Chapters 13.08, 13.12, and 13.24) for water and sewer service; Local Transportation Mitigation Fee (PMC Chapter 15.90); Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.102); In-Lieu Parkland Dedication Fee; Community Facilities District 2007-01 for park maintenance; and Community Facilities District 2004-1 for police services.	

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(c)	Consumer Price Index Adjustment. At the end of one year from the date this agreement becomes operative (see paragraph I) and annually thereafter during the term of this agreement, the City may adjust the fees and charges imposed upon Developer to reflect the increase, if any, in the Consumer Price Index (San Francisco/Oakland) as published by the Bureau of Labor Statistics, US Department of Labor, by comparing the Index figure nearest to the time of execution of this agreement to the Index figure nearest to the expiration of each one year period.	Compliant		
5	Application of CEQA. The parties acknowledge that this agreement and Developer's project is subject to CEQA. The parties also acknowledge that the City has previously had prepared and certified an EIR for the proposed change in the City's sphere of influence in the Southwest Hills, the annexation of the area to the City and the General Plan Amendment applicable to the Southwest Hills. City shall treat that EIR as a program EIR against which Developer's future activities under this Agreement will be examined for the need of additional environmental review and analysis as Developer seeks land use entitlements to carry out the Project.	Compliant	A Subsequent Environmental Impact Report (SEIR, SCH #91073029) was prepared for the San Marco Development Plan Area and certified by the Planning Commission on October 13, 1992.	Developer has agreed to conduct pre-construction biological surveys to ensure, in concert with the City, that there will be no impact to federal, state or locally listed habitat or species.
6	Commencement of Construction. It is the desire of Developer and City that Developer begin construction upon annexation after the securing of all discretionary entitlements. Developer agrees to begin and complete, with due diligence, all major infrastructure including arterial roadways, storm drainage facilities, sewer trunk lines and water main lines within six (6) years of annexation. Developer agrees to submit all necessary applications for approval by the City within six (6) months of annexation and City agrees to act upon the project within one (1) year from the submittal of all completed applications.	See Comments/Action Items	Developer did not complete the improvements within the 6 years required due to a variety of reasons, many outside of their control. In 1993, the City and Developer entered into a Memorandum of Understanding to resolve this issue.	
7	Phasing. Developer may accomplish construction on the Project in phases. However, Developer shall construct each phase in such fashion that construction of a single phase does not exceed two years to complete.	Compliant		
8	Conditions, Terms and Restrictions.			
(a)	City agrees to cooperate and use its best efforts to cooperate with Developer in processing applications for land use entitlements including all zoning, building, and grading permits necessary to implement the Project.	Compliant		
(b)	Developer is responsible for obtaining all land use entitlements, permits and approvals which may be required by City and other governmental entities for development of the Property. City agrees to cooperate with Developer and support Developer's efforts in obtaining any such necessary permits and approvals. City further agrees to, from time to time at the request of Developer, enter into agreements with any such entity when such agreements are essential for development of the Project and there is no cost or liability to City. Such agreements may include, but are not limited to, joint powers agreements pursuant to the provisions of the Joint Exercise of Powers Act (Government Code section 6500, et seq.), or the provisions of other laws, in order to create agreements between such parties. To the extent allowed by law, Developer shall be a party to any such agreement, or a third party beneficiary thereof, entitled to enforce for its benefit on behalf of City or in its own name, the rights of City or Developer thereunder or the duties and obligations of the parties thereto.	Compliant		
(c)	Cooperation-Implementation. Upon satisfactory completion by Developer of all required preliminary actions and payments of appropriate processing fees, if any, the parties shall promptly commence and diligently proceed to complete all required steps necessary for implementation of this Agreement and the development by Developer of the Project Site including, but not limited to the following:	Compliant		
(i)	All required public hearings	Compliant		

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(ii)	The processing and checking of all maps, plans, land use permits, building plans and specifications and other plans relating to the development of the Property, filed by Developer, including, but not limited to, all Annexations, General Plan amendments, zoning, final development plans, tentative maps, parcel maps, final maps, grading plans, subdivision improve- ment plans, agreements, lot line adjustments, encroachment permits, formation of assessment/benefit districts and related matters as necessary for the completion of the development of all lots and parcels comprising the Property. In this regard, Developer will, in a timely manner, provide City with all documents, applications, plans and other information necessary for City to carry out its obligations hereunder and cause Developer's planners, engineers, and all other consultants to submit in a timely manner all required materials and documents thereof. Developer to pay cost of all professional support (including testing) for the project as determined by the Community Development Director/City Engineer. It is the express intent of this Agreement that all parties cooperate and diligently work to implement any General Plan amendment, zoning, filing of any tentative or final subdivision map or other land use or building approvals or grading plans and improvement plans for development of the Property in accordance with Exhibit "B".	Compliant		
(d)	Conditions and Dedications. Developer shall make only those dedications and comply with only those conditions expressly prescribed in this Agreement or in force and applicable to the property as of the effective date of this Agreement subject to the following:	Compliant		
(i)	Development Fees. The City may charge development fees for land use approvals, building permits and other similar permits and entitle ments which fees are not to exceed those in force and effect as of the effective date of this Agreement; subject to section 4(b).	Compliant		
(ii)	Additional Fees. In no event shall any additional fees be imposed upon the Property except as expressly provided in this Agreement. Furthermore, the conditions, exactions, dedications, fees or regulations applicable to the Property shall not be subject to modifications or renegotia- tion by City as a result of an amendment of this Agreement, or as a result of the filing of any new entitlement application including but not limited to a land use permit, rezoning, general plan amendment, subdivision map, tentative map, tentative parcel map or parcel map, or any resubdivision of the Property (including a merger or lot line adjustment or the creation of new lots within a designated remainder parcel, provided, however, that these provisions shall not exclude the imposition of normal processing fees in effect at the time of the new application, and provided further that the new application shall not result in substantial impacts and further that all new entitlement requests shall be subject to the property development process of the City.	Compliant		
(iii)	Dedications. Upon completion of the improvements and construction in accordance with City standards for the facilities referred to in this paragraph, Developer agrees to dedicate such facilities, including all in- terior subdivision streets and other public improvements, in accordance with tentative and final map approvals which shall be consistent with Exhibit "B" and this Agreement. Developer will convey to City, by Grant Deed, the park, path areas, and other public rights of way in accordance with this paragraph. The City specifically reserves the right to accept, or reject, such offers of dedication.	Compliant		
9	Construction of Facilities and Infrastructure In-Lieu of the Payment of Fees; Reimbursements; Assessment District and Benefit Districts.			
10	Williamson Act Fees. Upon completion of annexation of the Property, and if the City has the authority it shall act as the lead agency in administering the cancellation of the Williamson Act contract which affects a portion of the Property. If the City does not have this authority, the City shall use its best efforts to support cancellation of the contract in accor- dance with applicable rules and regulations and shall apply any fees which it receives in connection therewith toward public improvements and facilities to benefit the Property. The City's decision in how to apply these funds is final.	Compliant		

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11	Assessment and Benefit District(s). The City agrees to cooperate with the Developer in establishing and implementing an assessment district(s) and benefit district(s) in accordance with applicable laws to finance or reimburse Developer for improvements constructed inside or outside of the Property.	Compliant	Fees, taxes, and assessments the City currently imposes on projects within the San Marco PD area include: Facilities Reserve Charge (PMC Chapters 13.08, 13.12, and 13.24) for water and sewer service; Local Transportation Mitigation Fee (PMC Chapter 15.90); Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.102); In-Lieu Parkland Dedication Fee; Community Facilities District 2007-01 for park maintenance; and Community Facilities District 2004-1 for police services.	
12	Life of Subdivision Maps. Pursuant to Government Code Section 66542.6(a), the term of the tentative maps filed subsequent to the operative date of this Agreement shall automatically be extended for the term of this Agreement (as the term is extended by this Third Amendment).	Compliant	Language from 3rd Amendment to Southwest DA	
13	Default; Remedies; Termination			
(a)	Failure or unreasonable delay by either party to perform any term or provision of this Agreement for a period of ninety (90) days after written notice from the other party shall constitute a default under this Agreement, subject to extensions of time by mutual consent in writing. The notice shall specify the nature of the alleged default and the manner in which the default may be satisfactorily cured. If the nature of the alleged default is such that it cannot reasonably be cured within such time period, then the diligent prosecution to completion of the cure shall be deemed a cure within such a period. Subject to the foregoing, after notice and expiration of the 90-day period without cure, the other party to this Agreement, at its option, may institute legal proceedings pursuant to this Agreement and/or give notice of intent to terminate the Agreement pursuant to Government Code Section 65868. Following such notice of intent to terminate, the matter shall be scheduled for consideration and reviewed by City Council within thirty (30) calendar days in the manner set forth in Government Code sections 65865, 65867, and 65868. If City does not accept, review, act upon or issue necessary development permits, entitlements, or other land use or building approvals for use in a timely fashion as required by this Agreement, or as otherwise agreed to by the parties, or the City otherwise defaults under the terms of this Agreement, Developer shall have all rights and remedies provided herein or under applicable law.			
(b)	In addition to specific provisions of this Agreement, performance by either party is not in default where delays or defaults are due to war, insurrection, strikes, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, judicial decisions, or other basis for excused performance which is not within the reasonable control of the party to be excused. If written notice of such delay is given to either party within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or such longer period as may be mutually agreed upon.			
(c)	All other remedies at law or in equity which are not otherwise provided for in this Agreement or in the City's regulations governing development agreements are available to the parties to pursue if there is a breach.			
14	Changes in Law.			
(a)	If state or federal laws or regulations enacted after the effective date of this Agreement prevent or preclude compliance with one or more provisions of this agreement, such provisions of this Agreement shall be modified or suspended only to the extent necessary to comply with such state or federal laws or regulations.	Not Applicable		

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(b)	City agrees that other development approvals within the City shall not diminish Developer's plans for the full development of the Property in accordance with this Agreement, despite increased burden by virtue of other development upon public facilities subject to the provisions of Section 9. Nothing in this subsection (b) shall limit or restrict orders or regulation from the City or other governmental agencies that would affect the rate, timing or sequence of development because of lack of water or sewer infra- structure to accommodate such development (such as water service restrictions imposed by Contra Costa Water District, or similar orders and regulations).	Compliant		
15	Amendment or Cancellation.			
(a)	This Agreement may be amended or canceled in whole or in part, by mutual consent by the parties or their successors in interest. Notice of intention to amend or cancel any portion of this Agreement shall be given in the manner provided by section 65867 of the Government Code. All amendments to this Agreement shall be first approved by ordinance of the City Council in accordance with section 65867.5 of the Government Code.	Compliant		
(b)	Notwithstanding the foregoing, an amendment to this Agreement which does not relate to the term, permitted uses, density or intensity of use, height or size of buildings, provisions for reservations of land, conditions, fees for public facilities, terms, restrictions and requirements regarding covenants relating to the use of the property does not require a public hearing before the parties may execute an amendment to this Agreement.	Compliant		
(c)	Any non-substantive deviation from the development plan for the Project, as determined by the Director of the Community Development Department, with respect to the location of buildings, streets and other physical facilities, shall not require an amendment to this Agreement.	Compliant		
16	Annual Review. Annual Review. Each year during the term of this agreement the City shall at the first City Council meeting in September or as soon there- after as the Council agenda permits review the extent of good faith compliance by Developer with this Agreement. This periodic review shall be limited in scope to compliance with the terms and conditions of this Agreement as provided in Government Code section 65865.1. Developer shall pay the City's administrative costs of the annual review process. The fee shall be as fixed by Resolution of City Council. At the review meeting, Developer must demonstrate good faith com- pliance with the terms and conditions of this Agreement under Government Code section 65865.1. At the conclusion of the meeting, City shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer or its successor in interest has complied in good faith with the terms and conditions of this Agreement. If City finds and determines that Developer has not complied with its terms and conditions, City may terminate or modify this Agreement by giving notice of its intention to do so in the manner set forth in Government Code sections 65867 and 65868. In the manner prescribed in Section 27, Notices, the City shall deposit in the mail to Developer a copy of all public staff reports, documents and related exhibits concerning Developers' performance here under at least ten (10) days before each periodic review. Developer shall be permitted an oppor- tunity to respond to the City's evaluation of its performance, either orally at a public hearing or in a written statement, at Developers' election. This response shall be made to the City Council or, if the matter has been referred to the Planning Commission, to the Planning Commission. Beginning in 2013, Developer shall pay the City a fixed sum of \$10,000 each year (adjusted by the San Francisco-Oakland-San Jose Consumer Price Index starting July 1, 2014) for the City to conduct annual review of the Development Agreement starting in 2013. Failure by the City to conduct the annual review required each year shall not be deemed a default by Developer under the Development Agreement; if the City does not conduct the review, the payment shall not be required for that year.	In Progress		
17	Enforcement. Unless amended or canceled as provided in Section 15, the Agreement is enforceable notwithstanding any change in the applicable General Plan, specific plan, zoning ordinance or regulations, subdivision design/improvement construction standards, specifications and regulations or building regulations adopted by City which alters or amends an ordinance, rule, regulation or policy governing permitted use of the Property, or governing the density and grading as provided in paragraph 3 (a), (b) and (c) of this Agreement.	Not Applicable		
18	Recordation. Not later than 10 days after execution of this Agreement by all parties, the City Clerk shall record a copy of this Agreement with the Contra Costa County Recorder. From and after the date of recordation, this Agreement imparts notice to all persons under the recording laws of the State.	Compliant		

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19	Certificate of Satisfaction. After completion of the Project, City upon request of Developer, shall execute in recordable form and deliver to Developer an instrument certifying that Developer has satisfied all of Developers" obligations under this Agreement.	See Comments/Action Items	Developer may request a Certificate of Satisfaction after completion of the Project.	
20	Relationship of Parties. It is understood and agreed that the contractual relationship between City and Developer is such that the latter is an independent contractor and in no case an agent of City.	Not Applicable		
21	Hold Harmless. The Developer agrees to and shall hold the City, its officers, agents, employees and representatives harmless from, and shall defend against, liability for damage or claims for damage for personal injury including death and claims for property damage including inverse condemnation which may arise from its direct or indirect actions or those of its contractors, subcontractors, agents, employees or other persons acting on its behalf, which relate to real property covered by this Agreement, except that the foregoing does not extend to any willful acts committed by the City, its offices, agents or employees. This hold harmless agreement applies to all damages and claims for damages suffered or alleged to have been suffered by reason of the actions referred to in this paragraph, regardless of whether or not City prepared, supplied or approved plans or specifications for the project.	Not Applicable		
22	Cooperation in the Event of Legal Challenge. If legal action is instituted by a third person challenging the validity of any provision of this agreement, developer shall defend that action and pay all costs, expenses and fees associated with the defense. The parties agree to cooperate in defending the action.	Not Applicable		
23	Assignment. Nothing in this Agreement prevents Developer from conveying all or part of this interest in the property to a buyer, assignee or other nominee as Developer may elect. An assignment or transfer of this agreement other than an affiliate or subsidiary of Developer is subject to City's prior review and written approval which approval shall not be unreason- ably withheld.	Not Applicable		
24	Successors. The obligations imposed by this Agreement shall be considered covenants running with the land described in Exhibit "A", in accordance with sections 1460, et seq. of the Civil Code and shall inure to the benefit of, and be binding upon all successive owners of such lands, or parts thereof, during the term of this Agreement, as provided in Section 65868.5 of the Government Code.	Not Applicable		
25	Validity. If a covenant, condition or term of this Agreement is held by a court to be illegal or in conflict with law, the validity of the remaining portions or provisions are not affected. The parties agree to use their best efforts to defend the validity of this Agreement against the claims of third parties.	Not Applicable		
26	Attorney's Fees. If legal action is brought by either party for breach of this Agreement or to enforce its provisions, the prevailing party is entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the court.Attorney's Fees. If legal action is brought by either party for breach of this Agreement or to enforce its provisions, the prevailing party is entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the court.	Not Applicable		
27	Notice. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the following addresses: City of Pittsburg, 2020 Railroad Avenue, Pittsburg, CA 94565, Attn: City Clerk; Seecon Financial & Construction Co., Inc., 4300 Railroad Avenue, Pittsburg, CA 94565, Attn: Robert J. Rossi or such to other addressee(s) and at such other place as the parties may from time-to-time designate by written notice to each other. Notices, demands and requests which are served by mail in this manner are deemed served or given for all purposes five (5) calendar days after the date the notice, demand or request is mailed.	Compliant		
28				
(a)	The headings of sections are used for convenience only and shall not affect the meaning or interpretation of the contents of this Agreement.	Not Applicable		
(b)	The laws of the State of California shall govern the inter-pretation and enforcement of this Agreement, and the conduct of the parties.	Not Applicable		
(c)	Time is expressly declared to be of the essence in this Agreement and of all terms expressed in it.	Not Applicable		
(d)	The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against any party. The parties have equally participated in the preparation of this Agreement. The term "assign" shall include the term "transfer". The plural shall include the singular, and the singular the plural. One gender shall include all genders.	Not Applicable		

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(e)	This instrument, along with the attached Exhibits, constitutes the entire Agreement between the Parties relative to this subject matter. This Agreement may be altered, amended or revoked only by an instrument in writing signed by the Parties. No representations whatsoever have been made relative to this subject matter except as may be expressly stated in writing in this Agreement.	Not Applicable		
(f)	The waiver by a party of a breach of a term in this Agreement is not a waiver of that term or a subsequent breach of the same or any other term. No custom or practice which may develop between the parties during the term is a waiver of or in any way affects the right of a party to insist upon performance and observance by the other party in accordance with the terms of this Agreement.	Not Applicable		

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Periodic Review of Tuscany Meadows)
Development Agreement Between The)
City of Pittsburgh and Seecon Built)
Homes, Inc. and Determination as to)
Compliance With Development)
Agreement)

RESOLUTION NO. 25-

WHEREAS, a Development Agreement between the City of Pittsburgh and Seecon Built Homes, Inc. was executed on February 5, 2018, for the Tuscany Meadows Property; and

WHEREAS, California Government Code Section 65864 *et seq.* ("Development Agreement Statutes") authorizes and regulates the execution of development agreements ("DAs") between certain public entities and persons who desire to develop private property within a public entity's jurisdiction; and

WHEREAS, pursuant to the Development Agreement Statutes, the City established procedures for the consideration of DA applications by property owners or other persons having an interest in property within City's jurisdiction; and

WHEREAS, Section 65865.1 requires City to conduct a periodic review of the City's active Development Agreements, at which time each respective developer is required to demonstrate good faith compliance with the terms of the Development Agreement ("Periodic Review"); and

WHEREAS, if, as a result of the Periodic Review, the City finds and determines, on the basis of substantial evidence, that a developer has not complied in good faith with the terms and conditions of the Development Agreement, the City may terminate or modify the DA pursuant to the Development Agreement Statutes; and

WHEREAS, the last periodic review of the Tuscany Meadows Development Agreement was conducted, and on April 15, 2024 the City Council determined that the developer was in compliance with the terms of the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburgh finds and determines as follows.

Section 1. Findings

The City Council hereby finds and determines that the above recitals are true and correct and have served as the basis, in part, for the findings and actions of the City Council set forth below.

Section 2. Compliance with Development Agreement

The City Council hereby finds and determines that, based on the information provided by the Developer and City Staff, as well as the information contained in the "Tuscany Meadows DA – 2024 Annual Review", attached hereto and incorporated herein by reference as "Exhibit 1," the Developer has demonstrated good faith compliance with the Tuscany Meadows Development Agreement.

Section 3. Certificate of Compliance

The City Council hereby directs and authorizes the City Manager to issue a certificate codifying the "Finding of Compliance" for Tuscany Meadows Development Agreement in a form that can be recorded by the Developer.

Section 4. Certification

The City Clerk shall certify the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

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DA Section	Condition/Requirement	Status	Comments	Action Items
Article II - Effective Date; Term				
Section 2.01	Effective Date. This Agreement shall become effective upon the date the ordinance approving this Agreement becomes effective (the “Effective Date”).	See Comments/Action Items	On February 5, 2018, the City Council adopted Ordinance 16-1405 approving the Development Agreement between the City of Pittsburg and Seecon Built Homes, Inc. for the Tuscany Meadows property.	
Section 2.02	Term. The term of this Agreement shall commence upon the Effective Date and continue for a period of twenty five (25) years (the “Term”).	See Comments/Action Items	Based on the effective date of February 5, 2018, the DA will expire on February 5, 2043.	
Article III - Obligations of Developer				
	The parties acknowledge and agree that the City’s agreement to perform and abide by the covenants and obligations of City set forth in this Agreement is a material consideration for Developer’s agreement to perform and abide by its long term covenants and obligations, as set forth herein. The parties acknowledge that many of Developer’s long term obligations set forth in this Agreement are in addition to Developer’s agreement to perform all the mitigation measures identified in the Mitigation Monitoring Program. As material consideration for the long term assurances and vested rights provided by this Agreement and as a condition of approval to one or more of the Project Approvals, Developer agrees to each of the following:	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for design review or building permits for the project. The City shall seek performance of Developer’s obligations prior to or as part of project development.	
Section 3.01	Drainage Improvements. Subject to the terms of this Agreement, as a condition of approval to one or more of the Project Approvals, Developer agrees to construct and offer for dedication to the City those Project storm water drainage improvements to be located within City’s boundaries and required to serve the Project Site (“Drainage Improvements”). The City shall accept the offer of dedication of the Drainage Improvements, as long as the Drainage Improvements comply with the City’s standards, applicable rules and regulations, and this Agreement. The parties agree that the construction of the Drainage Improvements shall be phased according to a construction schedule determined by Developer, subject to the written approval of the City Manager. City shall not require any improvements to onsite or offsite drainage facilities to address pre-existing deficiencies provided that Developer demonstrates to City’s reasonable satisfaction that impact to downstream facilities are not being exacerbated.	Not Applicable (at this time)		
Section 3.02	Facility Reserve Charges. Developer agrees to pay City’s Facility Reserve Charges (“FRC”) as set or modified by the City Council from time to time.	Not Applicable (at this time)		
Section 3.03	Water Infrastructure. Developer shall comply with the 2015 Water System Master Plan, as amended. Developer shall have the option, subject to the written approval by the City Manager, to provide water infrastructure facilities as specified by the City or to construct the water infrastructure facilities in phases subject to a storage requirement and site analysis study, commissioned by the City, that incorporates the water infrastructure requirements pursuant to the 2015 Water System Master Plan, as amended.	Not Applicable (at this time)		
Section 3.04	School Facilities Impact Mitigation. Developer shall pay in lieu school impact fees in accordance with Government Code §§ 65995 et seq. Compliance with this Section shall satisfy all of Developer’s obligations required by City to mitigate school impacts resulting from the Project.	Not Applicable (at this time)		

Exhibit - 1 - Tuscany Meadows DA - 2024 Annual Review Summary Table

Section 3.05	Applicable Fees. City may levy development fees, and charges during the term of this Agreement relative to the development of the Project Site which are in force and effect as of the Effective Date, as more particularly described and according to the payment schedule set forth on Exhibit B ("Applicable Fees"). Unless otherwise provided in this Agreement, no development fees, or charges, or categories thereof, shall be imposed on the Project other than those fees (including categories within such fees), and charges identified as Applicable Fees on Exhibit B, which exhibit shall exclusively govern the Applicable Fee payment schedule. The parties agree that any and all Project development fees, charges or exactions related to schools, fire prevention, water, sewer, stormwater, and storm drainage facilities, which are to be paid by Developer directly to third-party governmental agencies, are not subject to or within the scope of this Agreement whether such third party charges exist or are subsequently imposed by such third parties, whether directly upon Developer or through City. This provision shall not be construed to benefit any Non-Assuming Transferees, as such term is defined in herein.	Not Applicable (at this time)		
Section 3.06	Applicable Fee Adjustments. Developer shall pay fees and charges consistent with Section 3.05, and the applicable adjustments currently provided in such fees, and as modified from time to time by the City, whether such adjustment or modification is an increase or decrease. Developer retains the right to challenge the imposition of any new fees not referenced in this Agreement or the modification, amendment or adjustment of all Applicable Fees pursuant to Government Code § 66000 et seq., not already authorized by ordinances, resolutions or policies in place at the time of this Agreement's execution. Should the City Council approve a new AB 1600 fee study and/or authorize a decrease in any of the Applicable Fees during the term of this Agreement by ordinance or by resolution, Developer shall have the option, at its sole discretion, to pay the lower fee, as may be adjusted by the applicable CPI or ENR, unless otherwise bound by separate contract or memorandum of understanding with City. In no event shall Developer receive retroactive adjustments for lower fees.	Not Applicable (at this time)		
Section 3.07	City Local Traffic Mitigation Fee. Developer shall pay the City Local Traffic Mitigation Fee, which fee is necessary to finance unmet City traffic improvement needs in the amount in effect as of the Effective Date and subject to adjustment in accordance with Resolution No. 07-10917 with credit for certain improvements constructed by Developer per Section 4.05 below. If the City Council approves a new AB 1600 fee study and/or authorize a decrease in any of the Applicable Fees during the term of this Agreement by ordinance or by resolution, Developer shall have the option, at its sole discretion, to pay the lower fee, as may be adjusted by the applicable CPI or ENR, unless otherwise bound by separate contract or memorandum of understanding with City. In no event shall Developer receive retroactive adjustments for lower fees.	Not Applicable (at this time)		
Section 3.08	Regional Traffic Fee. Developer shall pay the ECCRFA regional traffic fee should it be imposed by the City in an amount equal to or less than the amount paid by projects in the Cities of Antioch, Brentwood, and Oakley or in accordance with the existing valid Memorandum of Understanding dated June 29, 2010, as amended, whichever is less.	Not Applicable (at this time)		

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Section 3.09	Fees, Assessments and/or Taxes to be Paid by Developer. Developer agrees to pay its fair share of any levies imposed by any assessment district, geologic hazard abatement district, landscaping and lighting district, community facilities district, tax-exempt financing mechanisms, or other funding mechanisms related to public safety; traffic; sewer; water; fire; the prevention, mitigation, abatement, or control of geologic hazards; or other infrastructure improvements (including, without limitation, design, acquisition, construction and maintenance costs) (collectively, "Funding Mechanisms") within the Project Site, provided that such Funding Mechanism is referenced herein and/or was legally created pursuant to applicable law.	Not Applicable (at this time)		
Section 3.10	Affordable Housing. Developer shall comply with PMC 18.86.080 and VTM Condition of Approval No. 5 by constructing at least ninety two (92) rental attached accessory units within the Project. A covenant shall be recorded limiting the amount of rent that may be charged for these secondary units, consistent with the terms and conditions set forth in the affordable housing agreement. Forty six (46) of these units shall be constructed no later than the City's issuance of the four hundred and fiftieth (450th) building permit for the Project. Prior to the City's issuance of the first certificate of occupancy Developer agrees to enter into an affordable housing agreement with the City (the "Affordable Housing Agreement") which further memorializes the provisions of this Section 3.10 and is consistent with applicable law, including Pittsburg Municipal Code Chapter 18.50. Developer agrees that the attached accessory units referenced in this Section shall not be built or otherwise allowed on adjoining lots without the prior written approval of the City Manager. City agrees that Developer shall not be required to pay any additional fees (building permit, sewer, water, traffic fees etc.) associated with any attached, affordable secondary/accessory dwelling units.	Not Applicable (at this time)		
a)	Timing. The Affordable Housing Agreement shall establish provisions to implement the affordable housing requirements within this Agreement and shall include, but not be limited to, implementation and monitoring provisions to ensure compliance with municipal law related to affordable housing. The agreement shall include provisions for the reasonable reimbursement of costs to the City for the administration and monitoring of the agreement.	Not Applicable (at this time)		
b)	Inclusionary Housing Ordinance. Notwithstanding any provision of this Agreement, in the event that the City has rescinded its respective previously adopted affordable housing ordinance and not replaced it with another affordable housing or similar ordinance, or such ordinance has been declared illegal, Developer shall not be obligated to comply with the provisions for affordable housing set forth in this Agreement. In the event, prior to or during the development of the Project, the City amends or replaces or eliminates its affordable housing ordinance which would result in a reduction in the number of secondary units Developer is obligated to construct, then the Affordable Housing Agreement shall be modified to provide for an equivalent reduction in the number of secondary units required to be constructed in the Project or elimination of the requirement.	Not Applicable (at this time)		
Section 3.11	Security Improvements. Developer shall install the basic home security wiring in the Project homes (defined herein as wiring for a basic home security system on the first floor windows and doors only). Developer shall offer one year of professional monitoring service to new homeowners. The monitoring service shall be at the election of the new homeowner.	Not Applicable (at this time)		
Section 3.12	Solar Roof System. Developer shall install a solar roof system on one of its model homes for example purposes only (which may consist of a few panels with photovoltaic compatibility or other comparable technologies) and offer solar installation as an option at the homeowner's expense.	Not Applicable (at this time)		

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Section 3.13	C.3 Facilities. Developer shall construct C.3 facilities as provided in the Project Approvals. In accordance with the City’s NPDES permit, provision C.3.e.i.and ii., developer shall have the right to construct or participate in the funding of offsite C.3 facilities as approved by the City Engineer and memorialized by separate agreement with the City. If Developer elects to participate in offsite C.3 facilities in lieu of on-site C.3 facilities, Developer will work with the City to provide an appropriate funding mechanism for the continuous maintenance of these facilities in perpetuity.	Not Applicable (at this time)		
Section 3.14	Traffic Conditions. Developer shall install at its sole cost the following traffic improvements in accordance with the provisions set forth below. In the event any improvements listed below are within the City of Antioch or the City of Antioch’s control, Developer, at its option, shall not be required to construct such improvements but shall only be required to pay its proportionate share of the costs of such improvements. In such event, Developer shall deposit with the City of Pittsburg the amount that Developer and the City of Pittsburg City Engineer agree in writing is the Developer’s appropriate proportionate share of the cost of such improvements. Upon the deposit of such sums with the City of Pittsburg, the restriction on the issuance of building permits, if any, with respect to such improvement shall be eliminated.	Not Applicable (at this time)		
a)	Traffic Control Plan: Developer shall obtain an encroachment permit and submit a traffic control plan for all construction related activities affecting the public right-of-way.	Not Applicable (at this time)		
b)	Summit Way Extension: Subject to prior written approval from the Antioch and Pittsburg City Engineers, Summit Way shall be extended into the subdivision to provide an additional point of pedestrian and vehicular access from James Donlon Boulevard. The extended street shall consist of a 40-foot-wide roadway and sidewalks that are at least six feet wide in accordance with the City of Pittsburg’s standards, and comply with all other applicable City standards.	Not Applicable (at this time)		
c)	Buchanan Road Dedication and Widening: Prior to the first occupancy in the Project, Developer shall dedicate Buchanan Road right-of-way along the project frontage to provide 59 feet from centerline to property line or as requested by the City Engineer in writing. This represents half the width of the City’s residential arterial standard. There shall be a transition to existing roadway improvements as approved and determined by the City Engineer in writing. Developer shall also provide all frontage improvements and reconstruct Buchanan Road as necessary to City Standards for a Residential Arterial Street as determined by the City Engineer, providing a consistent two percent maximum cross slope, Class II bicycle lane, sidewalk, and repair any pavement failure areas along the south Buchanan Road project frontage, from Highlands Ranch subdivision to the Contra Costa Canal, approximately 2,870 linear feet. The City Engineer, in writing, may allow occupancy if this work is underway.	Not Applicable (at this time)		
d)	Developer shall install a fully actuated and interconnected traffic signal system at the proposed Somersville Road/Sequoia Drive intersection at the time that Sequoia Drive is connected to Somersville Road. This includes left and right turning lanes to and from Sequoia Drive on Somersville Road.	Not Applicable (at this time)		
e)	Traffic Improvements: Developer shall design and construct the following improvements prior to issuance of a building permit for the 551st dwelling unit. These improvements shall be made with prior written approval of the City Engineer.	Not Applicable (at this time)		

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1)	An additional eastbound left turn lane and an additional northbound left turn lane at the Somersville Road/Buchanan Road intersection along with appropriate traffic signal modifications. This improvement shall not be required if deemed infeasible by the City Engineer during the design process. If acquisition of additional right-of-way is required for this improvement, this improvement will be deemed infeasible. In addition, this improvement shall not be required if ECCRFFA or the City have extended James Donlon Boulevard to Kirker Pass Road or if the City of Pittsburg and TRANSPLAN have approved control point metering of traffic on Kirker Pass Road to 1,400 vehicles per hour during the afternoon peak hour in which case Developer shall design, construct, and fund implementation of such metering near City limits during the p.m. peak commute period.	Not Applicable (at this time)		
2)	An additional westbound through lane on Buchanan Road along the approach to and departure from Harbor Street. This improvement shall not be required if deemed infeasible by the City Engineer in writing during the design process. If acquisition of additional right-of-way is required for this improvement, this improvement will be deemed infeasible. In addition, this improvement shall not be required if ECCRFFA or the City has extended James Donlon Boulevard to Kirker Pass Road.	Not Applicable (at this time)		
3)	An additional westbound through lane on Buchanan Road along the approach to and departure from Loveridge Road. This improvement shall not be required if deemed infeasible by the City Engineer in writing during the design process. If acquisition of additional right-of-way is required for this improvement, this improvement will be deemed infeasible. In addition, this improvement shall not be required if ECCRFFA or the City has extended James Donlon Boulevard to Kirker Pass Road.	Not Applicable (at this time)		
4)	An additional eastbound through lane on Buchanan Road along the approach to and departure from Ventura Drive. This improvement shall not be required if deemed infeasible by the City Engineer in writing during the design process. If acquisition of additional right-of-way is required for this improvement, this improvement will be deemed infeasible. In addition, this improvement shall not be required if ECCRFFA or the City has extended James Donlon Boulevard to Kirker Pass Road or if the City of Pittsburg and TRANSPLAN have approved control point metering of traffic on Kirker Pass Road to 1,400 vehicles per hour during the afternoon peak hour in which case Developer shall design, construct, and fund implementation of such metering near City limits during the p.m. peak commute period.	Not Applicable (at this time)		
5)	An additional eastbound through lane on Buchanan Road along the approach to and departure from Tuscany Meadows Drive. This improvement shall not be required if ECCRFFA or the City has extended James Donlon Boulevard to Kirker Pass Road or if the City of Pittsburg and TRANSPLAN have approved control point metering of traffic on Kirker Pass Road to 1,400 vehicles per hour during the afternoon peak hour in which case Developer shall design, construct, and fund implementation of such metering near City limits during the p.m. peak commute period.	Not Applicable (at this time)		
6)	An additional eastbound through lane on Buchanan Road along the approach to and departure from the Entrance to Parcel A prior to occupancy of this Project's multifamily residential units. This improvement shall not be required if ECCRFFA or the City has extended James Donlon Boulevard to Kirker Pass Road or if the City of Pittsburg and TRANSPLAN have approved control point metering of traffic on Kirker Pass Road to 1,400 vehicles per hour during the afternoon peak hour in which case Developer shall design, construct, and fund implementation of such metering near City limits during the p.m. peak commute period.	Not Applicable (at this time)		

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7)	Left and right turning lanes to and from Sequoia Drive on Somersville Road.	Not Applicable (at this time)		
f)	Other Traffic Improvements: Developer shall design and construct the following improvements prior to the issuance of the first building permit, with prior written approval of the City Engineer:	Not Applicable (at this time)		
1)	A fully actuated and interconnected traffic signal system at the proposed Buchanan Road/Tuscany Meadows Drive intersection.	Not Applicable (at this time)		
2)	Westbound left-turn/acceleration lanes and eastbound right-turn/acceleration lanes at the proposed Buchanan Road/Tuscany Meadows Drive intersection.	Not Applicable (at this time)		
3)	Bus turnouts, bus shelters, and bicycle racks on both sides of Buchanan Road adjacent to Tuscany Meadows Drive. Improvements to the north side of Buchanan Road that are deemed infeasible by the City Engineer in writing shall not be required. If additional right-of-way is required for these improvements, the construction of these improvements will be deemed infeasible.	Not Applicable (at this time)		
4)	Provide Class II bicycle lane and sidewalk along north side of Buchanan Road. The sidewalk improvement shall not be required if deemed infeasible by the City Engineer in writing during the design process.	Not Applicable (at this time)		
5)	A direct multi-use pathway between the project and the Delta de Anza Regional Trail for use by pedestrians and bicyclists. The required timing of these improvements may be adjusted by the City Engineer to accommodate acquisition of necessary access rights.	Not Applicable (at this time)		
6)	Left and right turning lanes to and from Entrance to Parcel A on Buchanan Road prior to occupancy of this Project's multifamily residential units.	Not Applicable (at this time)		
g)	When Tuscany Meadows Drive is connected to James Donlon Boulevard, Developer shall redesign and reconstruct the intersection of Tuscany Meadows Drive/James Donlon Boulevard to eliminate the westbound free-right turn, including removal of a raised island to the written satisfaction of the City Engineer.	Not Applicable (at this time)		
h)	When Tuscany Meadows Drive is connected to James Donlon Boulevard, a physical barrier may be installed, as determined by the City Engineer in writing, to prohibit public vehicle access from James Donlon Boulevard and allowing emergency vehicle access.	Not Applicable (at this time)		
i)	Developer shall design and construct a fully actuated and interconnected traffic signal system at the Buchanan Road/Entrance to Parcel A intersection prior to occupancy of this Project's multifamily residential units.	Not Applicable (at this time)		
Article IV - Obligations of the City				
Section 4.01	Obligations of City Generally. The parties acknowledge and agree that Developer's agreement to perform and abide by its covenants and obligations set forth in this Agreement, including Developer's decision to process the siting of the Project in the City, is a material consideration for City's agreement to perform and abide by the long term covenants and obligations of City, as set forth herein.	Compliant		
Section 4.02	Processing of Annexation and Central Valley Project Inclusion. City shall promptly, in cooperation with Developer, process all documents necessary to achieve annexation of the Property to the City, CCWD, and Delta Diablo and inclusion into the Central Valley Project area.	Compliant		
Section 4.03	Availability of Public Services.			
a)	General. To the extent permitted by law and consistent with its authority, City shall reserve such capacity for water services as may be necessary to serve the Project. This reservation of water infrastructure capacity shall be assured for the Term to the extent consistent with applicable law.	Not Applicable (at this time)		

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b)	Construction Water. City shall make construction water available to the Project by allowing the Project access to the City’s water supply infrastructure, at a location reasonably determined by the City, at Developer’s cost and on those terms and conditions and charges customarily applied by City to similar projects consistent with City standards. Developer shall provide backflow prevention for all points of connection to the City’s potable water supply system and the volume of water consumed shall be tracked with the use of a City-issued hydrant meter.City shall also permit Developer to install such temporary construction water pipelines and related infrastructure as reasonably necessary to provide construction water to the Project site for Developer’s use in any and all Project grading and construction operations, as long as such water is unrelated to potable use.	Not Applicable (at this time)		
Section 4.04	Developer’s Right to Rebuild. City agrees that Developer, in Developer sole’s discretion, may renovate or rebuild the Project within the Term of this Agreement should it become necessary due to natural disaster, changes in seismic requirements, acts of God, acts of terrorism, or damage to work in progress by reason of fire, floods or other casualties. Any such renovation or rebuilding shall be subject to the square footage and height limitations vested by this Agreement, and shall comply with the Project Approvals, the building codes existing at the time of such rebuilding or reconstruction, and the requirements of CEQA and this Agreement.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 4.04.	
Section 4.05	Reimbursement of Infrastructure Costs.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 4.05.	
a)	Reimbursement. Unless otherwise provided for herein, to the extent Developer incurs costs related to the planning and construction of traffic infrastructure, water delivery infrastructure, sewer infrastructure or other public infrastructure required by City or this Agreement for the Project that exceed the Project’s fair share obligation for such infrastructure, City shall reimburse Developer for the City’s portion of such costs (including any management fees provided for in this Agreement), subject to City’s prior verification through inspection of the construction that is subject to such reimbursement and upon final acceptance of the infrastructure by the City. This reimbursement shall be paid within sixty (60) days after City’s final acceptance or at such other time as mutually agreed upon in writing by the parties. Developer shall be entitled to a management fee of five percent (5%) for City’s share of approved infrastructure costs, including but not limited to design and special inspection costs. The management obligations of Developer hereunder shall include contracting and managing the construction of the infrastructure, retaining copies of records, photographs and “as built” for the improvement(s) as well as attending meetings and providing necessary reports as reasonably requested by City.	Not Applicable (at this time)		

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b)	City's Authorization of Reimbursement. Notwithstanding any other provision of this Section or of this Agreement or VTM provisions, City shall not be responsible to reimburse or credit Developer for any costs, including as referenced in Section 4.05(a) herein, unless prior to Developer incurring any costs for which Developer will request reimbursement from City, Developer shall first provide written documentation as to the work to be performed, the estimated costs thereof, including a not-to-exceed cap, and such other details as reasonably requested by the City Manager and the City Manager approves the proposed costs and related work. If the City Manager fails to respond with thirty (30) days of its receipt of such estimated costs, Developer shall provide a second written notice to the City Manager and to the City Engineer, if neither responds with thirty (30) days of the City's receipt of the second request, the request shall be deemed approved. The City Manager shall have the discretion to require Developer to obtain competitive bids on any work for which Developer may request reimbursement or credit from the City where the total cost (not just the City's share) of that work is One Hundred Thousand Dollars (\$100,000) or more. City shall also have the opportunity to inspect any and all infrastructure during its construction, as well as to review any work product for which Developer requests reimbursement or credits. If mutually agreed by the parties in writing, any reimbursement due Developer pursuant to this Agreement may be satisfied by City in the form of credits, which can actually be used by Developer to offset Developer's payment of any Applicable Fees. In the event there are not enough credits to fully satisfy the reimbursement due Developer and subject to the terms of the mutual agreement between the parties referenced in the prior sentence, City shall reimburse Developer within thirty (30) days of invoicing.	Not Applicable (at this time)		
Section 4.06	James Donlon Extension. Developer shall be entitled to build out the Project prior to construction of the James Donlon Extension, to the extent consistent with CEQA. Developer shall not be required to provide a connection to the James Donlon Extension until the James Donlon Extension is completed and the portion of the Project contiguous to the connection is constructed.	Compliant		
Section 4.07	Parkland Dedication In Lieu Fee. Developer and City agree that the park in-lieu fee valuation is currently Ten Dollars and Twenty Seven Cents (\$10.27) per square foot (unless City adopts a lower fee in which case the lower fee shall apply), increased annually by the CPI for the San Francisco-Oakland area, with the first increase implemented in January 2019 reflecting 2018 increases. The timing of the payment of the park in-lieu fee shall be satisfied through compliance with the Municipal Code or a separate agreement between Developer and the City.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for design review or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
Section 4.08	The Project will provide for its fair share of the cost of the water storage, pump station, and transmission pipeline capacity required to serve the homes in the Project in accordance with the most current City Water Master Plan. The Parties shall enter into a separate agreement memorializing such mutual obligation and which agreement shall take into account the following facts, to the extent of their relevance: (i) that a portion of the Property is included in the City's Assessment District No. 1974-1; (ii) the October 2, 1997 letter from Albert D. Seeno Construction Company; (iii) subsequent City Council action January 5, 1998 (Resolution 98-8551).	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for design review or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
Section 4.09	Undergrounding of Electrical Lines. The developer shall underground all overhead utilities in the subdivision in accordance with Pittsburg Municipal Code 12.36.120 and 12.36.130. City shall cooperate with and assist Developer in applying for Rule 20A funds to be used towards the cost of undergrounding the electrical lines of Buchanan Road in front of the Project Site.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for design review or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	

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Article V - Cooperation - Implementation				
Section 5.01	Processing Application for Subsequent Approvals. The parties agree that all Subsequent Approvals shall be processed by City in a manner consistent with the following provisions:			
a)	Standard of Review. By adopting the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its discretionary authority in considering any application for a Subsequent Approval to change the policy decisions reflected by the Project Approvals or otherwise prevent or delay development of the Project as set forth in the Project Approvals. Instead, the Subsequent Approvals shall be deemed tools to implement those final policy decisions and shall be issued by City so long as they comply with this Agreement and Applicable Law, as defined below, and are not inconsistent with the Project Approvals as set forth above, and meet the intent and comply with any City adopted Designed Guidelines, as applicable. To the extent permitted by law, City shall not use its discretionary authority in considering these Subsequent Approval applications to revisit or frustrate the policy decisions or material terms reflected by the Project Approvals. Developer agrees that development under this Agreement shall comply with provisions reflected in Uniform Codes (whether building, fire, plumbing, or other applicable uniform codes) which may adopted subsequent to the Effective Date of this Agreement.	Compliant		
b)	Basis for Denial. City may deny an application for a Subsequent Approval only if such application does not comply with this Agreement or Applicable Law, defined below, or does not substantially comply with the Project Approvals (provided, however, that inconsistency with the Project Approvals shall not constitute grounds for denial of a Subsequent Approval which is requested by Developer as an amendment to that Project Approval). City may approve an application for such a Subsequent Approval subject to any conditions necessary to bring the Subsequent Approval into compliance with this Agreement or Applicable Law, or as is necessary to make this Subsequent Approval consistent with the Project Approvals. If City denies any application for a Subsequent Approval, City shall specify in writing the reasons for such denial and may suggest a modification which would be approved by City.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 4.05.	
Section 5.02	Timely Submittals By Developer. Developer acknowledges that City cannot expedite processing of the Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use its best efforts to (a) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (b) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other necessary materials as set forth in the Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Subsequent Approvals consistent with this Agreement.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for engineering or building permits for the project.	

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Section 5.03	Timely Processing By City. Upon submission by Developer of all appropriate applications and processing fees for any Subsequent Approval, City shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Approval applications including, without limitation, (a) providing at Developer's expense and subject to Developer's request and prior written approval, reasonable overtime staff assistance and/or staff consultants for planning and processing of each Subsequent Approval application; (b) if legally required, providing notice and holding public hearings; and (c) acting on any such Subsequent Approval application. If Developer elects to request and approve the use of overtime staff assistance or staff consultants for planning and processing of any Subsequent Approval pursuant to this Section 5.03, Developer's reimbursement to City for such services shall be made in amount equal to City's actual costs of providing such services, in accordance with standard City practice.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for engineering or building permits for the project.	
Section 5.04	Other Government Permits. At Developer's sole discretion and in accordance with Developer's construction schedule, Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Project. City shall cooperate with Developer in its efforts to timely obtain such permits and approvals and shall, from time to time, at the request of Developer, use its best efforts to ensure the timely availability of such permits and approvals. City shall cooperate with Developer to obtain any and all approvals from Contra Costa County related to the construction or operation of the Drainage Improvements. City shall also cooperate with Developer, CCWD and the Bureau of Reclamation (the "Bureau") in all matters related to CCWD's application to the Bureau to expand the place of use of Central Valley Project water to include the Project Site.	See Comments/Action Items	The City has cooperated with the Developer in finalizing the Planning Survey Report (PSR) necessary for Habitat Conservation Plan (HCP) compliance. Developer submitted the final PSR to the Bureau as part of its application for CVP inclusion.	
Section 5.05	Lighting and Landscaping District, Park Maintenance.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for design review or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
a)	Developer agrees that the Project Site will be annexed into the City's existing Lighting and Landscaping District, as established pursuant to City Resolution No. 88-7324 ("LLD"). as well as City's Community Facilities District 2007-1 for park maintenance ("CFD").	Not Applicable (at this time)		
b)	Developer agrees that the base assessment applies to the Project and is subject to increase, provided any such increase of the base assessment imposed uniformly or similarly situated properties by City in a manner consistent with State law. Developer further agrees that the base assessment shall be levied upon recordation of each of the Project's final maps. The parties agree that the base LLD assessment described herein shall finance, among other things, the maintenance of any and all landscape improvements and the maintenance of the parks.	Not Applicable (at this time)		

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Section 5.06	Public Safety Services CFD. Developer agrees to take all steps necessary to include the Project Site into the City's existing police services Community Facilities District 2005-1, as adopted pursuant to Resolution No. 05-10342 (the "Public Safety Services") at no cost to the City, in order to provide for police and other emergency services to the Project Site. This process shall be completed, to the reasonable satisfaction of the City Manager and the City Attorney, before filing the first final map on the Project. Each legal residential lot located on the Project Site will be required to pay the levy by the Police Services District no earlier than the issuance of a building permit for such lot.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for design review or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
Section 5.07	Fire Services CFD. Developer agrees to annex the Project Site into the City's existing Community Facilities District 2017-1 (Fire Facilities and Fire Safety and Emergency Services) as adopted pursuant to Resolution 17-13311, at no cost to the City, to provide fire protection and emergency services for the Project Site. This process shall be completed to the satisfaction of the City Manager, prior to the recordation of the first final map for the Project. Each legal residential lot located on the Project Site will be required to pay the levy for this district no earlier than the issuance of a certificate of occupancy for such lot (such levy shall not go into effect for any certificate of occupancy issued for model homes in the Project until such model home is transferred to a third party homebuyer).	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for design review or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
Section 5.08	General Plan Maintenance Fee. Developer agrees to pay a development related fee to help fund the maintenance of the Pittsburg General Plan. The General Plan Maintenance Fee will be One Hundred Twenty-five Dollars (\$125) per building permit.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for design review or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
Section 5.09	Assessment Districts or Other Funding Mechanisms.			
a)	City understands that City's long term assurances to Developer concerning fees, taxes and assessments related to the Project are a material consideration for Developer agreeing to process the siting of the Project in its present location and to pay the fees, taxes and assessments described in this Agreement. City shall retain the ability to initiate or process applications for the formation of new assessment districts or other Funding Mechanisms, as defined in Section 3.09 of this Agreement, covering all or any portion of the Project site. Notwithstanding the foregoing, Developer retains all its rights to oppose the formation or proposed assessment of any new assessment district, Funding Mechanism, or any and all increases thereto, or to request or pursue assessment credits or reductions, unless otherwise provided for herein or unless such assessment, Funding Mechanism or related increases are in place and legally effective as of the date of this Agreement's Effective Date.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for design review or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	

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b)	At the request of Developer, City shall cooperate in the formation of, or annexation to, those assessment districts, geologic hazard abatement district, landscaping and lighting districts, community facilities districts, tax-exempt financing mechanisms, or other Funding Mechanisms that Developer and City determine are needed to fund infrastructure improvements and to ensure the orderly development of the Project, at no cost to the City. City shall diligently and expeditiously process applications by Developer necessary to establish such Funding Mechanisms as long as (i) the application complies with law, (ii) is consistent with City's standards, and (iii) provides for a lien to value ratio and other financial terms that are reasonably acceptable to City, and which will result in no commitment of City funds. City shall diligently seek to sell any bonds to be issued and secured by such assessments upon the best terms reasonably available in the marketplace. Any and all costs associated with this Section shall be borne and/or advanced by Developer.	Not Applicable (at this time)		
Section 5.10	Warranty Bonds. Developer agrees that every infrastructure improvement dedicated to City (except landscaping, unimproved real property or open space dedications) pursuant to this Agreement shall be accompanied by a one (1) year warranty bond in a form and in an amount, and with a surety acceptable to City or otherwise as determined in the applicable Subdivision Improvement Agreement.	Not Applicable (at this time)		
Article VI - Standards, Laws and Proceedures Governing the Project				
Section 6.01	Vested Right to Develop. Developer shall have a vested right to develop the Project on the Project Site in substantial conformance with the terms and conditions of this Agreement, the Project Approvals (as and when issued), the Subsequent Approvals (as and when issued), and amendments thereto as shall, from time to time, be approved pursuant to this Agreement. Nothing in this Section 6.01 shall be deemed to eliminate or diminish the requirement of Developer to obtain any required Subsequent Approvals.	Compliant		
Section 6.02	Permitted Uses Vested by This Agreement. The permitted uses of the Project Site; the density and intensity of use of the Project Site; the maximum height, bulk and size of proposed buildings; provisions for reservation or dedication of land for public purposes and the location of public improvements; the general location of public utilities; and other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and, as and when they are issued (but not in limitation of any right to develop as set forth in the Project Approvals), the Subsequent Approvals.	Compliant		
Section 6.03	Applicable Law. "Applicable Law" shall mean the existing rules, regulations, official policies, standards and specifications governing permitted uses of the project site; governing density; and governing design, improvements, and construction standards and specifications applicable to the Project and Project site as set forth in this Agreement and the Project Approvals, and in force and effect on the Effective Date of this Agreement. However, this Agreement and this Section shall not be construed to prevent the City, in any subsequent actions applicable to the Project Site, from applying any new rules, regulations, official policies, standards, and specifications that do not conflict with those rules, regulations, official policies, standards, and specifications existing as of the Effective Date of the Agreement.	Compliant		

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Section 6.04	Uniform Codes. Notwithstanding any other provision of this Agreement, City may apply to the Project Site, at any time during the Term, the then current Uniform Building Code and other uniform construction codes as properly modified by City and uniformly applied on a citywide basis, and City's then current design and construction standards for road and storm drain facilities. In no event shall any such uniform code or standard be adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.	Compliant		
Section 6.05	Moratorium And Conflicting Enactments. To the extent consistent with State Law, if any ordinance, resolution or other measure is enacted, whether by action of City, by initiative, referendum, or otherwise, that imposes a building moratorium, a limit on the rate of development, or a voter-approval requirement which would otherwise affect the timely development of the Project on all or any part of the Project Site, City agrees that such ordinance, resolution or other measure shall not apply to the Project, the Project Site, this Agreement, the Project Approvals, or the Subsequent Approvals, if any, during the term of this Agreement, unless the building moratorium is imposed as part of a declaration of a local emergency or state of emergency as defined in Government Code Section 8558. Developer reserves the right to challenge in court any City action or inaction which Developer believes is in conflict with Applicable Law or this Agreement.	Compliant		
Section 6.06	Environmental Mitigation. The parties understand that the EIR for the Project is a project level CEQA document intended to be used in connection with each of the Project Approvals and Subsequent Approvals needed for the Project. Consistent with the CEQA policies and requirements applicable to the EIR, City agrees to use the EIR in connection with the processing of any Subsequent Approval to the extent allowed by law. City agrees not to impose on Developer any mitigation measures or other conditions of approval other than those specifically imposed by the Project Approvals and the Mitigation Monitoring Program described in the FEIR, specifically required by Applicable Law, or as properly required through the design or architecture review process as long as such mitigation measures or other conditions are imposed in a manner consistent with applicable design review guidelines.	Compliant		
Section 6.07	Life of Subdivision Maps, Development Approvals, and Permits. To the extent consistent with Applicable Law, the term of any subdivision map or any other map, permit, rezoning or other land use entitlement approved as a Project Approval or Subsequent Approval shall automatically be extended for the duration of this Agreement, including any extensions. The term of this Agreement and any subdivision map or other Project Approval or Subsequent Approval shall not include any period of time during which any applicable development moratorium (including, but not limited to, a water or sewer moratorium) or the actions of other public agencies that regulate land use, development or the provision of services to the land, prevents, prohibits or delays the construction of the Project. The term of this Agreement and any subdivision map or other Project Approval or Subsequent Approval shall not include any period of time during which any applicable court order or other legal requirement prevents the processing of any Subsequent Approval or prevents any Project development activities.	Compliant		

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Section 6.08	State and Federal Law. As provided in California Government Code § 65869.5, if any state or federal laws or regulations, enacted after this Agreement's Effective Date prevent or preclude compliance with one or more provisions of this Agreement ("Changes in the Law"), such provision of the Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations as may be necessary to comply with Changes in the Law, and City and Developer shall take such action as may be required pursuant to this Agreement including, without limitation, Article V and Section 10.05. Not in limitation of the foregoing, nothing in this Agreement shall preclude City from imposing on Developer any fee specifically required by State or Federal laws and regulations.	Compliant		
Section 6.09	Timing of Project Construction and Completion.			
a)	Project Phasing. The Project is expected to be built in phases in response to then-existing market conditions over the Term of the Agreement. Except as otherwise specifically provided by this Agreement with respect to Project infrastructure timing, City and Developer expressly agree that there is no requirement that Developer initiate or complete development of the Project or any particular phase of the Project within any particular period of time, and City shall not impose such a requirement on any Project Approval. The parties acknowledge that Developer cannot at this time predict when or the rate at which or the order in which phases will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market demand, interest rates, competition and other similar factors.	Compliant		
b)	The parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, and Developer shall determine which part of the Project Site to develop first, and at Developer's chosen schedule. In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' desire to avoid that result by acknowledging that Developer shall have the right to develop the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Developer's rights under this Section 6.09(b) shall be subject to the requirement that adequate infrastructure to serve each phase of the Project is constructed concurrently with such phase. The City Manager shall reasonably determine what infrastructure will be required to serve each phase of the Project, which determination shall be consistent with Applicable Law.	Compliant		
c)	Nothing in this Agreement shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.	Compliant		

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Section 6.10	Exempting Fees, Mitigation Measures and Similar Requirements Imposed by Outside Agencies. Notwithstanding any other provision of this Agreement, the City agrees to exclude Developer from any and all discretionary collection agreements regarding fees, mitigation measures and similar requirements including, but not limited to, development impact fees, which other public agencies request the City to impose at City's discretion on the Project or on the Project Site after the Effective Date through the Term of this Agreement. This Section 6.10 shall not prohibit the City from imposing on Developer any fee, mitigation measure or similar requirement or obligation that is required by a local or regional agency in accordance with local, regional, State or Federal obligations and implemented by the City in cooperation with such local, regional, state or federal agency, provided such fee, mitigation measure or similar requirement or obligation is imposed in a similar manner on similarly situated properties within the City as, for example, stormwater-related C.3 requirements and increases thereto.	Compliant		
Section 6.11	City's Joint-Inspection Jurisdiction. Developer acknowledges that City has joint inspection jurisdiction within other third-party governmental entities within any and all City rights-of-way and easements.	Compliant		
Article VII - Amendment				
Section 7.01	Amendment to Project Approvals, Subsequent Approvals. To the extent permitted by state and federal law, any Project Approval or Subsequent Approval may, from time to time, be amended or modified in the following manner:	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 7.01.	
a)	Administrative Project Amendments. Upon the written request of Developer for an amendment or modification to a Project Approval or Subsequent Approval, the City Manager or his/her designee shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (ii) whether the requested amendment or modification is consistent with this Agreement, Applicable Law, applicable uniform codes and State or Federal law. If the City Manager or his/her designee finds that the proposed amendment or modification is minor in the context of the entire Project, consistent with this Agreement and Applicable Law, and will result in no new significant environmental impacts not addressed and mitigated in the EIR, the amendment shall be determined to be an "Administrative Project Amendment" and the City Manager or his/her designee may, except to the extent otherwise required by law, approve the Administrative Project Amendment without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, changes in trail alignments, minor variations in lot layouts, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project Site diagram or Project Site legal description shall be treated as Administrative Project Amendments.	Not Applicable (at this time)		
b)	Non-Administrative Project Amendments. Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.	Not Applicable (at this time)		

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Section 7.02	Amendment of This Agreement. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, as follows:	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 7.02.	
a)	Administrative Agreement Amendments. The City Manager, or his/her designee, may, except to the extent otherwise required by law, enter into certain amendments of this Agreement on behalf of the City as long as any such amendment does not substantially affect (i) the Term of this Agreement, (ii) permitted uses of the Project Site, (iii) provisions for the reservation or dedication of land, (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions, (v) the density or intensity of use of the Project Site or the maximum height or size of proposed buildings or (vi) monetary contributions by Developer (“Administrative Agreement Amendment”), and shall not, except to the extent otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. For purposes of this Section 7.02(a), the term “substantially affect” shall be evaluated in the context of the entire Project.	Not Applicable (at this time)		
b)	Amendment Exemptions. No amendment of a Project Approval or Subsequent Approval, whether done administratively or not, shall require an amendment to this Agreement. Instead, any such matter automatically shall be deemed to be incorporated into the Project and vested under this Agreement when written and executed by both parties.	Not Applicable (at this time)		
c)	Amendment Limitations. In consideration of the scope of the benefits to City set forth in this Agreement, any amendment to this Agreement shall only be subject to such new terms and conditions, including new exactions or other obligations, as are reasonably related to the impacts on City directly attributable to such amendment.	Not Applicable (at this time)		
Article VIII - Assignment, Transfer and Notice				
Section 8.01	Assignment of Interests, Rights and Obligations. Developer may transfer or assign all or any portion of its interests, rights or obligations under this Agreement, the Project Approvals or Subsequent Approvals to third parties acquiring an interest or estate in the Project or any portion thereof including, without limitation, purchasers or ground lessees of lots, parcels or facilities.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Article VIII.	
Section 8.02	Transfer Agreements.	Not Applicable (at this time)		
a)	In connection with the transfer or assignment by Developer of all or any portion of the Project (other than a transfer or assignment by Developer to an affiliated party, any deed of trust beneficiary or mortgagee, or a “Non-Assuming Transferee” (as defined in Section 8.03), Developer and the transferee shall enter into a written agreement (a “Transfer Agreement”) regarding the respective interests, rights and obligations of Developer and the transferee in and under the Agreement, the Project Approvals, and the Subsequent Approvals. Such Transfer Agreement may (i) release Developer from obligations under the Agreement, the Project Approvals, or the Subsequent Approvals that pertain to that portion of the Project being transferred or assigned, as described in the Transfer Agreement, provided that the transferee expressly assumes such obligations, (ii) transfer to the transferee vested rights to improve that portion of the Project being transferred and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the transfer or assignment.	Not Applicable (at this time)		

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b)	Any Transfer Agreement shall be binding on Developer, City and the transferee and, unless otherwise provided for in Section 8.03 of this Agreement, shall require the City's prior written consent, which consent shall not be unreasonably withheld. Failure by City to respond within thirty (30) days of a written request by Developer for City's consent shall be deemed City's approval of the Transfer Agreement in question. City may refuse to give its consent only if, in light of the proposed transferee's reputation and financial resources, such transferee would not in City's reasonable determination be able to perform the obligations proposed to be assumed by such transferee. Such determination shall be made by the City Manager and is appealable to the City Council. In no event, however, shall City refuse to give its consent to a proposed transferee pursuant to this Section 8.02(b) if such transferee has a net worth of at least Ten Million Dollars (\$10,000,000) documented in a manner reasonably acceptable to City. Upon recordation of any Transfer Agreement in the Official Records of Contra Costa County, Developer shall automatically be released from those obligations assumed by the transferee therein.	Not Applicable (at this time)		
c)	Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.	Not Applicable (at this time)		
Section 8.03	Non-Assuming Transferees. Except as otherwise required by Developer in Developer's sole discretion, the burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither a Transfer Agreement nor City's consent shall be required in connection with (i) any single residential parcel conveyed to a purchaser, (ii) any property transferred as fewer than ten (10) lots to a single retail builder or (iii) any property that has been established as one or more separate legal parcels for office, commercial, open space, park, school or other nonresidential uses. The transferee in such a transaction and its successors ("Non-Assuming Transferees") shall be deemed to have no obligations under this Agreement, but shall continue to benefit from the vested rights provided by this Agreement for the duration of the Term. Nothing in this Section 8.03 shall exempt any property transferred to a Non-Assuming Transferee from payment of applicable fees and assessments or compliance with applicable conditions of approval.	Not Applicable (at this time)		

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Section 8.04	Notice of Compliance Generally. Subject to City's finding that the facts contemplated by clauses (i) through (iii) herein are true and accurate, within thirty (30) days following any written request which Developer may make from time to time, City shall execute and deliver to Developer (or to any party requested by Developer) a written "Notice of Compliance," in recordable form, duly executed and acknowledged by City, that certifies that (i) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications, (ii) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default, and (iii) any other information reasonably requested by Developer. City's failure to deliver such notice within such time period shall constitute a conclusive presumption against City that this Agreement is in full force and effect without modification except as may be represented by the Developer and that there are no uncured defaults in the performance of the Developer, except as may be represented by the Developer. Developer shall have the right at Developer's sole discretion, to record the Notice of Compliance.	Not Applicable (at this time)		
Article IX - Cooperation in the Event of Legal Challenge				
Section 9.01	Cooperation.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Article IX.	
a)	Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Agreement challenging the validity of the Agreement or any Project Approval or any Subsequent Project Approval, or otherwise arising out of or stemming from this Agreement. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. The parties shall cooperate in defending such action or proceeding. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent in regard to defense of the action or proceeding. The parties shall use best efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis City for all such court costs, attorney fees, and time referenced herein.	Not Applicable (at this time)		
b)	Developer also agrees to indemnify, defend and hold harmless the City, its officials, officers, employees, agents and consultants from any claims, costs, damages or other liabilities for any personal injury or death, or property damage, resulting from the construction of the Project or of operations by the Developer, its officers, employees, agents or consultants, under this Agreement, except for such claims, costs, damages, or other liabilities which are caused by the sole or gross negligence of the City, its officials, officers, employees, agents, or consultants. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense.	Not Applicable (at this time)		

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c)	The parties agree that this Section 9.01 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.01, which shall survive such invalidation, nullification or setting aside.	Not Applicable (at this time)		
Section 9.02	Cure; Reapproval.	Not Applicable (at this time)		
a)	If, as a result of any administrative, legal or equitable action or other proceeding as described in Section 9.01, all or any portion of this Agreement, Project Approvals, or Subsequent Approvals are set aside or otherwise made ineffective by any judgment (a “Judgment”) in such action or proceeding (based on procedural, substantive or other deficiencies, hereinafter “Deficiencies”), the parties agree to use their respective best efforts to sustain and reenact or readopt this Agreement, Project Approvals, and/or Subsequent Approvals that the Deficiencies relate to, as follows, unless the parties mutually agree in writing to act otherwise:	Not Applicable (at this time)		
i)	If any Judgment requires reconsideration or consideration by City of this Agreement, Project Approval, or Subsequent Approval, then the City shall consider or reconsider that matter in a manner consistent with the intent of this Agreement. If any such Judgment invalidates or otherwise makes ineffective all or any portion of this Agreement or any Project Approval, or Subsequent Approval, then the parties shall cooperate and shall cure any Deficiencies identified in the Judgment or upon which the Judgment is based in a manner consistent with the intent of this Agreement and the Judgment. Upon the parties cure of such Deficiencies, City shall then take steps consistent with the Judgment necessary readopt or reenact this Agreement and any applicable Project Approval, Subsequent Approval, or any portion thereof.	Not Applicable (at this time)		
ii)	Acting in a manner consistent with the intent of this Agreement or a Judgment includes, but is not limited to, recognizing that the parties intend that Developer may develop a nine hundred seventeen (917) single-family residential unit project, and adopting such ordinances, resolutions, and other enactments, including, but not limited to, a general plan amendment, rezoning, vesting subdivision map approvals, development plan approvals, PD Plan approvals, design review, improvement agreements, use permits, grading permits, building permits, lot line adjustments, sewer and water connection permits, certificates of occupancy, final development plans, development agreements, permits, resubdivisions, and any amendments to, or repealing of, any of the foregoing as are necessary to readopt or reenact all or any portion of this Agreement, Project Approvals, and/or Subsequent Approvals without contravening the Judgment.	Not Applicable (at this time)		
b)	The parties agree that this Section 9.02 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.02, which shall survive such invalidation, nullification or setting aside.	Not Applicable (at this time)		
Article X - Default, Remedies, Termination				

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Section 10.01	Defaults. Any failure by either party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party (the “Complaining Party”) (unless such period is extended by mutual written consent), shall constitute a default under this Agreement. The Complaining Party’s notice (“Default Notice”) shall specify the nature of the alleged failure and, may specify the manner in which the failure satisfactorily may be cured By the other party (the “Defaulting Party”). Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of a default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then no fault shall be deemed to have occurred if: (a) the cure shall be commenced at the earliest practicable date following receipt of the Default Notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (if no event later than thirty (30) days after the Defaulting Party’s receipt of the Default Notice), the Defaulting Party provides written notice to the Complaining Party that the cure cannot practicably be completed within such 30-day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within one hundred twenty (120) days after the Notice of Default is given. Complaining Party shall not send notice to any third party, including, but not limited to, bonding and surety companies, until such time as the cure opportunities set forth above have expired unless otherwise required by applicable law. Upon the occurrence of a default under this Agreement, the Complaining Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured consistent with this Section, then no default shall exist and the Complaining Party shall take no further action.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 10.01.	
Section 10.02	Termination. If City elects to consider terminating this Agreement due to a material default of Developer, then City shall give a notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the City Council at a duly noticed and conducted public hearing. As used herein, a finding of materiality shall be based on the effect of the default in relation to the size and scope of the Project. Developer shall have the right to offer written and oral evidence prior to or at the time of said public hearings. If the City Council determines that a material default has occurred and is continuing, and elects to terminate this Agreement, City shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated sixty (60) days thereafter; provided, however, that if Developer files an action to challenge City’s termination of this Agreement within such 60-day period, then this Agreement shall remain in full force and effect until a trial court has affirmed City’s termination of this Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired).	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 10.02.	
Section 10.03	Periodic Review	See Comments/Action Items	The City has conducted several Annual Reviews of the Development Agreement, and As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, both parties were compliant with the DA.	

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a)	Conducting the Periodic Review. Throughout the Term of this Agreement, at least once every twelve (12) months following the execution of this Agreement, City shall review the extent of good-faith compliance by Developer with the terms of this Agreement. This review (the "Periodic Review") shall be conducted by the City Manager or his/her designee and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code § 65865.1. Developer also agrees to pay City annually the greater of Five Thousand Dollars (\$5,000) or the actual cost of Periodic Review Fee (not to exceed Ten Thousand Dollars (\$10,000)). The Five Thousand Dollars (\$5,000) shall be increased annually thereafter by the CPI for the San Francisco-Oakland Area, with the first increase implemented in January 2017 reflecting 2016 increases. Such Periodic Review Fee shall only be paid in the years in which a Periodic Review is actually conducted.	Compliant		
b)	Notice. At least ten (10) days prior to the Periodic Review, and in the manner prescribed in Article XII of this Agreement, City shall deposit in the mail to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review and, to the extent practical, related exhibits concerning Developer's performance hereunder. Developer shall be permitted an opportunity to respond to City's evaluation of Developer's performance, either orally at a public hearing or in a written statement, at Developer's election. Such response shall be made to the City Manager.	See Comments/Action Items	Notice of the Annual Review was given to the Developer on December 23, 2024.	
c)	Good Faith Compliance. During the Periodic Review, the City Manager shall review Developer's good-faith compliance with the terms of this Agreement. At the conclusion of the Periodic Review, the City Manager shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. The decision of the City Manager shall be appealable to the City Council. If the City Manager finds and determines that Developer has not complied with such terms and conditions, the City Manager may recommend to the City Council that it terminate or modify this Agreement by giving notice of its intention to do so, in the manner set forth in California Government Code §§ 65867 and 65868. The costs incurred by City in connection with the Periodic Review process described herein shall be shared equally by Developer and City.	Compliant		
d)	Failure to Properly Conduct Periodic Review. If, after thirty (30) days following Developer's notice requesting a Periodic Review, City fails to initiate the Periodic Review, such failure shall be conclusively deemed an approval by City of Developer's compliance with the terms of this Agreement.	Compliant		
e)	Written Notice of Compliance. With respect to any year for which Developer has been determined or deemed to have complied with this Agreement, City shall, within thirty (30) days following a written request by Developer, provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City. Developer shall have the right, in Developer's sole discretion, to record such notice of compliance.	See Comments/Action Items	Written Notice of Compliance will be sent to the Developer upon conclusion of the Annual Review.	
Section 10.04	Default by City or Developer. In the event City or Developer defaults under the terms of this Agreement, City or Developer shall have all rights and remedies provided herein and under law.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 10.04.	

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Section 10.05	Excusable Delay; Extension of Time of Performance. In addition to specific provisions of this Agreement, neither party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorism, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting State or Federal laws or regulations, or judicial decisions. Neither party shall be deemed to be in default where delays in performance or failure to perform are due to a court order arising out of or related to litigation attacking the validity of this Agreement, the Project Approvals, the Subsequent Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project. Developer shall not be deemed to be in default where delays in performance or failure to perform are t due to Developer's inability to obtain materials, power or public facilities (such as water or sewer service) to the Project and unrelated to Developer's actions or inactions and beyond Developer's control. Upon the properly noticed request of either party hereto, as required by Section 12.09, an extension of time for the performance of any obligation whose performance has been so prevented or delayed will be set forth in writing. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon in writing.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 10.05.	
Section 10.06	Legal Action. Either party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 10.06.	
Section 10.07	California Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.	Compliant		

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Section 10.08	Resolution of Disputes. With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer shall, at City's request, meet with City. The parties to any such meetings shall attempt in good faith to resolve any such disputes. If the parties are then unable to resolve their dispute, either party may commence mediation by providing to JAMS, or its successor, and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or ninety (90) days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties both agree in writing. The provisions of this Section 10.08 may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorney's fees, to be paid by the party against whom enforcement is ordered. Nothing in this Section 10.08 shall in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the parties to such meetings.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 10.08.	
Section 10.09	Attorneys' Fees. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, the prevailing party is entitled to reasonable attorneys' fees and any related other costs incurred in that proceeding in addition to any other relief to which it is entitled.	Not Applicable		
Article XI - No Agency, Joint Venture or Partnership				

Exhibit - 1 - Tuscany Meadows DA - 2024 Annual Review Summary Table

	It is specifically understood and agreed to by and between the parties hereto that unless otherwise expressly provided herein: (i) the subject development is a private development; (ii) City have no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of this Agreement or in connection with the various Project Approvals or Subsequent Approvals; (iii) Developer shall have full power over and exclusive control of the Project herein described, subject only to the limitations and obligations of Developer under this Agreement, the Project Approvals, Subsequent Approvals, and Applicable Law; and (iv) City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer. City agrees that Developer's obligations under this Agreement related to the construction of Project water, sewer and drainage infrastructure improvements, the grading and construction of traffic improvements, and the grading and construction of any other public improvements (collectively, the "Public Improvements") are all public works of improvement City is requiring as a condition of regulatory approval of the Project and that the Project is an otherwise private development. City further agrees that it will contribute no more money, or the equivalent of money, to the overall Project than is required to construct the Public Improvements and that City maintain no proprietary interest in the overall Project.	Compliant		
Article XII - Miscellaneous				
Section 12.01	Section 12.01 Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.	Not Applicable		
Section 12.02	Enforceability. City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by City that changes, alters or amends the rules, regulations and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by California Government Code § 65866. In the event of any conflict between the provisions of this Agreement and Applicable Law, the Project Approvals or any Subsequent Approval, this Agreement shall prevail.	Compliant		
Section 12.03	Findings. City hereby finds and determines that execution of this Agreement furthers public health, safety and general welfare and that the provisions of this Agreement are consistent with the General Plan.	Not Applicable		
Section 12.04	Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Developer may (in their sole and absolute discretion) terminate this Agreement by providing written notice of such termination to the other party.	Compliant		

Exhibit - 1 - Tuscany Meadows DA - 2024 Annual Review Summary Table

Section 12.05	Other Necessary Acts. Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals and this Agreement and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.	Compliant		
Section 12.06	Construction. Each reference in this Agreement to this Agreement or any of the Project Approvals or Subsequent Approvals shall be deemed to refer to the Agreement, Project Approval or Subsequent Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.	Compliant		
Section 12.07	Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.	Not Applicable		
Section 12.08	Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Project, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, California Civil Code § 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Project Site and is binding upon the owner of all or a portion of the Project Site and each successive owner during its ownership of such property.	Not Applicable		
Section 12.09	Notices. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, by fax (with original forwarded by regular U.S. Mail) by registered or certified mail (return receipt requested), or by FedEx or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party’s facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday, or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties.	Compliant		

Exhibit - 1 - Tuscany Meadows DA - 2024 Annual Review Summary Table

Section 12.10	Entire Agreement, Counterparts And Exhibits. This Agreement is executed in two (2) duplicate counterparts, each of which is deemed to be an original. This Agreement consists of thirty-two (32) pages and three (3) exhibits which constitute in full, the final and exclusive understanding and agreement of the parties and supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof. All waivers of any provisions of this Agreement shall be in writing and signed by the appropriate authorities of City and Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes: Exhibit A - Legal Description; Exhibit A-1 - Project Site Diagram; Exhibit B - Applicable Fees	Not Applicable		
Section 12.11	Recordation Of Development Agreement. Pursuant to California Government Code § 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement, or Memorandum thereof, in the Official Records of the County of Contra Costa. The parties agree to cooperate as to preparation, execution, and recording of a Memorandum hereof.	See Comments/Action Items	The DA was recorded at the Contra Costa County Clerk-Recorder on December 26, 2018 (DOC 2018-0205803-00)	

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Periodic Review of Trans Bay Cable)
Development Agreement Between The)
City of Pittsburg and Trans Bay Cable)
LLC and Determination as to)
With Development Agreement)

RESOLUTION NO. 25-

WHEREAS, a Development Agreement between the City of Pittsburg and Trans Bay Cable, LLC, was executed on November 27, 2006, for the Trans Bay Cable Project; and

WHEREAS, a 1st Amendment to the Development Agreement was executed on August 31, 2007; and

WHEREAS, a 2nd Amendment to the Development Agreement was executed on November 15, 2010; and

WHEREAS, California Government Code Section 65864 *et seq.* ("Development Agreement Statutes") authorizes and regulates the execution of development agreements ("DAs") between certain public entities and persons who desire to develop private property within a public entity's jurisdiction; and

WHEREAS, pursuant to the Development Agreement Statutes, the City established procedures for the consideration of DA applications by property owners or other persons having an interest in property within City's jurisdiction; and

WHEREAS, Section 65865.1 requires City to conduct a periodic review of the City's active Development Agreements, at which time each respective developer is required to demonstrate good faith compliance with the terms of the Development Agreement ("Periodic Review"); and

WHEREAS, if, as a result of the Periodic Review, the City finds and determines, on the basis of substantial evidence, that a developer has not complied in good faith with the terms and conditions of the Development Agreement, the City may terminate or modify the DA pursuant to the Development Agreement Statutes; and

WHEREAS, the last periodic review of the Trans Bay Cable Development Agreement was conducted, and on April 15, 2024, the City Council determined that the developer was in compliance with the terms of the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg finds and determines as follows.

Section 1. Findings

The City Council hereby finds and determines that the above recitals are true and correct and have served as the basis, in part, for the findings and actions of the City Council set forth below.

Section 2. Compliance with Development Agreement

The City Council hereby finds and determines that, based on the information provided by the Developer and City Staff, as well as the information contained in the "Trans Bay Cable DA – 2024 Annual Review", attached hereto and incorporated herein by reference as "Exhibit 1," the Developer has demonstrated good faith compliance with the Trans Bay Cable Development Agreement.

Section 3. Certificate of Compliance

The City Council hereby directs and authorizes the City Manager to issue a certificate codifying the "Finding of Compliance" for Trans Bay Cable Development Agreement in a form that can be recorded by the Developer.

Section 4. Certification

The City Clerk shall certify the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Exhibit -1 - Trans Bay Cable DA - 2024 Annual Review Summary Table

DA Section	Condition/Requirement	Status	Comments	Action Items
Section 1 - General Acknowledgements				
	The parties acknowledge that: (a) the City has entered into this Agreement pursuant to the Development Agreement Statutes and its police power in order to address public health and safety and general welfare concerns including those relating to the amount, density, intensity and timing of development on the Project Site and the need for public facilities and infrastructure in connection with the Project Site and other property in the area; (b) there is a certain authority under the police power to address public health and safety concerns that cannot be legally relinquished or restricted by this Agreement and that such authority intended to be reserved and hereby is reserved to City hereunder; and (c) nothing herein shall be construed to limit or restrict the exercise by the City of its power of eminent domain.	Not Applicable		
Section 2 - General Provisions				
2.01	Property Description. The legal description of the Project Site is specifically set forth on Exhibit A, attached hereto and made a part hereof.	Not Applicable		
2.02	Location of Project Site. The Project Site is located in the City and consists of a total of approximately 7.72 acres.	Not Applicable		
2.03	Effective Date. This Agreement shall be binding as to TBC upon TBC's execution hereof, with an effective date ("Effective Date") as of the effective date of the ordinance adopting the Agreement.	See Comments/Action Items	Ordinance No. 06-1278 approving the DA was adopted on November 27, 2006. 1st Amendment allowing a reduction in the size of the converter station and use of HVDC Plus Technology was entered into on August 21, 2007. 2nd Amendment extending the term of the DA to November 27, 2036 was entered into on November 15, 2010.	
2.04	Term. The term of this Agreement shall commence upon the Effective Date and shall extend thirty (30) years thereafter, unless the term is otherwise terminated, modified or extended by circumstances set forth in this Agreement or by mutual, written consent of the parties.	Not Applicable	This text is from the 2nd Amendment to the DA	
2.05	Expiration of Term. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect.	Not Applicable		
2.06	Time is of the Essence. Time is of the essence of this Agreement and of each and every term and condition hereof.	Not Applicable		
2.07	Enforceability of Agreement. City and TBC agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, the Existing Rules or any other land use ordinances or building ordinances, resolutions or ordinances or other regulations adopted by the City which changes, alters or amends the Existing Rules applicable to the development of the Project Site at the time of the approval of this Agreement as provided by Government Code Sections 65866 and 65867.5. This Agreement shall not prevent City from denying or conditionally approving any subsequent development project application by a third party not a successor-in-interest hereto on the basis of such existing or new rules, regulations and policies.	Not Applicable		
2.08	Further Assurances. Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.	Not Applicable		

Exhibit -1 - Trans Bay Cable DA - 2024 Annual Review Summary Table

2.09	Enforcement of Covenants. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including but not limited to, Section 1468 of the Civil Code of the State of California.	Not Applicable		
2.10	Covenants Run With The Land. Except as otherwise specified herein, all of the terms, provisions, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors, and assigns, and all other persons or entities acquiring all or any portion of the Project Site, or any interest therein, whether by operation of law or in any manner whatsoever, and the rights thereof shall inure to the benefit of such parties and their respective heirs, successors and assigns.	Not Applicable		
2.11	Constructive Notice. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Project or the Project Site is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Project or the Project Site.	Not Applicable		
Section 3 - Definitions				
	Reference in this Agreement to any of the following terms shall have the meaning set forth below for each such term.	Not Applicable		
3.01	Approvals. Any and all permits or approvals of any kind or character required under the terms of this Agreement to develop the Project Site in the manner as described herein.	Not Applicable		
3.02	Building Ordinances. Those building standards, of general application and not imposed solely with respect to the Project Site, in effect from time to time that govern building and construction standards, including, without limitation, the City's building, plumbing, electrical, mechanical, grading, swimming, pool, sign, and fire codes.	Not Applicable		
3.03	CEQA. CEQA means the California Environmental Quality Act, California Public Resources Code section 21000, et seq., and the State CEQA Guidelines, (California Code of Regulations, title 14, section 15000, et seq.), as each is amended from time to time.	Not Applicable		
3.04	City. City of Pittsburg, County of Contra Costa, State of California.	Not Applicable		
3.05	Comprehensive Payment In Lieu of Fees. The comprehensive payment in lieu of fees ("CPIF") means a payment to City or PPC that represents the liquidated value of all application, processing and development impact fees and other monetary exactions on development of any form or description that exist as of August 2, 2004, or could thereafter be adopted or increased, as established by City, PPC, or any City entity, and which further represents payment in lieu of any other compensation of any kind or description to which City, Agency, PPC or any City entity could claim or be entitled to for having facilitated the Project as it exists as of November 15, 2010, and as described in this Agreement. The parties expressly acknowledge that, by virtue of the adoption of this Agreement, City is waiving any constitutional or statutory authority that may now exist or hereafter be established to levy and assess any application, processing or development impact fee as to the Project, or any general or special tax that is not generally applicable to all commercial property situated within the City, an is accepting the CPIF as full compensation and satisfaction thereof. The CPIF does not include and is not intended to replace (a) generally assessed property taxes, (b) generally assessed sales and use taxes, (c) generally assessed franchise fees, (d) lease payments to PPC for the real property located at 590 West Tenth Street, Pittsburg, (e) any fees, assessments, taxes or other levies of any type or nature which the City may validly impose on new applications for Project approvals submitted by TBC after November 15, 2010, or (f) any financial benefit to City, Agency or PPC from the Project received on or before the effective date of the Second Amendment hereto, or received thereafter under the Settlement Agreement.	Not Applicable	This text is from the 2nd Amendment to the DA	
3.06	Development. The improvement of the Project Site for purposes of constructing the structures, improvements and facilities comprising the Project including, without limitation: grading, the construction and installation of infrastructure and public facilities related to the Project whether located within or outside the Project Site; the construction of structures and building; and the installation of landscaping; but not including the maintenance, repair, reconstruction or redevelopment of any structures, improvements or facilities after the construction and completion thereof.	Not Applicable		
3.07	Development Agreement Statutes. Sections 65864 through 65869.5 of the California Government Code as it exists on the Effective Date.	Not Applicable		

Exhibit -1 - Trans Bay Cable DA - 2024 Annual Review Summary Table

3.08	Development Approval(s). Site-specific permits and other entitlements to use of every kind and nature approved or granted by the City in connection with the Development.	Not Applicable		
3.09	Enacting Ordinance. Ordinance No. 06-1278 enacted by the City Council on November 27, 2006, approving this Agreement.	Not Applicable		
3.10	Existing Land Use Ordinances. The Land Use Ordinances in effect as of the Effective Date of this Agreement.	Not Applicable		
3.12	General Plan. The City of Pittsburg General Plan as adopted by the City Council.	Not Applicable		
3.13	Land Use Ordinances. The ordinances, resolutions, codes, rules, regulations and official policies of City, governing the development of the Project Site, including but not limited to, the permitted uses of land, the density and intensity of use of land, exactions, and the timing of development, all as applicable to the development of the Project Site. Specifically, but without limiting the generality of the foregoing, Land Use Ordinances shall include the City's General Plan, the Development Plan, the City's Zoning Code, and the City's Design Review standards. The term Land Use Ordinances does not include Regulations relating to the following: the conduct of business, professions and occupations generally; taxes and assessments; the control and abatement of nuisances; encroachment and other permits and the conveyances of rights and interests that provide for the use of or entry upon public property; and any exercise of the power of eminent domain.	Not Applicable		
3.14	Manager. City Manager for the City of Pittsburg.	Not Applicable		
3.15	Persons. As used herein, any reference to or use of the word "person" shall mean, in addition to a natural person, any governmental entity and any partnership, corporation, joint venture or any other form of business entity.	Not Applicable		
3.16	Project. The Trans Bay Cable Project ("Project") shall consist of a converter station located in Pittsburg, California, a converter station located in San Francisco, California, and a submerged cable connecting the two converter stations as more particularly described in Exhibit B.	Not Applicable		
3.17	Project Site. That real property described in Exhibit A, attached hereto and incorporated herein.	Not Applicable		
3.18	Regulations. Constitutions, statutes, City ordinances, and codes, City resolutions and official policies of the City.	Not Applicable		
3.19	Certain Other Terms. Certain other terms shall have the meanings set forth for such terms in this Agreement.	Not Applicable		
Section 4 - General Development of the Property				
4.01	Project. The Project is further defined and described in the Project Description, attached hereto as Exhibit B, which specifies several Project requirements, including but not limited to: (i) proposed uses of the Project Site, (ii) height, size and location of buildings to be constructed on the Project Site, (iii) density and intensity of use of the property, and (iv) requirements for reservation or dedication of portions of the Project Site for public purposes. The Parties recognize that any changes or modifications to the Project, as set forth in the Project Description, may trigger legal requirements mandating City review and/or approval relating to, but not limited to, environmental, design, mitigation measures, building standards, or similar factors. Prior to implementing such changes or modifications that trigger such legal requirements, TBC shall timely seek and obtain City review and approval.	Compliant		
4.02	General Development. Any development of the Project on the Project Site shall be conducted in accordance with the terms and conditions of this Agreement, the Project Agreements and the Project Description. TBC's development of the Project Site, including the converter station, shall be subject to City's building standards, Design Review process, and applicable rules and regulations.	Compliant		

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4.03	Permitted Uses. The permitted uses of the Project Site, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes and location of public improvements, and other terms and conditions of development applicable to the Project Site shall include a transformer, a converter station, and related facilities, subject to the following: (a) Final Environmental Impact Report ("FEIR"), and related Mitigation Monitoring Plan, (b) A landscaping buffer between Tenth Street and the actual facility, and (c) Such other uses permitted by this Agreement, insofar as this Agreement so provides or as otherwise set forth in applicable laws, ordinances, rules or regulations.	Compliant		
4.04	Future Approvals. The City hereby agrees that land uses sought by TBC for the Project Site are approved or will be approved pursuant to the terms of this Agreement, provided that TBC satisfactorily complies with all preliminary procedures, actions, payments and criteria applicable as of the effective date of this Agreement and generally required of Developers by the City for processing applications for developments at such time. City agrees to grant and implement the necessary land use, zoning, or site plan approvals and to grant other approvals and permits, including the Ministerial Approvals, that will accomplish or facilitate development of the Project Site for the uses and to the density or intensity of development described and shown in this Agreement pursuant to those rules, regulation policies and conditions in force on the effective date of this Agreement. Future approvals may relate to design review, parcel map(s), and building permits.	Compliant		
4.05	Vested Right to Develop; Applicable Rules, Regulations and Official Policies. Except as otherwise provided in this Agreement, the rules, regulations, official policies, and conditions of approval governing the permitted uses of the Project Site, the density or intensity of use, and the design, improvement, construction, building and occupancy standards and specifications applicable to the Project and the Project Site shall be those in force on the effective date of this Agreement ("Existing Rules"). The City shall have the right to impose reasonable conditions in connection with such subsequent discretionary permit actions which are not deemed Ministerial Approvals, but such conditions and actions shall not prevent development of the Project as contemplated,by this Agreement and the Development Permits. TBC shall have the right to build and implement the Project on the Project Site consistent with the terms of this and other applicable Agreements, rules and regulations.	Compliant		
4.06	Amendment to Applicable Ordinances. In the event the City Zoning Code is amended by the City in a manner which provides more favorable site development standards than those in effect as of the Effective Date, TBC shall have the right to notify City in writing of TBC's desire to be subject to the new standards for the remaining term of this Agreement. If City agrees, by resolution of the City Council or by action of a City official whom the City Council may designate, such new standards shall become applicable to the Project Site.	Not Applicable		
4.07	Application of New Rules, Regulations and Policies. This Agreement shall not prevent City in subsequent actions applicable to the Project Site from applying new rules, regulations and policies which do not conflict with those rules, regulations, and policies applicable to the Project Site and set forth herein; nor shall this Agreement prevent City from denying or conditionally approving any subsequent development application on the basis of such existing or new rules, regulations, and policies.	Not Applicable		
4.08	Changes in State and Federal Rules and Regulations. Nothing in this Agreement shall preclude the application to the development of the Project Site or changes in the City's laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations as provided in Government Code Section 65869.5.	Not Applicable		
Section 5 - Periodic Review				
	City shall conduct a review of this Agreement as set forth in the following subsections. However, the City's failure to timely conduct such review shall not constitute default under this Agreement.			
5.01	Annual Review. City shall review the extent of good faith compliance by TBC with the terms of this Agreement at least once every 12-month period from the Effective Date of this Agreement.	Compliant		
5.02	Procedure. Such annual review shall be conducted in accordance with the City's duly adopted Development Agreement Procedures.	Compliant		
5.03	Notice. City shall notify TBC in writing of the date of review at least thirty (30) days prior thereto.	Compliant	Notice of the Annual Review was given to the Developer on December 23, 2024.	

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5.04	Good-faith Compliance. During each annual review, TBC is required to demonstrate good faith compliance with the terms of this Agreement.	Not Applicable		
5.05	Production of Documents and Other Evidence. TBC agrees to furnish such reasonable evidence and adequate documentation of good faith compliance as the City, in the exercise of its reasonable discretion, may require.	Not Applicable		
5.06	Cost of Annual Review. The costs incurred by City in connection with the annual review shall be borne by TBC, up to a maximum of \$10,000 per review. Upon written request by the City, TBC shall deposit with the City up to \$10,000 per review to cover the City's costs. At the completion of the review, City shall refund any unused deposit to TBC. Failure, if any, by TBC to deposit the monies shall be grounds for declaring TBC to be in default of this Agreement and/or in noncompliance thereof, and for the City to take such action as provided herein.	In Progress	On January 15, 2025, the City sent a request to the developer to pay the cost of the annual review.	
Section 6 - Obligations of TBC				
6.01	General Obligations. In consideration of City entering into this Agreement, TBC has agreed to comply with the applicable provisions of the PDA and Project Description in developing the Project and to perform certain obligations and provide certain contributions set forth therein, which City acknowledges will have an overall benefit to the public and surrounding area.	Compliant		
6.02	Nexus/Reasonable Relationship Challenges. TBC consents to, and waives any rights it may have now or in the future to challenge the legal validity of, the conditions, requirements, policies or programs required by the Existing Land Use Ordinances, Existing Rules or this Agreement including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax.	Not Applicable		
6.03	Cooperation By TBC. TBC will, in a timely manner, provide City with all documents, applications, plans and other information necessary for City to carry out its obligations hereunder, and cause TBC's planners, engineers, and all other consultants to submit in a timely manner all required materials and documents therefore.	Compliant		
6.04	Other Governmental Permits. TBC shall apply in a timely manner for such other permits and approvals from other governmental or quasi-governmental agencies having jurisdiction over the Project Site as may be required for the development of, or provision of services to, the Project.	Compliant		
6.05	Fees and Taxes		This section (6.05) of the DA was deleted as a result of the 2nd Amendment to the DA	
6.06	Mitigation and Monitoring Plan. TBC shall fully comply with the Mitigation and Monitoring Plan, adopted by the City Council on November 6, 2006.	Compliant		
6.07	Continuing Obligations. Notwithstanding any other provision of this Agreement, TBC's obligations under Section 6.05.1- 6.05.3, inclusive, shall constitute a continuing obligation and bind TBC, its successors and/or assigns, but shall not transfer to the City, PPC, or the City's and/or PPC's successors and assigns, upon TBC's transfer of its interest(s) in the Project Site and/or Project Assets to the City and/or TBC. TBC's obligations under Section 6 shall survive this Agreement's termination.	Not Applicable	This section (6.07) of the DA was deleted as a result of the 2nd Amendment to the DA	
Section 7 - Obligations of City				
	In consideration of TBC entering into this Agreement, City has agreed to the following with respect to the development of the Project Site:			

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7.01	Processing. Upon satisfactory completion by TBC of all required preliminary actions to the satisfaction of City, City shall promptly commence and diligently proceed to complete all required steps necessary for the implementation of this Agreement and the development by TBC of the Project Site in accordance with the provisions of this Agreement including, but not limited to, the following: (a) the holding of all required public hearings; and (b) the processing and approval of all Ministerial Approvals and related matters as necessary for the completion of the development of the Project. In this regard, TBC will, in a timely manner, provide City with all documents, applications, plans and other information necessary for City to carry out its obligations hereunder as required by the Existing Rules and shall cause TBC's planners, engineers and all other consultants to submit in a timely manner all required materials and documents therefore as required by the Existing Rules.	Compliant		
7.02	Standard of Review. The rules, regulations and policies that apply to any Ministerial Approvals which must be secured prior to the construction of any portion of the Project shall be the Existing Rules. Any Ministerial Approval, including without limitation a building permit, shall be approved by the City within a reasonable period of time after application is made therefore.	Compliant		
Section 8 - Amendments				
8.01	Major Amendments. A "Major Amendment" shall be any modification that makes a substantive change, modification or deviation in the terms of this Agreement or any Exhibits or Schedules attached hereto including the terms of the Project Description attached hereto as Exhibit B and related maps and attachments, as referenced in Recital F. Approval of any Major Amendment shall require a noticed hearing and must be authorized by formal action of the Planning Commission and the City Council.	Compliant		
8.02	Minor Amendments. A "Minor Amendment" shall be any modification that does not make a substantive change, modification or deviation in the terms of this Agreement or any Exhibits or Schedules attached hereto, including the terms of the Project Description attached hereto as Exhibit B and related maps and attachments, as referenced in Recital F. Minor Amendments shall include, but are not limited to, the size of the proposed converter station. Minor Amendments may be approved by the prior written consent of the Manager.	Compliant		
8.03	Discretion of Manager. The Manager has the sole discretion to determine whether any proposed change, modification, or deviation is a Major Amendment or Minor Amendment for purposes of this Agreement, or is neither and thus not requiring the Manager's or the City Council's review and approval. The Manager's determination as to the status of any Major or Minor Amendment is final. The Manager also may, at his/her discretion, determine that a Minor Amendment shall be reviewed and acted upon by the City Council and not by the Manager.	Compliant		
Section 9 - Transfers and Assignments				
9.01	City's Intent. TBC has demonstrated, and the City finds that TBC possesses, the experience, reputation and financial resources to develop and maintain the Project Site in the manner contemplated by this Agreement. It is because of such qualifications, which assure the development of the Project Site to a high quality standard contemplated by the General Plan that the City is entering into this Agreement. Accordingly, restrictions on the right of TBC to assign or transfer the rights and privileges contained in this Agreement are necessary in order to assure the achievement of the objectives of the City's General Plan and this Agreement.	Not Applicable		
9.02	TBC's Right to Assign or Transfer. TBC may assign or transfer any of its rights or interests under this Agreement subject to the prior written consent of City, which shall not be unreasonably withheld.	Not Applicable		
9.03	Restriction on Assignment Does Not Constitute an Unreasonable Restraint on Alienation. TBC agrees that the restriction on its right to transfer any of its rights or interests under this Agreement is not repugnant or unreasonable in that such a restriction is a material inducement to the City to enter into this Agreement since the restriction reserves for the City the power to prevent the transfer of any of the rights and obligations hereunder to an unreliable third party.	Not Applicable		
9.04	Restriction on Assignment Shall Not Prevent TBC From Conveying the Project Site. The parties agree that the restriction on assignment is limited solely to those certain vested rights created under this Agreement and such restriction shall not affect TBC's right to convey the Project Site itself.	Not Applicable		

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9.05	Request Procedure. City shall administer the provisions of this Section through its City Manager. TBC shall notify the Manager in writing of its request for City's consent to an assignment or transfer under this Section.	Not Applicable		
9.06	Additional Information. Upon receipt of a request for an assignment or transfer under this Section, the City Manager shall have the authority to require the production of additional information relating to the qualifications of the proposed assignee or transferee from TBC. TBC shall promptly furnish any and all information required under this Section as the City considers TBC's request for consent to the proposed assignment or transfer.	Not Applicable		
9.07	Approval of Assignment. The City Manager may, at his or her reasonable discretion, approve of the assignment or transfer in writing, deny the assignment or transfer, or refer the matter to the City Council for approval. In the event the City Manager determines that the assignment or transfer should be acted upon by the City Council, the City Manager shall notify TBC in writing of the need for City Council authorization. The City Council shall thereafter consider the proposed assignment or transfer. The proposed assignment or transfer may be approved or denied by formal action of the City Council.	Not Applicable		
9.08	Notice of Proposed Assignment. TBC must provide City with adequate evidence that the proposed assignee, buyer or transferee is qualified using the standards and conditions described in this Section, and ability to comply with these standards and conditions will be the test of reasonableness.	Not Applicable		
9.09	Conditions and Standards. The conditions and standards referred to above are as follows:			
(a)	Such assignee or transferee possesses the experience, reputation and financial resources to cause the Project Site to be developed and maintained in the manner contemplated by the City's General Plan and this Agreement;	Not Applicable		
(b)	Such assignee or transferee enters into a written assumption agreement, in form and content satisfactory to the City Attorney, expressly assuming and agreeing to be bound by the provisions of this Agreement;	Not Applicable		
(c)	Such assignment or transfer will not impair the ability of City to achieve the objectives of its general Plan and this Agreement;	Not Applicable		
9.10	Financing Exemption. Mortgages, deeds of trust, sales and lease- backs, or other forms of conveyance required for any reasonable method of financing requiring a security arrangement with respect to the Project Site are permitted without the consent of the City, provided the City receives prior notice of such financing (including the name and address of the lender and the person or entities acquiring any such secured interest) and TBC retains over fifty percent of the legal or equitable interest in the Project Site and remains fully responsible hereunder. The words "mortgage" and "deed of trust," as used herein, include all other appropriate modes of financing real estate acquisition, construction and land development.	Not Applicable		
9.11	Notice of Assignment. Upon receiving approval of an assignment, TBC shall provide City with written notice of such assignment and as part of such notice the assignee must execute and deliver to City an assumption agreement in which the name and address of the assignee is set forth and the assignee expressly and unconditionally assumes the obligations of all the provisions set forth in the Agreement.	Not Applicable		
9.12	Unapproved Assignments. If City makes the determination not to consent to the assignment or transfer of the rights and privileges contained in this Agreement, and TBC conveys the Project Site to a third party, in whole or in part, TBC shall remain liable and responsible for all of the duties and obligations of this Agreement. Notwithstanding any other provision of this Agreement, TBC may assign this Agreement to PPC without City's prior consent in connection with PPC's acquisition of the Project Assets.	Not Applicable		
Section 10 - Delays in Performance				
10.01	Permitted Delays. In addition to any other provisions of this Agreement with respect to delay, TBC and City shall be excused for performance of their obligations hereunder during any period of delay caused by acts of God or civil commotion, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to or prevention of work in process by reason of fire, floods, earthquake, or other casualties, litigation, acts or neglect of the other party, or restrictions imposed or mandated by governmental or quasi-governmental entities, enactment of conflicting provisions of the Constitution or laws of the United States of America or the State of California or any codes, statutes, regulations or executive mandates promulgated thereunder.	Not Applicable		

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10.02	Third Party Actions. Any court action or proceeding brought by any third party to challenge this Agreement, or any other permit or approval required from City or any other governmental entity for development or construction of all or any portion of the Project, whether or not TBC is a party to or real party in interest in such action or proceeding, shall constitute a Permitted Delay under this Section.	Not Applicable		
10.03	Notice of Permitted Delays. If written notice of such delay is given to either party within (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.	Not Applicable		
Section 11 - Default				
11.01	Events of Default. Subject to any extensions of time by mutual consent in writing, and subject to the provisions of the Section regarding Permitted Delays, the failure or unreasonable delay by either party to perform any material term or provision of this Agreement for a period of thirty (30) days after the dispatch of a written notice of default from the other party shall constitute a default under this Agreement. If the nature of the alleged default is such that it cannot reasonably be cured within such 30- day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure within such period. The nonperformance of a material provision of the Mitigation Monitoring Program shall constitute an event of default under this Agreement; provided, however, that the City shall have given TBC notice of such event and a prospective opportunity to cure, within the cure period described herein. The nonperformance of a provision of the Mitigation Monitoring Program that would not otherwise be considered material, as reasonably determined by the City, may become material if such provision is consistently repeated or ignored after several requests to address such matter from the City or representative thereof.	Not Applicable		
11.02	Notice of Default. Any Notice of Default given hereunder shall specify in detail the nature of the alleged Event of Default and the manner in which such Event of Default may be satisfactorily cured in accordance with the terms and conditions of this Agreement.	Not Applicable		
11.03	Cure Period. During the time periods herein specified for cure of an Event of Default, the party charged therewith shall not be considered to be in default for purposes of termination of this Agreement, institution of legal proceedings with respect thereto, or issuance of any building permit with respect to the Project.	Not Applicable		
11.04	General Default Remedies. After notice and expiration of the 30-day period without cure, the non-defaulting party shall have such rights and remedies against the defaulting party as it may have at law or in equity, including, but not limited to, the right to terminate this Agreement pursuant to Government Code Section 65868 or seek mandamus, specific performance, injunctive or declaratory relief.	Not Applicable		
11.05	Remedies Cumulative. Any rights or remedies available to non- defaulting party under this Agreement and any other rights or remedies that such party may have at law or in equity upon a default by the other party under this Agreement shall be distinct, separate and cumulative rights and remedies available to such non- defaulting party and none of such rights or remedies, whether or not exercised by the non-defaulting party, shall be deemed to exclude any other rights or remedies available to the non-defaulting party. The non-defaulting party may, in its discretion, exercise any and all of its rights and remedies, at once or in succession, at such time or times as the non-defaulting party considers appropriate.	Not Applicable		
11.06	Legal Action. Either party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy a default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, or enforce by specific performance the obligations and rights of the parties hereto.	Not Applicable		
11.07	No Damages Relief Against City. The parties acknowledge that City would not have entered into this Agreement had it been exposed to damage claims from TBC for any breach thereof. As such, the parties agree that in no event shall TBC be entitled to recover damages against City for breach of this Agreement. However, should a court issue a final judgment or other final determination that the City has adopted a tax or assessment, or increase thereof, in violation of Section 4.08 and TBC has paid such tax or assessment, or increase thereof, TBC shall be entitled a refund of such monies it has paid. Additionally, during the period of time that TBC is a party to this Agreement, should the City voluntarily change the zoning on the Project Site, such that the Project may no longer be built on the Project Site, then the limitation under this section shall not apply to the extent of monies actually received by the City and paid by TBC.	Not Applicable		

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11.08	Effect of TBC Default. No building permit shall be issued or building permit application accepted for any structure on the Project Site after TBC is determined by City to be in default of the terms and conditions of this Agreement, and until such default thereafter is cured by the TBC or is waived by City.	Not Applicable		
11.09	Waiver. All waivers must be in writing to be effective or binding upon the waiving party, and no waiver shall be implied from any omission by a party to take any action with respect to such Event of Default. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party shall not constitute waiver of such party's right to demand strict compliance by such other party in the future.	Not Applicable		
11.10	Scope of Waiver. No express written waiver of any Event of Default shall affect any other Event of Default, or cover any other period of time specified in such express waiver.	Not Applicable		
11.11	Attorneys' Fees. Should legal action be brought by either party for breach of this Agreement or to enforce any provision herein, the prevailing party in such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the court.	Not Applicable		
11.12	Venue. In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the State courts of the County of Contra Costa or where appropriate, or in the United States District Court for the Northern District of California, as consistent with applicable law.	Not Applicable		
Section 12 - Termination				
12.1	Effect of Termination. Upon termination of this Agreement, the rights, duties and obligations of the parties hereunder shall, subject to the following provisions, cease as of the date of such termination.	Not Applicable		
12.2	Termination by City. If City terminates this Agreement because of TBC's default, then City shall retain any and all benefits, including money or land received by City hereunder.	Not Applicable		
12.3	Termination by TBC. TBC shall have the right to terminate this Agreement at any time, prior to Commercial Operation, as defined in the PSA. Should TBC terminate this Agreement, prior to Commercial Operation, TBC agrees, at TBC's sole cost, to restore the Project Site to its condition prior to TBC asserting control over the Project Site or in such condition as may otherwise be approved in writing by the Manager. Such restoration shall be consistent with applicable federal, state, and local statutes, rules and regulations and shall also comply with the following: Promptly following the demolition and removal of structures, foundations and paving on the Project Site, and the cleaning, grubbing, and grading thereof. TBC shall create, at its sole expense, a visual record of the then-condition of the Project Site, in coordination with the City, which record shall include comprehensive photographic and videographic documentation ("the Record"). Both parties shall have copies of the Record. If TBC commences construction activities, but terminates the Agreement before the Project achieves Commercial Operation, TBC shall restore at its sole expense the Project Site to a rough graded and clean condition, with all aboveground structures, foundations and paving on the Project Site demolished and removed so that the Project Site is in substantially similar condition to that depicted in the Record, or in such condition as may be mutually agreed to in writing between TBC and the Manager.	Not Applicable		
Section 13 - Relationship of Parties				
13.01	Independent Contractors. The parties agree that the Project is a private development and that neither party is acting as the agent of the other in any respect hereunder.	Not Applicable		
13.02	No Joint Venture or Partnership. City and TBC hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and TBC joint venturers or partners.	Not Applicable		
13.03	No Third Party Beneficiaries. The only parties to this Agreement are TBC and City. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever.	Not Applicable		
13.04	Ambiguities or Uncertainties. The parties hereto have mutually negotiated the terms and conditions of this Development Agreement and this has resulted in a product of the joint drafting efforts of both parties. Neither party is solely or independently responsible for the preparation or form of this agreement. Therefore, any ambiguities or uncertainties are not to be construed against or in favor of either party.	Not Applicable		
Section 14 - Applicable Law				
	This Agreement shall be construed and enforced in accordance with the laws of the State of California.	Not Applicable		

Exhibit -1 - Trans Bay Cable DA - 2024 Annual Review Summary Table

Section 15 - Supersedure of Subsequent Laws of Judicial Action				
	The provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with any new law or decision issued by a court of competent jurisdiction, enacted or made after the effective date which prevents or precludes compliance with one or more provisions of this Agreement. Immediately after enactment of any such new law, or issuance of such decision, the parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement.	Not Applicable		
Section 16 - Cooperation in the Event of Legal Challenge				
	In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action or proceeding.	Not Applicable		
Section 17 - Hold Harmless Agreement				
	TBC hereby agrees to, and shall defend, save and hold City and its elected and appointed boards, commissions, officers, agents, and employees harmless from, any and all claims, costs and liability for any damages, personal injury or death, which may arise, directly or indirectly, from TBC's or TBC's contractors', subcontractors', agents or employees' operations under this Agreement, whether such negligent operations be by TBC or by any of TBC's contractors, subcontractors, agents or employees.	Not Applicable		
Section 18 - Indemnification				
A.	TBC agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Agreement challenging the validity of the Agreement or any action arising out of or stemming from this Agreement. TBC may select its own legal counsel to represent TBC's interests at TBC's sole cost and expense. The parties shall cooperate in defending such action or proceeding. TBC shall pay for City's costs of defense, whether directly or by timely reimbursement on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorney's fees expended by City in defense of any such action or other proceeding, plus staff and attorney time spent in regard to defense of the action or proceeding. The parties shall use best efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis City for all such court costs, attorney fees and time referenced herein.	Compliant		
B.	TBC also agrees to indemnify, defend and hold harmless the City, its officials, officers, employees, agents and consultants from any claims, costs, damages, or other liabilities for any personal injury or death, or property damage, resulting from the construction of the Project or of operations of TBC, its officers, employees, agents or consultants, under this Agreement, except for such claims, costs, damages, or other liabilities which are caused by the sole or gross negligence of the City, its officials, officers, employees, agents, or consultants. TBC may select its own legal counsel to represent TBC's interests at TBC's sole cost and expense.	Compliant		
C.	The parties agree that this Section 18 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 18, which shall survive such invalidation, nullification, or setting aside.	Compliant		
Section 19 - Liability Insurance				

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A.	TBC shall maintain, or cause to be maintained, in force during the construction of the Project, pursuant to this Agreement, public liability and property damage insurance, including personal injury, contractual, and owned and non-owned vehicles and equipment, with such coverage and limits as may be reasonably requested by City from time to time, but in no event for less than the sum of one million dollars per occurrence and two million dollars in the aggregate.	Compliant		
B.	Public liability insurance policy or policies shall name City as an additional insured, and any policy or policies shall contain cross-liability endorsements. An endorsement shall be provided which states the coverage is primary insurance and that no other insurance affected by City will be called upon to contribute to a loss under this coverage.	Compliant		
C.	TBC shall provide the City with a certificate and endorsement, in forms satisfactory to the City, evidencing such insurance coverage or coverages shall be filed with City prior to construction of the Project, and the certificate and endorsement shall provide that such insurance coverage will not be canceled or reduced without at least thirty (30) days' prior written notice to City.	Compliant		
D.	If such coverage is canceled or reduced, TBC shall, within fifteen (15) days after receipt of written notice from City of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at TBC's expense, and TBC shall promptly reimburse City for such expense upon receipt of billing from City.	Compliant		
E.	The insurance required under this Section shall neither supersede nor replace the insurance required under the terms of the PSA and the PM. The insurance policies required under this Section shall be in addition to the insurance requirements of the PSA and the PM; however, insurance obtained by TBC under the PSA or PM that affords the same or greater coverage than described in this Section shall satisfy these requirements.	Compliant		
Section 20 - Notices				
	Any notice or communication required hereunder between City or TBC shall be in writing, and may be given either personally or by registered mail, return-receipt requested. Notice, whether given by registered mail or personal delivery, shall be deemed to have been given and received on the actual receipt by any of the addresses designated below as the party to whom notices are to be sent. Any party hereto may at any time, upon written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:	Not Applicable		
(a)	City of Pittsburg, Marc Grisham, 65 Civic Avenue, Pittsburg, CA 94565			
(b)	With copies to: Meyers Nave, Attn: Ruthann G. Ziegler, 555 Capitol Mall, Suite 1200, Sacramento, CA 95814			
(c)	And: Russ Townsend 440 Fifth Street West, Suite B, Sonoma, CA 95476			
(d)	Notices to TBC shall be addressed to: David J. Parquet, Trans Bay Cable LLC, c/o/ Babcock & Brown, Power Operating Partners LLC, 2 Harrison Street, Sixth Floor, San Francisco, CA 94105, Phone: (415) 512-1515, Fax: (415) 267-1500			
(e)	With a copy to: General Counsel, Trans Bay Cable LLC, c/o Babcock & Brown, Power Operating Partners LLC, 2 Harrison Street, Sixth Floor, San Francisco, CA 94105, Phone: (415) 512-1515, Fax: (415) 267-1500			
Section 21 - Exhibits				
21.01	Designation of Exhibits. The reference to a specified Exhibit in this Agreement is a reference to a certain one of the exhibits listed below, as determined by the accompanying letter designation.	Not Applicable		
	Exhibit A: Project Site			
	Exhibit B: Project Description			
21.02	Incorporation by Reference. All exhibits are deemed incorporated by reference into this Agreement	Not Applicable		
Section 22 - Severability				

Exhibit -1 - Trans Bay Cable DA - 2024 Annual Review Summary Table

	If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.	Not Applicable		
Section 23 - Entire Agreement				
	This Agreement and the Exhibits attached hereto contain all the representations and the entire agreement between the parties with respect to the subject matter hereof. Except as set forth in the PDA and certain confidentiality agreements or as otherwise specified in this Agreement and the Exhibits hereto, any prior correspondence, memoranda, agreements, warranties or representations are superseded in total by this Agreement and Exhibits hereto.	Not Applicable		
Section 24 - Counterparts				
	This Agreement may be executed in duplicate counterpart originals, each of which is deemed to be an original, and all of which when taken together shall constitute one and the same instrument.	Not Applicable		

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Periodic Review of Edgewater)
Apartments Development Agreement)
Between The City of Pittsburgh and)
Sunnyside Pittsburgh, LLC. and)
Determination as to Compliance)
With Development Agreement)

RESOLUTION NO. 25-

WHEREAS, a Development Agreement between the City of Pittsburgh and Sunnyside Pittsburgh, LLC, was executed on April 18, 2018, for the Edgewater Apartments project; and

WHEREAS, California Government Code Section 65864 *et seq.* ("Development Agreement Statutes") authorizes and regulates the execution of development agreements ("DAs") between certain public entities and persons who desire to develop private property within a public entity's jurisdiction; and

WHEREAS, pursuant to the Development Agreement Statutes, the City established procedures for the consideration of DA applications by property owners or other persons having an interest in property within City's jurisdiction; and

WHEREAS, Section 65865.1 requires City to conduct a periodic review of the City's active Development Agreements, at which time each respective developer is required to demonstrate good faith compliance with the terms of the Development Agreement ("Periodic Review"); and

WHEREAS, if, as a result of the Periodic Review, the City finds and determines, on the basis of substantial evidence, that a developer has not complied in good faith with the terms and conditions of the Development Agreement, the City may terminate or modify the DA pursuant to the Development Agreement Statutes; and

WHEREAS, the last periodic review of the Edgewater Development Agreement was conducted, and on April 15, 2024, the City Council determined that the developer was in compliance with the terms of the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburgh finds and determines as follows.

Section 1. Findings

The City Council hereby finds and determines that the above recitals are true and correct and have served as the basis, in part, for the findings and actions of the City Council set forth below.

Section 2. Compliance with Development Agreement

The City Council hereby finds and determines that, based on the information provided by the Developer and City Staff, as well as the information contained in the "Edgewater DA – 2024 Annual Review", attached hereto and incorporated herein by reference as "Exhibit 1," the Developer has demonstrated good faith compliance with the Development Agreement.

Section 3. Certificate of Compliance

The City Council hereby directs and authorizes the City Manager to issue a certificate codifying the "Finding of Compliance" for Edgewater Development Agreement in a form that can be recorded by the Developer.

Section 4. Certification

The City Clerk shall certify the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Exhibit -1- Edgewater DA - 2024 Annual Review Summary Table

Section and Title	Terms	Status	Notes
DA Term			
2.01 - Effective Date	19-Mar-18		CC Ordinance No. 18-1441
2.01 - End Date	19-Mar-28		
2.02 - Term	10 years		
Obligations of Developer (ARTICLE IV)			
3.01 - Obligations of Developer		In Compliance	
3.02 - Facility Reserve Charges	Developer agrees to pay City’s Facility Reserve Charges (“FRC”) as set or modified by the City Council from time to time		
3.03 - Water Infastructure	Developer shall comply with the 2015 Water System Master Plan, as amended.	In Compliance	
3.04 - Applicable Fees	City may levy development fees and charges	In Compliance	
3.05 - Applicable Fee Adjustments	Developer shall pay fees and charges consistent with Section 3.04 above, and the applicable adjustments currently provided in such fees, and as modified from time to time by the City, whether such adjustment or modification is an increase or decrease.		
3.06 - City TIF	Developer shall pay the City Local Traffic Mitigation Fee, which fee is necessary to finance unmet City traffic improvement needs in the amount in effect as of the Effective Date		
3.07 - Regional TIF	Developer shall the ECCRFA Regional Transportation Development Impact Mitigation Fee (PMC Chapter 15.103) (the “RTDIM”) amount in effect when the Developer obtains a Building Permit.		
3.08 - Fees, Assessments, Taxes	Developer pay listed fees, assessments, taxes	In Compliance	
3.09 - C.3 Facilities	Developer to construct biorention (C.3) facility offsite	In Compliance	
3.10 - Landscaping in C.3	Developer shall provide a Central Irrigation System that is compatible with Rainmaster DX 2 Evolution, or as specified in the City’s most current Standard Specifications, with a remote controller included with the package. The installation of this system shall be certified by a John Deere Landscapes United Greentech representative prior to the City’s acceptance of the installation.		
3.11 - Security Improvements	Developer install security cameras with Chief of Police. Developer to pay costs within 30 days of receipt of invoice	In Compliance	
3.12 - Bike Share Station	Developer shall pay to the City \$9,000 per year, for five years, beginning with the effective date of this Agreement. The City shall use these funds to develop a bike share station which, at the City’s discretion, may be located on the same parcel as the C.3 facilities serving the Project. In the event the City does not maintain a bike share program, the developer shall not be required to provide these funds.	Not Applicable	City Currently does not maintain a Bike Share Facility Contract
3.13 - Sidewalk Relating to Bus Stop	Developer to install 8ft sidewalk west of Loverridge; Curb ramp at the eastern side of driveway; two full trash capture devices	In Compliance	Work completed in 2020.
3.14 - Offsite Recreational Amenities	Developer to install improvements to Assessor’s Parcel Number 073-190-012: 1) a six-foot wide multiuse trail, at least one-quarter mile in length; 2) two benches along the trail; 3) solar-powered trail lighting; 4) a six-foot wide sidewalk, and all necessary curb ramps, crosswalks, or other required safety and accessibility improvements	In Progress	
3.15 - Disclosure of Sourrounding Industrial Uses	Developer to provide disclosure of industrial uses	In Compliance	
3.16 - Crime Free Multifamily Housing Program	Developer to participate in the Police Crime Free MF Housing Program	In Compliance	
OBLIGATIONS OF CITY (ARTICLE IV)			
4.01 - Obligations of City	The parties acknowledge and agree that Developer’s agreement to perform and abide by its covenants and obligations set forth in this Agreement, including Developer’s decision to process the siting of the Project in the City, is a material consideration for City’s agreement to perform and abide by the long-term covenants and obligations of City, as set forth herein.	In Compliance	
4.02 (a) - Availability of Public Services (General)	Capacity for Water Services	In Compliance	

Exhibit -1- Edgewater DA - 2024 Annual Review Summary Table

4.02 (b) - Construction Water	City shall make construction water available to the Project by allowing the Project access to City's existing water supply infrastructure, at a location reasonably determined by the City, at Developer's cost and on those terms and conditions and charges customarily applied by City to similar projects consistent with City standards. Developer shall provide backflow prevention for all points of connection to the City's potable water supply system and the volume of water consumed shall be tracked with the use of a City-issued hydrant meter. City shall also permit Developer to install such temporary construction water pipelines and related infrastructure as reasonably necessary to provide construction water to the Project site for Developer's use in any and all Project grading and construction operations, as long as such water is unrelated to potable use.	In Compliance	
4.03 - Developer's Right to Rebuild	City agrees that Developer, in Developer sole's discretion, may renovate or rebuild the Project within the Term of this Agreement should it become necessary due to natural disaster, changes in seismic requirements, acts of God, acts of terrorism, or damage to work in progress by reason of fire, floods or other casualties.	Not Applicable	
4.04 - Reimbursement of Infrastructure Costs (a) (b)	Unless otherwise provided for herein, to the extent Developer incurs costs related to the planning and construction of traffic infrastructure, water delivery infrastructure, , sewer infrastructure or other public infrastructure required by City or this Agreement for the Project that exceed the Project's fair share obligation for such infrastructure, City shall reimburse Developer for the City's portion of such costs (including any management fees provided for in this Agreement), subject to City's prior verification through inspection of the construction that is subject to such reimbursement and upon final acceptance of the infrastructure by the City.	Not Applicable	
4.05 - Park Fee Credit	Developer and City agree that the park in-lieu fee valuation is currently Ten Dollars and Twenty-Seven Cents per square foot (\$10.27/sf foot unless City adopts a lower fee in which case the lower fee shall apply), increased annually by the CPI for the San Francisco-Oakland area, with the first increase implemented in January 2019 reflecting 2018 increases. Developer and City agree that Developer shall receive partial park fee credit for the on-site recreational improvements in the Project.	In Compliance	
COOPERATION - IMPLEMENTATION (ARTICLE V)			
5.01 - Processing Application for Subsequent Approvals	The parties agree that all Subsequent Approvals shall be processed by City in a manner consistent with the following provisions.(a)Standard of Review. By adopting the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its discretionary authority in considering any application for a Subsequent Approval to change the policy decisions reflected by the Project Approvals or otherwise prevent or delay development of the Project as set forth in the Project Approvals. Instead, the Subsequent Approvals shall be deemed tools to implement those final policy decisions and shall be issued by City so long as they comply with this Agreement and Applicable Law, as defined below, and are not inconsistent with the Project Approvals as set forth above and meet the intent and comply with any City adopted Designed Guidelines, as applicable. To the extent permitted by law, City shall not use its discretionary authority in considering these Subsequent Approval applications to revisit or frustrate the policy decisions or material terms reflected by the Project Approvals. Developer agrees that development under this Agreement shall comply with provisions reflected in Uniform Codes (whether building, fire, plumbing, or other applicable uniform codes) which may be adopted subsequent to the Effective Date of this Agreement. (b)Basis for Denial. City may deny an application for a Subsequent Approval only if such application does not comply with this Agreement or Applicable Law, defined below, or does not substantially comply with the Project Approvals (provided, however, that inconsistency with the Project Approvals shall not constitute grounds for denial of a Subsequent Approval which is requested by Developer as an amendment to that Project Approval). City may approve an application for such a Subsequent Approval subject to any conditions necessary to bring the Subsequent Approval into compliance with this Agreement or Applicable Law, or as is necessary to make this Subsequent Approval consistent with the Project Approvals. If City denies any application for a Subsequent Approval, City shall specify in writing the reasons for such denial and may suggest a modification which would be approved by City.	Compliant	

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5.02- Timely Submittals by Developer	Developer acknowledges that City cannot expedite processing of the Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use its best efforts to (a) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (b) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other necessary materials as set forth in the Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Subsequent Approvals consistent with this Agreement.	Compliant	
5.03- Timely Processing by City	Upon submission by Developer of all appropriate applications and processing fees for any Subsequent Approval, City shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Approval applications including, without limitation, (a) providing at Developer's expense and subject to Developer's request and prior written approval, reasonable overtime staff assistance and/or staff consultants for planning and processing of each Subsequent Approval application; (b) if legally required, providing notice and holding public hearings; and (c) acting on any such Subsequent Approval application. If Developer elects to request and approve the use of overtime staff assistance or staff consultants for planning and processing of any Subsequent Approval pursuant to this Section 5.03, Developer's reimbursement to City for such services shall be made in amount equal to City's actual costs of providing such services, in accordance with standard City practice.	Compliant	
5.04-Other Government Permits	At Developer's sole discretion and in accordance with Developer's construction schedule, Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Project. City shall cooperate with Developer in its efforts to timely obtain such permits and approvals and shall, from time to time, at the request of Developer, use its best efforts to ensure the timely availability of such permits and approvals.	Compliant	
5.05 - Lighting and Landscaping District, Park Maintenance, C.3 Facilities	Developer understands that the Project Site is included in the City's existing Citywide Landscaping and Lighting Assessment District, as established pursuant to City Resolution No. 88 7324 ("LLD"). Developer agrees that the base assessment applies to the Project and is subject to increase, provided any such increase of the base assessment imposed uniformly or similarly situated properties by City in a manner consistent with State law. Developer further agrees that the base assessment shall be levied upon recordation of each of the Project's final maps. The parties agree that the base LLD assessment described herein shall finance, among other things, the maintenance of any and all landscape improvements and the maintenance of the parks.	Compliant	
5.06- Park Maintenance CFD 2007	Developer agrees that the Project Site will be annexed into the City's existing Community Facilities District 2007-1 for Park Maintenance (CFD 2007-1). The rate of the CFD 2007-1 fee is subject to City Council Resolution No. 07-10698. Developer shall complete annexation of the subject property into the CFD 2007-01 prior to the issuance of any building permits.	Compliant	
5.07- Maintenance of Project. Facilities CFD 2016-1	Developer agrees that the Project Site will be annexed into the City's existing Community Facilities District 2016-1 for maintenance of stormwater treatment facilities (CFD 2016-1), such as the bioretention basin as described in Section 3.09. Developer shall complete annexation of the property into the CFD 2016-01 prior to the issuance of any building permits.	Compliant	
5.08 - Public Safety Services CFD 2005-1	Developer agrees that the Project Site will be annexed into the City's existing Community Facilities District 2017-1 for Fire Facilities and Fire Safety and Emergency Services (CFD 2017-1). The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311. Developer shall complete annexation of the property into the CFD 2017-01 prior to the issuance of any building permits.	Compliant	
5.09 - Fire Facilities/Safety and Emergency Services CFD 2017-1	Developer agrees that the Project Site will be annexed into the City's existing Community Facilities District 2017-1 for Fire Facilities and Fire Safety and Emergency Services (CFD 2017-1). The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311. Developer shall complete annexation	Compliant	
5.10 - Parkland Dedication In Lieu Fee	Developer shall pay an In-Lieu Parkland Dedication Fee to the Engineering Department prior to the issuance of a building permit for the Project per PMC Section 17.32.020.D.2. The park in-lieu fee amount shall be calculated using the rate in place at the time of issuance of a building permit, which is increased annually by the CPI for the San Francisco-Oakland area, with the first increase implemented in January 2018 reflecting 2017 increases.	Compliant	

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5.11- Assessment Districts or Other Funding Mechanisms	Developer understands that the Project Site is included in the City's existing Citywide Landscaping and Lighting Assessment District, as established pursuant to City Resolution No. 88 7324 ("LLD"). Developer agrees that the base assessment applies to the Project and is subject to increase, provided any such increase of the base assessment imposed uniformly or similarly situated properties by City in a manner consistent with State law. Developer further agrees that the base assessment shall be levied upon recordation of each of the Project's final maps. The parties agree that the base LLD assessment described herein shall finance, among other things, the maintenance of any and all landscape improvements and the maintenance of the parks.	Compliant	
5.12 - Warrany Bonds	Developer agrees that every infrastructure improvement dedicated to City (except landscaping, unimproved real property or open space dedications) pursuant to this Agreement shall be accompanied by a one (1) year warranty bond in a form and in an amount, and with a surety acceptable to City, or otherwise as determined in the applicable Subdivision Improvement Agreement.	Complaint	
5.13 General Plan Maintenance Fee	Developer agrees to pay a development related fee to help fund the maintenance of the Pittsburg General Plan. The General Plan Maintenance Fee will be One Hundred Twenty-Five Dollars (\$125) per dwelling unit.	Compliant	
Standards, Laws, and Procedures Governing the Project (ARTICLE VI)			
6.01-Vested Right to Develop	Developer shall have a vested right to develop the Project on the Project Site in substantial conformance with the terms and conditions of this Agreement, the Project Approvals (as and when issued), the Subsequent Approvals (as and when issued), and amendments thereto as shall, from time to time, be approved pursuant to this Agreement. Nothing in this Section 6.01 shall be deemed to eliminate or diminish the requirement of Developer to obtain any required Subsequent Approvals.	Not applicable	
6.02-Permitted Uses Vested by this Agreement	The permitted uses of the Project Site; the density and intensity of use of the Project Site; the maximum height, bulk and size of proposed buildings; provisions for reservation or dedication of land for public purposes and the location of public improvements; the general location of public utilities; and other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and, as and when they are issued (but not in limitation of any right to develop as set forth in the Project Approvals), the Subsequent Approvals.	Not applicable	
6.03- Applicable Law	"Applicable Law" shall mean the existing rules, regulations, official policies, standards and specifications governing permitted uses of the project site; governing density; and governing design, improvements, and construction standards and specifications applicable to the Project and Project site as set forth in this Agreement and the Project Approvals, and in force and effect on the Effective Date of this Agreement. However, this Agreement and this Section shall not be construed to prevent the City, in any subsequent actions applicable to the Project Site, from applying any new rules, regulations, official policies, standards, and specifications that do not conflict with those rules, regulations, official policies, standards, and specifications existing as of the Effective Date of the Agreement.	Not applicable	
6.04-Uniform Codes	Notwithstanding any other provision of this Agreement, City may apply to the Project Site, at any time during the Term, the then current Uniform Building Code and other uniform construction codes as properly modified by City and uniformly applied on a citywide basis, and City's then current design and construction standards for road and storm drain facilities. In no event shall any such uniform code or standard be adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.	Not applicable	
6.05-Moratorium and Conflicting Enactments	To the extent consistent with State Law, if any ordinance, resolution or other measure is enacted, whether by action of City, by initiative, referendum, or otherwise, that imposes a building moratorium, a limit on the rate of development, or a voter-approval requirement which would otherwise affect the timely development of the Project on all or any part of the Project Site, City agrees that such ordinance, resolution or other measure shall not apply to the Project, the Project Site, this Agreement, the Project Approvals, or the Subsequent Approvals, if any, during the term of this Agreement, unless the building moratorium is imposed as part of a declaration of a local emergency or state of emergency as defined in Government Code Section 8558. Developer reserves the right to challenge in court any City action or inaction which Developer believes is in conflict with Applicable Law or this Agreement.	Not applicable	

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6.07-State and Federal Law	As provided in California Government Code § 65869.5, if any state or federal laws or regulations, enacted after this Agreement’s Effective Date prevent or preclude compliance with one or more provisions of this Agreement (“Changes in the Law”), such provision of the Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations as may be necessary to comply with Changes in the Law, and City and Developer shall take such action as may be required pursuant to this Agreement including, without limitation, Article V and Section 10.05. Not in limitation of the foregoing, nothing in this Agreement shall preclude City from imposing on Developer any fee specifically required by State or Federal laws and regulations.	Not applicable	
6.08-Timing of Project Construction and Completion	(a)Project Phasing. The Project may be built in phases in response to then-existing market conditions over the Term of the Agreement. Except as otherwise specifically provided by this Agreement with respect to Project infrastructure timing, City and Developer expressly agree that there is no requirement that Developer initiate or complete development of the Project or any particular phase of the Project within any particular period of time, and City shall not impose such a requirement on any Project Approval. The parties acknowledge that Developer cannot at this time predict when or the rate at which or the order in which phases will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market demand, interest rates, competition and other similar factors. (b)Project Time Schedule. The parties agree that Developer shall be able to develop in accordance with Developer’s own time schedule as such schedule may exist from time to time, and Developer shall determine which part of the Project Site to develop first, and at Developer’s chosen schedule. In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties’ agreement, it is the parties’ desire to avoid that result by acknowledging that Developer shall have the right to develop the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Developer’s rights under this Section 6.08(b) shall be subject to the requirement that adequate infrastructure to serve each phase of the Project is constructed concurrently with such phase. The City Manager shall reasonably determine what infrastructure will be required to serve each phase of the Project, which determination shall be consistent with Applicable Law. (c)Developer Agreements. Nothing in this Agreement shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement, or similar agreement in accordance with the terms thereof.	Not applicable	
6.09-Exempting Fees, Mitigation Measures,...	Notwithstanding any other provision of this Agreement, the City agrees to exclude Developer from any and all discretionary collection agreements regarding fees, mitigation measures and similar requirements including, but not limited to, development impact fees, which other public agencies request the City to impose at City’s discretion on the Project or on the Project Site after the Effective Date through the Term of this Agreement. This Section 6.09 shall not prohibit the City from imposing on Developer any fee, mitigation measure or similar requirement or obligation that is required by a local or regional agency in accordance with local, regional, State or Federal obligations and implemented by the City in cooperation with such local, regional, state or federal agency, provided such fee, mitigation measure or similar requirement or obligation is imposed in a similar manner on similarly situated properties within the City as, for example, stormwater-related C.3 requirements and increases thereto.	Not applicable	
6.10-City's Joint-Inspection Jurisdiction	Developer acknowledges that City has joint inspection jurisdiction within other third-party governmental entities within any and all City rights-of-way and easements.	Not applicable	
AMENDMENT (ARTICLE VII)			
7.01- Amendment to Project Approvals, Subsequent Approvals	Developer acknowledges that City has joint inspection jurisdiction within other third-party governmental entities within any and all City rights-of-way and easements.	Not applicable	

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7.02- Amendment of this Agreement	To the extent permitted by State and Federal law, any Project Approval or Subsequent Approval may, from time to time, be amended or modified in the following manner: (a)Administrative Project Amendments. Upon the written request of Developer for an amendment or modification to a Project Approval or Subsequent Approval, the City Manager or his/her designee shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (ii) whether the requested amendment or modification is consistent with this Agreement, Applicable Law, applicable uniform codes and State or Federal law. If the City Manager or his/her designee finds that the proposed amendment or modification is minor in the context of the entire Project, consistent with this Agreement and Applicable Law, and will result in no new significant environmental impacts, the amendment shall be determined to be an “Administrative Project Amendment” and the City Manager or his/her designee may, except to the extent otherwise required by law, approve the Administrative Project Amendment without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, changes in trail alignments, minor variations in lot layouts, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project Site diagram or Project Site legal description shall be treated as Administrative Project Amendments. (b)Non-Administrative Project Amendments. Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.	Not applicable	
ASSIGNMENT, TRANSFER AND NOTICE (ARTICLE VIII)			
8.01-Assignment of Interests, Rights/Obligations	Developer may transfer or assign all or any portion of its interests, rights or obligations under this Agreement, the Project Approvals or Subsequent Approvals to third parties acquiring an interest or estate in the Project or any portion thereof including, without limitation, purchasers or ground lessees of lots, parcels or facilities.	Not applicable	

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8.02-Transfer Agreements	(a)In connection with the transfer or assignment by Developer of all or any portion of the Project (other than a transfer or assignment by Developer to an affiliated party, any deed of trust beneficiary or mortgagee, or a “Non-Assuming Transferee” (as defined in Section 8.03), Developer and the transferee shall enter into a written agreement (a “Transfer Agreement”) regarding the respective interests, rights and obligations of Developer and the transferee in and under the Agreement, the Project Approvals, and the Subsequent Approvals. Such Transfer Agreement may (i) release Developer from obligations under the Agreement, the Project Approvals, or the Subsequent Approvals that pertain to that portion of the Project being transferred or assigned, as described in the Transfer Agreement, provided that the transferee expressly assumes such obligations, (ii) transfer to the transferee vested rights to improve that portion of the Project being transferred and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the transfer or assignment. (b)Any Transfer Agreement shall be binding on Developer, City and the transferee and, unless otherwise provided for in Section 8.03 of this Agreement, shall require the City’s prior written consent, which consent shall not be unreasonably withheld. Failure by City to respond within thirty (30) days of a written request by Developer for City’s consent shall be deemed City’s approval of the Transfer Agreement in question. City may refuse to give its consent only if, in light of the proposed transferee’s reputation and financial resources, such transferee would not in City’s reasonable determination be able to perform the obligations proposed to be assumed by such transferee. Such determination shall be made by the City Manager and is appealable to the City Council. In no event, however, shall City refuse to give its consent to a proposed transferee pursuant to this Section 8.02(b) if such transferee has a net worth of at least Ten Million Dollars (\$10,000,000) documented in a manner reasonably acceptable to City. Upon recordation of any Transfer Agreement in the Official Records of Contra Costa County, Developer shall automatically be released from those obligations assumed by the transferee therein. (c)Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer’s obligations under this Agreement shall be attributed to Developer, nor may Developer’s rights hereunder be canceled or diminished in any way by any breach or default by any such person.	Not applicable	
8.03-Non-Assuming Transferees	Except as otherwise required by Developer in Developer’s sole discretion, the burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither a Transfer Agreement nor City’s consent shall be required in connection with (a) any single residential parcel conveyed to a purchaser, (b) any property transferred as fewer than ten (10) lots to a single retail builder or (c) any property that has been established as one or more separate legal parcels for office, commercial, open space, park, school or other nonresidential uses. The transferee in such a transaction and its successors (“Non-Assuming Transferees”) shall be deemed to have no obligations under this Agreement but shall continue to benefit from the vested rights provided by this Agreement for the duration of the Term. Nothing in this Section 8.03 shall exempt any property transferred to a Non-Assuming Transferee from payment of applicable fees and assessments or compliance with applicable conditions of approval.	Not applicable	
8.04-Notice of Compliance Generally	Subject to City’s finding that the facts contemplated by clauses (a) through (c) herein are true and accurate, within thirty (30) days following any written request which Developer may make from time to time, City shall execute and deliver to Developer (or to any party requested by Developer) a written “Notice of Compliance,” in recordable form, duly executed and acknowledged by City, that certifies that (a) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications, (b) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default, and (c) any other information reasonably requested by Developer. City’s failure to deliver such notice within such time period shall constitute a conclusive presumption against City that this Agreement is in full force and effect without modification except as may be represented by the Developer and that there are no uncured defaults in the performance of the Developer, except as may be represented by the Developer. Developer shall have the right at Developer’s sole discretion, to record the Notice of Compliance.	Not applicable	
Cooperation in the Event of Legal Challenge			

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9.01-Cooperation	(a)Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Agreement challenging the validity of the Agreement or any Project Approval or any Subsequent Project Approval, or otherwise arising out of or stemming from this Agreement. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. The parties shall cooperate in defending such action or proceeding. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent in regard to defense of the action or proceeding. The parties shall use best efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis City for all such court costs, attorney fees, and time referenced herein. (b)Developer also agrees to indemnify, defend and hold harmless the City, its officials, officers, employees, agents and consultants from any claims, costs, damages or other liabilities for any personal injury or death, or property damage, resulting from the construction of the Project or of operations by the Developer, its officers, employees, agents or consultants, under this Agreement, except for such claims, costs, damages, or other liabilities which are caused by the sole or gross negligence of the City, its officials, officers, employees, agents, or consultants. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. (c)The parties agree that this Section 9.01 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.01, which shall survive such invalidation, nullification or setting aside.	Not applicable	
9.02-Cure,Reapproval	(a)If, as a result of any administrative, legal or equitable action or other proceeding as described in Section 9.01, all or any portion of this Agreement, Project Approvals, or Subsequent Approvals are set aside or otherwise made ineffective by any judgment (a "Judgment") in such action or proceeding (based on procedural, substantive or other deficiencies, hereinafter "Deficiencies"), the parties agree to use their respective best efforts to sustain and reenact or readopt this Agreement, Project Approvals, and/or Subsequent Approvals that the Deficiencies relate to, as follows, unless the parties mutually agree in writing to act otherwise: (i)If any Judgment requires reconsideration or consideration by City of this Agreement, Project Approval, or Subsequent Approval, then the City shall consider or reconsider that matter in a manner consistent with the intent of this Agreement. If any such Judgment invalidates or otherwise makes ineffective all or any portion of this Agreement or any Project Approval, or Subsequent Approval, then the parties shall cooperate and shall cure any Deficiencies identified in the Judgment or upon which the Judgment is based in a manner consistent with the intent of this Agreement and the Judgment. Upon the parties cure of such Deficiencies, City shall then take steps consistent with the Judgment necessary readopt or reenact this Agreement and any applicable Project Approval, Subsequent Approval, or any portion thereof. (ii)Acting in a manner consistent with the intent of this Agreement or a Judgment includes, but is not limited to, recognizing that the parties intend that Developer may develop a sixty-two (62) unit multi-family residential project, and adopting such ordinances, resolutions, and other enactments, including but not limited to a general plan amendment, rezoning, vesting subdivision map approvals, development plan approvals, PD Plan approvals, design review, improvement agreements, use permits, grading permits, building permits, lot line adjustments, sewer and water connection permits, certificates of occupancy, final development plans, development agreements, permits, resubdivisions, and any amendments to, or repealing of, any of the foregoing as are necessary to readopt or reenact all or any portion of this Agreement, Project Approvals, and/or Subsequent Approvals without contravening the Judgment. (b)The parties agree that this Section 9.02 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.02, which shall survive such invalidation, nullification or setting aside.	Not applicable	
DEFAULT; REMEDIES;TERMINATION			

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10.01-Defaults	Any failure by either party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party (the “Complaining Party”) (unless such period is extended by mutual written consent), shall constitute a default under this Agreement. The Complaining Party’s notice (“Default Notice”) shall specify the nature of the alleged failure and, may specify the manner in which the failure satisfactorily may be cured by the other party (the “Defaulting Party”). Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of a default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then no fault shall be deemed to have occurred if: (a) the cure shall be commenced at the earliest practicable date following receipt of the Default Notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (if no event later than thirty (30) days after the Defaulting Party’s receipt of the Default Notice), the Defaulting Party provides written notice to the Complaining Party that the cure cannot practicably be completed within such 30-day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within one hundred twenty (120) days after the Notice of Default is given. Complaining Party shall not send notice to any third party, including, but not limited to, bonding and surety companies, until such time as the cure opportunities set forth above have expired unless otherwise required by applicable law. Upon the occurrence of a default under this Agreement, the Complaining Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured consistent with this Section, then no default shall exist, and the Complaining Party shall take no further action.	Not applicable	
10.02-Termination	If City elects to consider terminating this Agreement due to a material default of Developer, then City shall give a notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the City Council at a duly noticed and conducted public hearing. As used herein, a finding of materiality shall be based on the effect of the default in relation to the size and scope of the Project. Developer shall have the right to offer written and oral evidence prior to or at the time of said public hearings. If the City Council determines that a material default has occurred and is continuing, and elects to terminate this Agreement, City shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated sixty (60) days thereafter; provided, however, that if Developer files an action to challenge City’s termination of this Agreement within such 60-day period, then this Agreement shall remain in full force and effect until a trial court has affirmed City’s termination of this Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired).	Not applicable	

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10.03-Periodic Review	(a)Conducting the Periodic Review. Throughout the Term of this Agreement, at least once every twelve (12) months following the execution of this Agreement, City shall review the extent of good-faith compliance by Developer with the terms of this Agreement. This review (the “Periodic Review”) shall be conducted by the City Manager or his/her designee and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code § 65865.1. Developer also agrees to pay City annually the greater of Two Thousand Five Hundred Dollars (\$2,500) or the actual cost of Periodic Review Fee (not to exceed Ten Thousand Dollars (\$10,000)) for the first annual review and, for subsequent reviews, the Developer’s obligation to pay annually shall be the greater of Two Thousand Five Hundred Dollars (\$2,500) or the actual cost of Periodic Review Fee (not to exceed Five Thousand Dollars (\$5,000)). The Two Thousand Five Hundred Dollars (\$2,500) shall be increased annually thereafter by the CPI for the San Francisco Oakland Area, with the first increase implemented in January 2019 reflecting 2018 increases. Such Periodic Review Fee shall only be paid in the years in which a Periodic Review is actually conducted. (b)Notice. At least ten (10) days prior to the Periodic Review, and in the manner prescribed in Article XII of this Agreement, City shall deposit in the mail to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review and, to the extent practical, related exhibits concerning Developer’s performance hereunder. Developer shall be permitted an opportunity to respond to City’s evaluation of Developer’s performance, either orally at a public hearing or in a written statement, at Developer’s election. Such response shall be made to the City Manager. (c)Good Faith Compliance. During the Periodic Review, the City Manager shall review Developer’s good-faith compliance with the terms of this Agreement. At the conclusion of the Periodic Review, the City Manager shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. The decision of the City Manager shall be appealable to the City Council. If the City Manager finds and determines that Developer has not complied with such terms and conditions, the City Manager may recommend to the City Council that it terminate or modify this Agreement by giving notice of its intention to do so, in the manner set forth in California Government Code §§ 65867 and 65868. The costs incurred by City in connection with the Periodic Review process described herein shall be shared equally by Developer and City. (d)Eailure to Properly Conduct Periodic Review. If, after thirty (30) days following Developer’s notice requesting a Periodic Review, City fails to initiate the Periodic Review, such failure shall be conclusively deemed an approval by City of Developer’s compliance with the terms of this Agreement. (e)Written Notice of Compliance. With respect to any year for which Developer has been determined or deemed to have complied with this Agreement, City shall, within thirty (30) days following a written request by Developer, provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City. Developer shall have the right, in Developer’s sole discretion, to record such notice of compliance.	Compliant	
10.04-Extension of Time of Performance	In addition to specific provisions of this Agreement, neither party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorism, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting State or Federal laws or regulations, or judicial decisions. Neither party shall be deemed to be in default where delays in performance or failure to perform are due to a court order arising out of or related to litigation attacking the validity of this Agreement, the Project Approvals, the Subsequent Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project. Developer shall not be deemed to be in default where delays in performance or failure to perform are due to Developer’s inability to obtain materials, power or public facilities (such as water or sewer service) to the Project and unrelated to Developer’s actions or inactions and beyond Developer’s control. Upon the properly noticed request of either party hereto, as required by Section 12.09, an extension of time for the performance of any obligation whose performance has been so prevented or delayed will be set forth in writing. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon in writing.	Not applicable	
10.05-Legal Action	Either party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.	Not applicable	
10.06-California Law	This Agreement shall be construed and enforced in accordance with the laws of the State of California.	Not applicable	

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10.07-Resolution of Disputes	With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer shall, at City's request, meet with City. The parties to any such meetings shall attempt in good faith to resolve any such disputes. If the parties are then unable to resolve their dispute, either party may commence mediation by providing to JAMS, or its successor, and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or ninety (90) days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties both agree in writing. The provisions of this Section 10.07 may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorney's fees, to be paid by the party against whom enforcement is ordered. Nothing in this Section 10.07 shall in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the parties to such meetings.	Not applicable	
10.08-Attorneys' Fees	In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, the prevailing party is entitled to reasonable attorneys' fees and any related other costs incurred in that proceeding in addition to any other relief to which it is entitled.	Not applicable	
10.09-Default by City of Developer	In the event City or Developer defaults under the terms of this Agreement, City or Developer shall have all rights and remedies provided herein and under law.	Not applicable	
NO AGENCY, JOINT VENTURE, PARTNERSHIP			
MISCELLANEOUS			
12.01-Incorporation of Recitals and Introductory	The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.	Not applicable	
12.02-Enforceability	City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by City that changes, alters or amends the rules, regulations and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by California Government Code § 65866. In the event of any conflict between the provisions of this Agreement and Applicable Law, the Project Approvals or any Subsequent Approval, this Agreement shall prevail.	Not applicable	
12.03-Findings	City hereby finds and determines that execution of this Agreement furthers public health, safety and general welfare and that the provisions of this Agreement are consistent with the General Plan.	Not applicable	
12.04-Severability	If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Developer may (in their sole and absolute discretion) terminate this Agreement by providing written notice of such termination to the other party.	Not applicable	

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12-05-Other Necessary Acts	Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals and this Agreement and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.	Not applicable	
12.06-Construction	Each reference in this Agreement to this Agreement or any of the Project Approvals or Subsequent Approvals shall be deemed to refer to the Agreement, Project Approval or Subsequent Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.	Not applicable	
12.07- Other Miscellaneous Terms	The singular shall include the plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.	Not applicable	
12.08-Covenants Running with the Land	All of the provisions contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Project, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, California Civil Code § 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Project Site and is binding upon the owner of all or a portion of the Project Site and each successive owner during its ownership of such property.	Not applicable	

Exhibit -1- Edgewater DA - 2024 Annual Review Summary Table

12.09- Notices	Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, by fax (with original forwarded by regular U.S. Mail) by registered or certified mail (return receipt requested), or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below: If to City, to:City Manager City of Pittsburg Civic Center 65 Civic Avenue Pittsburg, CA 94565-2830 With Copies to:Ruthann G. Ziegler City Attorney Meyers Nave 555 Capitol Mall, Suite 1200 Sacramento, CA 95814 If to Developer, to:Albert D. Seeno, III Sunnyside Pittsburg, LLC 4061 Port Chicago Hwy., Ste. H Concord, CA 94520 With Copies to: Sunnyside Pittsburg, LLC Attn: Legal Department 4021 Port Chicago Hwy. Concord, CA 94520	Not applicable	
12.10 Entire Agreement, Counterparts and Exhibits	This Agreement is executed in two (2) duplicate counterparts, each of which is deemed to be an original. This Agreement consists of twenty-seven (27) pages and four (4) exhibits, which constitute in full the final and exclusive understanding and agreement of the parties and supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof. All waivers of any provisions of this Agreement shall be in writing and signed by the appropriate authorities of City and Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes: EXHIBIT A -Legal Description EXHIBIT A-1 -Project Site Diagram EXHIBIT B -Applicable Fees	Not applicable	
12.11 Recordation of Development Agreement	Pursuant to California Government Code § 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement, or Memorandum thereof, in the Official Records of the County of Contra Costa. The parties agree to cooperate as to preparation, execution, and recording of a Memorandum hereof.	Not applicable	

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Periodic Review of the Sky Ranch II)
Development Agreement and)
Determination as to Compliance)
With Development Agreement)

RESOLUTION NO. 25-

WHEREAS, a Development Agreement between the City of Pittsburgh and Sky Ranch Land Investors, LLC, was executed on July 21, 2017, for the Sky Ranch II Property; and

WHEREAS, California Government Code Section 65864 *et seq.* ("Development Agreement Statutes") authorizes and regulates the execution of development agreements ("DAs") between certain public entities and persons who desire to develop private property within a public entity's jurisdiction; and

WHEREAS, pursuant to the Development Agreement Statutes, the City established procedures for the consideration of DA applications by property owners or other persons having an interest in property within City's jurisdiction; and

WHEREAS, Section 65865.1 requires City to conduct a periodic review of the City's active Development Agreements, at which time each respective developer is required to demonstrate good faith compliance with the terms of the Development Agreement ("Periodic Review"); and

WHEREAS, if, as a result of the Periodic Review, the City finds and determines, on the basis of substantial evidence, that a developer has not complied in good faith with the terms and conditions of the Development Agreement, the City may terminate or modify the DA pursuant to the Development Agreement Statutes; and

WHEREAS, the last periodic review of the Sky Ranch II Development Agreement was conducted, and on April 15, 2024, the City Council determined that the developer was in compliance with the terms of the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburgh finds and determines as follows.

Section 1. Recitals

The City Council hereby finds and determines that the above recitals are true and correct and have served as the basis, in part, for the findings and actions of the City Council set forth below.

Section 2. Compliance with Development Agreement

The City Council hereby finds and determines that, based on the information provided by the Developer and City Staff, as well as the information contained in the "Sky Ranch II DA – 2024 Annual Review", attached hereto and incorporated herein by reference as "Exhibit 1," the Developer has demonstrated good faith compliance with the Sky Ranch II Development Agreement.

Section 3. Certificate of Compliance

The City Council hereby directs and authorizes the City Manager to issue a certificate codifying the "Finding of Compliance" for Sky Ranch II in a form that can be recorded by the Developer.

Section 4. Certification

The City Clerk shall certify the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Exhibit - 1 - Sky Ranch DA - 2024 Annual Review Summary Table

Primary Column	Column2	Status	Notes	Action Items?
Article II: Effective Date; Term				
2.01	Effective Date. This Agreement shall become effective upon the date the ordinance approving this Agreement becomes effective (the "Effective Date").	See Comments/Action Items	Ordinance No. 17-1431 approving the DA was adopted on June 5, 2017, with an effective date of July 21, 2017	
2.02	Term. The term of this agreement shall commence upon the date the ordinance approving this agreement and continue for a period of twenty (20) years (the "Term")	See Comments/Action Items	Based on the effective date of July 21, 2017, the DA will expire on July 21, 2037	
Article III: Obligations of Developer				
3.01	Drainage Improvements. Subject to the terms of this Agreement, as a condition of approval to one or more of the Project Approvals, Developer agrees to construct and offer dedication to the City those Project storm water drainage improvements to be located within City's boundaries and required to serve the Project Site ("Drainage Improvements"). The City shall accept the offer of dedication of the Drainage Improvements, as long as the Drainage Improvements comply with the City's standards, applicable rules and regulations, and this Agreement. The parties agree that the construction of the Drainage Improvements shall be phased according to a construction schedule determined by Developer, subject to the written approval of the City Manager. City shall not require any improvements to onsite or offsite drainage facilities to address pre-existing deficiencies provided that Developer demonstrates to City's reasonable satisfaction that impact to downstream facilities are not being exacerbated.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for engineering or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
3.02	Facility Reserve Charges. Developer agrees to pay City's Facility Reserve Charges ("FRC" as set or modified by the City Council from time to time.	Not Applicable (at this time)		
3.03	Water Infrastructure. (1) Developer shall comply with the 2016 Water System Master Plan, as amended. Developer shall have the option subject to the written approval by the City Manager to provide water infrastructure facilities in phases subject to a storage requirement pursuant to the 2016 Water System Master Plan, as amended. (2) Developer shall have the right to obtain a certain number of building permits for homes on lots which are in the Zone II water service, even if the new Zone II water reservoir and appurtenant improvements have not yet been constructed at such time. [financing information...] (3) Developer shall design and construct a Zone IV water reservoir and all appurtenant improvements relating to the reservoir on the 1.23 acre parcel in accordance with the most current Water Master Plan. [financing information...] (4) The City's 2016 Water Master Plan requires the Segment 1E pipeline to be constructed prior to the issuance of the 807th equivalent single family dwelling unit in the Zone II infill and SE Hills service areas. The pipeline segment shall be designed, constructed, and managed by the City in accordance with the most current Water Master Plan. [payment....]	Not Applicable (at this time)		
3.04	School Facilities Impact Mitigation. Developer shall pay in lieu school impact fees in accordance with Government Code 65995 et seq. Compliance with this Section shall satisfy all of Developer's obligations required by City to mitigate school impacts resulting from the Project.	Not Applicable (at this time)		

Exhibit - 1 - Sky Ranch DA - 2024 Annual Review Summary Table

3.05	Applicable Fees. City may levy development fees, and charges during the term of this Agreement relative to the development of the Project Site which are in force and effect as of the Effective Date, as more particularly described and according to the payment schedule set forth on Exhibit B "Applicable Fees". Unless otherwise provided in this Agreement, no development fees or charges or categories shall be imposed on the project other than those fees. All fees related to third-party government agencies that are paid directly to third-party government agencies are not within the scope of this Agreement.	Not Applicable (at this time)		
3.06	Applicable Fee Adjustments. Developer shall pay fees consistent with Section 3.05 and the applicable adjustments currently provided in such fees, and as modified from time to time by the City, whether such adjustment or modification is an increase or decrease. Developer retains the right to challenge the imposition of any new fees not referenced in this Agreement or the modification, amendment or adjustment of all Applicable Fees pursuant to Government Code 66000 et seq., not already authorized by ordinances, resolutions, or policies in place at the time of the Agreement's execution. Should the City Council approve a new AB 1600 fee study and/or authorize a decrease in any Applicable Fees during the term of this Agreement by ordinance or by resolution, Developer shall have the option, at its sole discretion, to pay the lower free, as may be adjusted by the applicable CPI or ENR, unless otherwise bound by separate contract or memorandum of understanding with City. In no event shall Developer receive retroactive adjustments for lower fees.	Not Applicable (at this time)		
3.07	City Local Traffic Mitigation Fee. Developer shall pay the City Local Traffic Mitigation Fee, in the amount in effect as of the Effective Date and subject to adjustments in accordance with Resolution No. 07-10917 with credit for certain improvements constructed by Developer per Section 4.04 below. If the City Council approved a new AB 1600 fee study and/or authorizes a decrease in any of the applicable fees during the term of this Agreement by ordinance or resolution, Developer shall have the option at its sole discretion to pay the lower fee, as may be adjusted by the applicable CPI or ENR, unless otherwise bound by separate contract or memorandum of understanding with City. In no event shall Developer receive retroactive adjustments for lower fees. Developer agrees that City may use the Local Traffic Mitigation Fee paid by Developer pursuant to this Section for the City's share of the James Donlon Expressway. This use by the City shall not decrease or otherwise modify Developer's other obligations under this Agreement, including/not limited to Section 3.13.	Not Applicable (at this time)		
3.08	Regional Traffic Fee. Developer shall pay the ECCRFA regional traffic fee should it be imposed by the City in an amount equal to or less than the amount paid by projects in the Cities of Antioch, Brentwood, and Oakley or in accordance with the existing valid Memorandum of Understanding dated June 29, 2010, as amended, whichever is less.	Not Applicable (at this time)		

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3.09	Fees, Assessment and/or Taxes to be Paid by Developer. Developer agrees to pay its fair share of any levies imposed by any assessment district, geologic hazard abatement district, landscaping and lighting district, community facilities district, tax-exempt financing mechanisms or other funding mechanisms related to public safety; traffic; sewer; water; fire; the prevention, mitigation, abatement, or control of geological hazards; or other infrastructure improvements (including, without limitation, design, acquisition, construction and maintenance cost) within the Project Site, provided that such Funding Mechanism is referenced herein or was legally created pursuant to applicable law.	Not Applicable (at this time)		
3.10.	Affordable Housing. Developer shall comply with PMC 18.86.080 and VTM Condition of Approval No. 12 by constructing 42 rental accessory dwelling units within the Project. A covenant shall be recorded limiting the amount of rent that may be charged for these accessory dwelling units, consistent with the terms and conditions set forth in the affordable housing agreement. Prior to the City's issuance of the first certificate of occupancy Developer agrees to enter into an affordable housing agreement with the City... attached as Affordable Housing Agreement... which further memorializes the provisions of this Section 3.10 and is consistent with applicable law, including PMC 18.50. Developer agrees that the accessory dwelling units referenced in this section shall not be built or otherwise allowed on adjoining lots without the prior written approval of the City Manager. City agrees that Developer shall not be required to pay any additional City fees associated with the ADUs except for those fees the City is required to charge by the State or other governmental entities with jurisdiction over the Project. (a) Timing. (b) Inclusionary Housing Ordinance.	Not Applicable (at this time)		
3.11	Security Improvements. (a) Developer shall pay to the City the actual cost incurred by City (=<\$60000) towards funding the acquisition and installation of security camera(s) at 2 intersections identified by the City. The security Cameras will be installed under supervision of City's Police Chief. Developer shall pay such costs within 30 days of receipt of invoice. (b) Developer shall install the basic home security wiring in the Project homes (first floor windows and doors). Shall offer 1 year of professional monitoring service to new homeowners. The monitoring service shall be at the election of the new homeowner.	Not Applicable (at this time)		
3.12	Solar Roof System. Developer shall install a solar roof system on on of its model homes for example purposes only and offer solar installation as an option at the homeowner's expense.	Not Applicable (at this time)		
3.13	Construction of James Donlon Expressway within the Limits of the Project Site. Developer shall construct a portion of the James Donlon Expressway in accordance with VTM Condition of Approval No. 59 and MM-H7. Should the median and inside lanes not be installed at the time Developer constructs its required improvement, then Developer shall grade the median and inside lanes and receive credits for such work from City if such credits are not provided by East Contra Costa Regional Fee & Finance Authority.	Not Applicable (at this time)		

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3.14	In Lieu Fees or Dedication of Park Site. At the written discretion of the City Manager, Developer shall pay an in lieu park fee, or dedicate park land, or perform a combination of both, equivalent to 7.18 acres as required by the project approval. The dedicated Park Site shall be rough graded in accordance with City specifications with no more than a 3% slope, adjacent curb, gutter, sidewalk and utility stubs shall have been installed by Developer and the Park Site shall be free and clear of all liens, bonds, taxes, assessments, and other charges, which costs shall be assumed by Developer. Developer agrees to make its offer of dedication of the Park Site to City at the same time it constructs the phase of the project in which the Park Site is located. City agrees that it shall accept the offer of dedication of the Park Site within 180 days of Developer's offer of dedication o the Park site, provided that (a) the park is in compliance with the requirements of this Section (ii) all necessary actions have been completed to include the Park Site within a new or existing lighting or landscaping district (see 5.05).	Not Applicable (at this time)		
3.15	Park Improvements. Prior to the offer of dedication of the Park Site pursuant to Section 3.14 above, Developer shall install park improvements identified by the City at a cost not to exceed \$250,000 not including frontage improvements. This amount shall be increased annually by the CPI for the SF-Oakland area with the first increase implemented in January 2018 reflecting 2017. Such costs shall not be credited against Developer's park obligations set forth in Section 3.14 above.	Not Applicable (at this time)		
3.16	Electric Vehicle Charge. Developer shall install, in the garage of each home, conduit from the electric panel in order for homeowners, at their election and cost, to install an electric vehicle charging system.	Not Applicable (at this time)		
Article IV: Obligations of City				
4.01	Obligations of City Generally. The parties acknowledge and agree that Developer's agreement to perform and abide by its covenants and obligations set forth in this Agreement, including Developer's decision to process the siting of the Project in the City, is a material consideration for City's agreement to perform and abide by the long term covenants and obligations of City as set forth herein.	Compliant		
4.02	Availability of Public Services.			
a	General. To the extend permitted by law and consistent with its authority, City shall reserve such capacity for water services as may be necessary to serve the Project. This reservation of water infrastructure capacity shall be assured for the Term to the extent consistent with applicable law.	Not Applicable (at this time)		
b	Construction Water. City shall make construction water available to the Project by permitting the Project to hook up to existing City water supply infrastructure at a location reasonable determined by the City, at Developer's cost and on those terms and conditions and charges customarily applied by City to similar project consistent with City standards. City shall also permit Developer to install such temporary construction water pipelines and related infrastructure as reasonably necessary to provide construction water to the Project site for Developer's use in any and all Project grading and construction operations as long as such water is unrelated to potable use.	Not Applicable (at this time)		

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4.03	Developer's Right to Rebuild. City agrees that Developer, in Developer sole's discretion may renovate or rebuild the Project within the Term of this Agreement should it become necessary due to natural disaster, change in seismic requirements, acts of God, acts of terrorism, or damage to work in progress by reason of fire, floods, or other casualties. Any such renovation or rebuilding shall be subject to the square footage and height limitations vested by this Agreement and shall comply with the Project Approvals, the building codes existing at the time of such rebuilding or reconstruction, and the requirements of CEQA and this agreement.	Compliant to date.	There has been no need to exercise this provision of the agreement.	
4.04	Reimbursement of Infrastructure Costs			
a	Reimbursement. Unless otherwise provided for herein, to the extent Developer incurs costs related to the planning and construction of traffic infrastructure, water delivery infrastructure, the off-site water tank, pump station, sewer infrastructure or other public infrastructure required by City or this Agreement for the Project that exceed the Project's fair share obligation for such infrastructure, City shall reimburse Developer for the City's portion of such costs (including any management fees provided for in this Agreement), subject to the City's prior verification through inspection of the construction that is subject to such reimbursement and upon final acceptance of the infrastructure by the City. This reimbursement shall be paid within 60 days after the City's final acceptance or at such other time as mutually agreed upon in writing by the parties. Developer shall be entitled to a management fee of 5% for City's share of approved infrastructure costs, including but not limited to design and special inspection costs. The management obligations of the Developer hereunder shall include contracting and managing the construction of the infrastructure , retaining copies of records, photographs and as builts for the improvements as well as attending meetings and providing necessary reports as reasonably requested by City.	Compliant	There has been no need to exercise this provision of the agreement.	

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b	City's Authorization of Reimbursement. Notwithstanding any other provision of this Section, or of this Agreement, or of VTM provisions, City shall not be responsible to reimburse or credit Developer for any costs, including as referenced in Section 4.04(a) herein, unless prior to Developer incurring any costs for which Developer will request reimbursement from City, Developer shall first provide written documentation as to the work to be performed, the estimated costs thereof, including a not-to-exceed cap, and such other details as reasonably requested by the City Manager and the City Manager approves the proposed costs and related work. If the City Manager fails to respond within thirty (30) days of its receipt of such estimated costs, Developer shall provide a second written notice to the City Manager and to the City Engineer, if neither responds within thirty (30) days of the City's receipt of the second request, the request shall be deemed approved. The City Manager shall have the discretion to require Developer to obtain competitive bids on any work for which Developer may request reimbursement or credit from the City where the total cost (not just the City's share) of that work is One Hundred Thousand Dollars (\$100,000) or more. City shall also have the opportunity to inspect any and all infrastructure during its construction, as well as to review any work product for which Developer requests reimbursement or credits. If mutually agreed by the parties in writing, any reimbursement due Developer pursuant to this Agreement may be satisfied by City in the form of credits, which can actually be used by Developer to offset Developer's payment of any Applicable Fees. In the event there are not enough credits to fully satisfy the reimbursement due Developer and subject to the terms of the mutual agreement between the parties referenced in the prior sentence, City shall reimburse Developer within thirty (30) days of invoicing.	Compliant	There has been no need to exercise this provision of the agreement.	
4.05	Park Fee Credit. Developer and City agree that the park in-lieu fee amount will be Nine and 40/100ths dollars (\$9.40) per square foot (unless City adopts a lower fee in which case the lower fee shall apply), increased annually by the CPI for the SF-Oakland area, with the first increase implemented in January 2017 reflecting 2016 increases. The timing of the payment of the park in lieu fee shall be satisfied as set forth in Section 3.14 above.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for engineering or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
Article V: Cooperation-- Implementation				
5.01	Processing Application for Subsequent Approvals. The parties agree that all Subsequent Approvals shall be processed by City in a manner consistent with the following provisions:			

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a	Standard of Review. By adopting the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its discretionary decisions reflected by the Project Approvals or otherwise prevent or delay development of the Project as set forth in the Project Approvals. Instead the Subsequent Approvals shall be deemed tools to implement those final policy decisions and shall be issued by City so long as they comply with this Agreement and Applicable Law, as defined below, and are not Inconsistent with the Project Approvals as set forth above, and meet the intent and comply with any City adopted Design Guidelines, as applicable. To the extent permitted by law, City shall not use its discretionary authority in considering these Subsequent Approvals applications to revisit or frustrate the policy decisions or material terms reflected by the Project Approvals. Developer agrees that development under this Agreement shall comply with provisions reflected in Uniform Codes which may be adopted subsequent to the Effective Date of the Agreement.	Compliant to date.		
b	Basis for Denial. City may deny an application for a Subsequent Approval only if such application does not comply with this Agreement or Applicable Law, defined below, or does not substantially comply with the Project Approvals (provided, however, that inconsistency with the Project Approvals shall not constitute grounds for denial of a Subsequent Approval which is requested by Developer as an amendment to that Project Approval). City may approve an application for such a Subsequent Approval subject to any conditions necessary to bring the Subsequent Approval into compliance with this Agreement or Applicable Law, or as is necessary to make this Subsequent Approval consistent with Project Approvals. If City denies any application for a Subsequent Approval, City shall specify in writing the reasons for such denial and may suggest a modification which would be approved by City.	Compliant to date.	There has been no need to exercise this provision of the agreement.	
5.02	Timely Submittals by Developer. Developer acknowledges that City cannot expedite processing of the Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use its best efforts to 1) provide to city in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and b) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other necessary materials as set forth in the Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Subsequent Approvals consistent with this Agreement.	Compliant to date.	There has been no need to exercise this provision of the agreement.	

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5.03	Timely Processing by City. Upon submission by Developer of all appropriate applications and processing fees for any Subsequent Approval, City shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Approval applications including, without limitation, a) providing at Developer's expense and subject to Developer's request and prior written approval, reasonable overtime staff assistance and/or staff consultants for planning and processing of each Subsequent Approval application; b) if legally required, providing notice and holding public hearings; and c) acting on any such Subsequent Approval application. If Developer elects to request and approve the use of overtime staff assistance or staff consultants for planning and processing of any Subsequent Approval pursuant to this Section. Developer's reimbursement to City for such services shall be made in amount equal to City's actual costs of providing such services, in accordance with standard City practice.	Compliant to date.	Developer has not submitted any applications for subsequent approvals for the project.	
5.04	Other Government Permits. At Developer's sole discretion and in accordance with Developer's construction schedule, Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Project. City shall cooperate with Developer in its efforts to timely obtain such permits and approvals and shall, from time to time, at the request of Developer, use its best efforts to ensure timely availability of such permits and approvals. City shall cooperate with Developer to obtain any and all approvals from Contra Costa County related to the construction or operation of the Drainage Improvements. City shall also cooperate with Developer, CCWD, and Bureau of reclamation in all matters related to CCWD's application to the Bureau to expand the place of use of Central Valley Project water to include the Project Site.	Compliant to date.	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for engineering or building permits for the project.	
5.05	Lighting and Landscaping District, Park Maintenance.			
a	Developer agrees that the Project Site will be annexed into City's existing Lighting and Landscaping District, as established pursuant to City Reso No. 88-7324 as well as City's Community Facilities District 2007-1 for park maintenance, City's Community Facilities District for the maintenance of C.3 facilities as, to the extent permitted by law, that the Project shall be assessed in a manner consistent with the provisions herein.	Not Applicable (at this time)		
b	Developer agrees that the base assessment applies to the Project and is subject to increase, provided any such increase of the base assessment imposed uniformly or similarly situated properties by City in a manner consistent with State law. Developer further agrees that the base assessment shall be levied upon recordation of each of the Project's final maps. The parties agree that the base LLD assessment described herein shall finance, among other things, the maintenance of any and all landscape improvements and the maintenance of parks.	Not Applicable (at this time)		

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5.06	GHAD. GHAD. Developer agrees to take all steps necessary to either expand the existing Southwest Pittsburg Geologic Hazard Abatement District or to establish a new GHAD, at no cost to the City or to the GHAD, to provide for, among other things, geologic hazard abatement, maintenance of detention basins, grassland maintenance, fire protection, and erosion control within portions of Project Site. Unless otherwise required by law, the parties intend that the Project Site will be assessed by the SW Pittsburg GHAD or a new GHAD upon the respective GHAD's acceptance of the GHAD Area identified in the Project Approvals (which GHAD Area shall include the detention basins).	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for engineering or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
5.07	Police Services CFD. Developer agrees to take all steps necessary to include the Project Site into the City's existing police services Community Facilities District 2004-1, as adopted pursuant to Reso No. 04-10071 ("The Police Services District") at no cost to the City, in order to provide for police and other emergency services to the Project site. This process shall be completed, to the reasonable satisfaction of the City Manager and the City Attorney, before filing the first final map on the Project. Each legal residential lot located on the Project Site will be required to pay the levy by the Police Services District no earlier than the issuance of a building permit for such lot.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for engineering or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
5.08	Fire Services CFD. Developer agrees to annex the Project site into the City's Fire Safety and Emergency Services Community Facilities District 2017-1, as adopted pursuant to Resolution No. 17-13311 at no cost to the City, in order to provide for fire safety and emergency services for the project. This process shall be completed, to the reasonable satisfaction of the City manager and City Attorney, before filing the first final map on the project.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for engineering or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
5.09	General Plan Maintenance Fee. Developer agrees to pay a development related fee to help fund the maintenance of the Pittsburg General Plan. The General Plan Maintenance Fee will be One Hundred Twenty-five Dollars per building permit (unless City adopts a lower fee in which case the lower fee shall apply), increased annually by the CPI for the SF-Oakland area, with the first increase implemented in January 2018 reflecting 2017 increases.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, the Developer has not submitted applications for engineering or building permits for the project. The City shall seek performance of Developer's obligations prior to or as part of project development.	
5.10.	Assessment Districts or Other Funding Mechanisms.			
a	City understands that City's long term assurances to Developer concerning fee, taxes, and assessments related to Project are a material consideration for Developer agreeing to process the siting of the Project in its present location and to pay the fees, the taxes and assessments described in this Agreement. City shall retain the ability to initiate or process applications for the formation of new assessment districts or other Funding Mechanisms, as defined in Section 3.09 of this agreement, covering all or any portion of the Project site. Notwithstanding the foregoing, Developer retains all its rights to oppose the formation or proposed assessment of any new assessment district, Funding Mechanism, or any and all increases thereto, or to request or pursue assessment credits or reductions, unless otherwise provided for herein or unless such assessment, Funding Mechanism, or related increases are in place and legally effective as of the date of this Agreement's Effective Date.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 5.09.	

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b	At the request of Developer, City shall cooperate in the formation of, or annexation to, those assessment districts, geologic hazard abatement district, landscaping and lighting districts, community facilities district, tax-exempt financing mechanisms, or other Funding Mechanisms that Developer and City determine are needed to fund infrastructure improvements and to ensure the orderly development of the Project, at no cost to the City. City shall diligently and expeditiously process applications by Developer necessary to establish such Funding Mechanisms as long as (i) the application complies with law, (ii) is consistent with City's standards, and (iii) provides for a lien to value ratio and other financial terms that are reasonably acceptable to City and which will result in no commitment of City funds. City shall diligently seek to sell any bonds to be issues and secured by such assessments upon the best terms reasonably available in the marketplace. Any and all costs associated with this Section shall be borne and/or advanced by Developer.	Not Applicable (at this time)		
5.11	Warranty Bonds. Developer agrees that every infrastructure improvement dedicated to City (except landscaping, unimproved real property, or open space dedications) pursuant to this Agreement shall be accompanied by a one year warranty bond in a form and in an amount, and with a surety acceptable to City or otherwise as determined in the applicable Subdivision Improvement Agreement.	Not Applicable (at this time)		
Article VI: Standards, Laws and Procedures Governing the Project				
6.01	Vested Right to Develop. Developer shall have a vested right to develop the Project on the Project site in substantial conformance with the terms and conditions of this Agreement, the Project Approvals (as and when issued), the Subsequent Approvals (as and when issued), and amendments thereto as shall, from time to time, be approved pursuant to this Agreement. Nothing in this Section 6.01 shall be deemed to eliminate or diminish the requirement of Developer to obtain any required Subsequent Approvals.	Compliant to date.		
6.02	Permitted Uses Vested by This Agreement. The permitted uses of the Project Site; the density and intensity of use of the Project Site; the max height, bulk, and size of proposed buildings; provisions for reservation or dedication of land for public purposes and the location of public improvements; the general location of public utilities; and other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and, as and when they are issued (but not in limitation of any right to develop as set forth in the Project Approvals), the Subsequent Approvals.	Compliant to date.		
6.03	Applicable Law. Applicable Law shall mean the existing rules, regulations, official policies, standards and specifications governing permitted uses of the project site; governing density; and governing design, improvements, and construction standards and specifications applicable to the Project and Project site as set forth in this Agreement and the Project Approval, and in force and effect on the Effective Date of this Agreement. However, this Agreement and this Section shall not be construed to prevent the City, in any subsequent actions applicable to the Project Site, from applying new rules, regulations, official policies, standards, and specifications existing as of the Effective Date of the Agreement.	Compliant to date.		

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6.04	Uniform Codes. Notwithstanding any other provision of this Agreement, City may apply to the Project Site, at any time during the Term, the then current Uniform Building Code and other uniform construction codes as properly modified by City and uniformly applied on a citywide basis, and City's then current design and construction standards for road and storm drain facilities. In no event shall any such uniform code or standard be adopted for the purpose of preventing or otherwise limited construction of all or any part of the Project.	Compliant to date.		
6.05	Moratorium And Conflicting Enactments. To the extent consistent with State Law, if any ordinance, resolution, or other measure in enacted, whether by action of the City, by initiative, referendum, or otherwise, that imposes a building moratorium, a limit on the rate of development, or a voter-approval requirement which would otherwise affect the timely development of the Project on all or any part of the Project Site, City agrees that such ordinance, resolution, or other measure shall not apply to the Project, the Project Site, this Agreement, the Project Approvals, or the Subsequent Approvals, if any, during the term of this Agreement, unless the building moratorium is imposed as part of a declaration of a local emergency or state of emergency as defined in Government Code Section 8558. Developer reserves the right to challenge in court any City action or inaction which Developer believes is in conflict with Applicable Law or this Agreement.	Compliant to date.	No moratoria or conflicting enactments were adopted during this review period.	
6.06	Environmental Mitigation. The parties understand that the EIR for the Project is a project level CEQA document intended to be used in connection with each of the Project Approvals and Subsequent Approvals needed for the Project. Consistent with the CEQA policies and requirements applicable to the EIR, City agrees to use the EIR in connection with the processing of any Subsequent Approval to the extend allowed by law. City agrees not to impose on Developer any mitigation measures or other conditions of approval other than those specifically imposed by the Project Approvals and the Mitigation Monitoring Program described in the FEIR, specifically required by Applicable Law, or as properly required through the design or architecture review process as long as such mitigation measures or other conditions are imposed in a manner consistent with applicable design review guidelines.	Compliant		
6.07	Life of Subdivision Maps, Development Approvals, and Permits. To the extend consistent with Applicable Law, the term of any subdivision map or any other map, permit, rezoning, or other land use entitlement approved as a Project Approval or a Subsequent Approval shall not include any period of time during which any applicable development moratorium (including, but not limited to, a water or sewer moratorium) or the actions of other public agencies hat regulate land use, development or the provision of services to the land, prevents, prohibits, or delays the construction of the Project. The term of this Agreement and any subdivision map or other Project Approval or Subsequent Approval shall not include any period of time during which any applicable court order or other legal requirement prevents the processing of any Subsequent Approval or any Project development activities.	Compliant	Construction of project is scheduled to be completed prior to the expiration of all approvals.	

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6.08	State and Federal Law. As provided in California government Code 65869.5, if any state or federal laws or regulations, enacted after this Agreement's Effective Date prevent or preclude compliance with one or more provisions of this Agreement ("Changes in the Law"), such provision of the Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations as may be necessary to comply with such state or federal laws or regulations as may be necessary to comply with Changes in the Law, and City and Developer shall take such action as may be required pursuant to this Agreement including, without limitation, Article V and Section 10.05. Not in limitation of the foregoing, nothing in this Agreement shall preclude City from imposing on Developer any fee specifically required by State or Federal laws and regulations.	Compliant	There has been no need to exercise this provision of the agreement.	
6.09	Timing of Project Construction and Completion.			
a	Project Phasing. The Project is expected to be built in phases in response to then-existing market conditions over the Term of the Agreement. Except as otherwise specifically provided by this Agreement with respect to Project infrastructure timing, City and Developer expressly agree that there is no requirement that Developer initiate or complete development of the Project or any particular phase of the Project within any particular time period, and City shall not impose such a requirement on any Project Approval. The parties acknowledge that Developer cannot at this time predict when or the rate at which or the order in which phases will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market demand, interest rates, competition, and other similar factors.	Compliant to date.		
b	The parties agree that the Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time and Developer shall determine which part of the Project Site to develop first and at Developer's chosen schedule. In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in Pardee Construction Co v City of Camarillo, that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' desire to avoid that result by acknowledging that Developer shall have the right to develop the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgement. Developer's rights under this Section 6.09b shall be subject to the requirement that adequate infrastructure to service each phase of the Project is constructed concurrently with such phase. the City Manager shall reasonably determine what infrastructure will be required to serve each phase of the Project, which determination shall be consistent with Applicable law.	Compliant to date.		
c	Nothing in this Agreement shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.	Compliant to date.		

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6.10.	Exempting Fees, Mitigation Measures and Similar Requirements Imposed by Outside Agencies. Notwithstanding any other provision of this Agreement, the City agrees to exclude Developer from any and all discretionary collection agreements regarding fees, mitigation measures and similar requirements including, but not limited to, development impact fees, which other public agencies request the City to impose at City's discretion on the Project or on the Project Site after the Effective Date through the Term of this Agreement. This Section shall not prohibit the City from imposing on Developer any fee, mitigation measure, or similar requirement or obligation that is required by a local or regional agency in accordance with local, regional, State, or Federal obligations and implemented by the City in cooperation with such local, regional, state, federal agencies, provided such fee, mitigation measure, or similar requirement or obligation is imposed in a similar manner on similarly situated properties within the City.	Compliant to date.		
6.11	City's Joint-Inspection Jurisdiction. Developer acknowledges that City has joint inspection jurisdiction within other third-party governmental entities within any and all City rights-of-way and easements.	Compliant to date.		
Article VII: Amendment				
7.01	Amendment to Project Approvals, Subsequent Approvals. To the extent permitted by state and federal law, any Project Approval or Subsequent Approval may, from time to time, be amended or modified in the following manner:			
a	Administrative Project Amendments. Upon the written request of Developer for an amendment or modification to a Project Approval or Subsequent Approval, the City Manager or his/her designee shall determine (i) whether the requested amendment or modification is minor when considered in light of the project as a whole; and (ii) whether the requested amendment or modification is consistent with this Agreement, Applicable Law, applicable uniform codes, and State or Federal Law. If the City Manager or his/her designee finds that the proposed amendment or modification is minor in the context of the entire project, consistent with this Agreement and Applicable Law, and will result in no new significant environmental impacts not addressed and mitigated in the EIR, the amendment shall be determined to be an Administrative Project Amendment and the City Manager or his/her designee may, except to the extent otherwise required by law, approve the Administrative Project Amendment without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, reductions in the density, intensity, scale, or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, changes in trail alignments, minor variations in lot layout, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project Site diagram or Project Site legal description shall be treated as Administrative Project Amendments.	Not Applicable (at this time)		

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b	Non Administrative Project Amendments. Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.	Not Applicable (at this time)		
7.02	Amendment of this Agreement. Amendment may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, as follows:			
a	Admin Agreement Amendments.The City Manager, or his/her designee, may, except to the extent otherwise required by law enter into certain amendments of this Agreement on behalf of the City as long as any such amendment does not substantially affect (i) the Term of this Agreement, (ii) permitted uses of Project Site, (iii) provisions for the reservation or dedication of land, (iv) conditions, terms, restrictions, or requirements for subsequent discretionary actions, (v) the density or intensity of use of the Project Site or the maximum height or size of proposed buildings or (vi) monetary contributions by Developer, and shall not, except to the extend otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. For purposes of this Section, the term substantially affect shall be evaluated in context of the entire project.	Not Applicable (at this time)		
b	Amendment Exemptions. No amendment of a Project Approval or Subsequent Approval, whether done administratively or not, shall require an amendment to this Agreement. Instead, any such matter automatically shall be deemed to be incorporated into the Project and vested under this Agreement when written and executed by both parties.	Not Applicable (at this time)		
c	Amendment Limitations. In consideration of the cope of the benefits to City set forth in this Agreement, any amendment to this Agreement shall only be subject to such new terms and conditions including new exactions or other obligations as are reasonably related to the impacts on City directly attributable to such amendment,	Not Applicable (at this time)		
Article VII: Assignment, Transfer, and Notice				
8.01	Assignment of Interests, Rights and Obligations. Developer may transfer or assign all or any portion of its interests, rights, or obligations under this Agreement, the Project Approvals, or Subsequent Approvals to third parties acquiring an interest or estate in the Project or any portion thereof including without limitation, purchasers or ground lessees of lots, parcels, or facilities.	Not Applicable (at this time)	There has been no need to exercise this provision of the agreement.	
8.02	Transfer Agreements.			

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a	In connection with the transfer or assignment by Developer of all or any portion of the Project (other than a transfer or assignment by Developer to an affiliated party, any deed of trust beneficiary or mortgagee, or a "Non-Assuming Transferee", Developer and the transferee shall enter into a written agreement regarding the respective interests rights, and obligations under the Agreement, the Project Approvals, or the Subsequent Approvals that pertain to that portion of the Project being transferred or assigned, as described in the Transfer Agreement, provided that the transferee expressly assumes such obligations (ii) transfer to the transferee vested rights to improve that portion of the Project beign transferred and (iii) address ant other matter deemed by developer to be necessary or appropriate in connection with the transfer or assignment.	Not Applicable (at this time)	There has been no need to exercise this provision of the agreement.	
b	Any Transfer Agreement shall be binding on Developer, City and the transferee and, unless otherwise provided for in Section 8.03 of this Agreement, shall require the City's prior written consent, which consent shall not be unreasonably withheld. Failure by City to respond within 30 days of a written request by Developer for City's consent shall be deemed City's approval of the Transfer Agreement in question. City may refuse to give its consent only id, in light of the proposed transferee's reputation and financial resources, such transferee would not in City's reasonable determination be able to perform the obligations proposed to be assumed by such transferee. Such determination shall be made by the City Manager and is appealable to the City Council. In no event, however, shall City refuse to give its consent to a proposed transferee pursuant to this Section 8.02b if such transferee has a net worth of at least Ten Million Dollars documented in a manner reasonably acceptable to City. Upon recordation of any Transfer Agreement in the Official Records of Contra Costa County, Developer shall automatically be released from those obligations assumed by the transferee therein.	Not Applicable (at this time)	There has been no need to exercise this provision of the agreement.	
c	Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.	Not Applicable (at this time)	There has been no need to exercise this provision of the agreement.	
8.03	Non-Assuming Transferees. Except as otherwise required by Developer in Developer's sole discretion, the burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither a Transfer Agreement nor City's consent shall be required in connection with (i) any single residential parcel conveyed to a purchaser, (ii) any property transferred as fewer than 10 lots to a single retail builder, or (iii) any property that has been established as one or more separate legal parcels for office, commercial, open space, park, school, or other nonresidential uses. The transferee in such a transaction and its successors shall be deemed to have no obligations under this Agreement, but shall continue to benefit from the vested rights provided by this Agreement for the duration of the Term. Nothing in this section shall exempt any property transferred to Non-Assuming Transferee from payment of applicable fees and assessments or compliance with applicable conditions of approval.	Not Applicable (at this time)	There has been no need to exercise this provision of the agreement.	

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8.04	Notice of Compliance Generally. Subject to the City's finding that the facts contemplated by clauses (i) through (iii) herein are true and accurate, within 30 days following any written request which Developer may make from time to time, City shall execute and deliver to Developer a written "Notice of Compliance" in recordable form, duly executed and acknowledged by the City, that certifies that (i) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications, (ii) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default and (iii) any other information reasonably requested by Developer. City's failure to deliver such notice within such time period shall constitute a conclusive presumption against City that this Agreement is in full force and effect without modification except as may be represented by the Developer and that there are no uncured defaults in the performance of the Developer, except as may be represented by the Developer. Developer shall have the right at Developer's sole discretion, to record the Notice of Compliance.	Not Applicable (at this time)	There has been no need to exercise this provision of the agreement.	
Article IX: Cooperation in the Event of Legal Challenge				
9.01	Cooperation.			
a	Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Agreement challenging the validity or any Project Approval or any Subsequent Project Approval, or otherwise arising out of or stemming from this Agreement. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. The parties shall cooperate in defending such action or proceeding. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorney's fees expended by city in defense of the action or proceeding. The parties shall use best efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis City for all such court costs, attorney fees, and time referenced herein.	Compliant to date	There has been no need to exercise this provision of the agreement.	
b	Developer also agrees to indemnify, defend and hold harmless the City, its officials, officers, employees, agents and consultants from any claims, costs, damages or other liabilities for any personal injury or death, or property damage, resulting from the construction of the Project or of operations by the Developer, its officers, employees, agents or consultants. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense.	Compliant to date.	There has been no need to exercise this provision of the agreement.	
c	The parties agree that this Section 9.01 shall constitute a separate agreement entered into concurrently, and that if any provision of this Agreement, or the Agreement as a whole, is invalidated rendered null, or set aside by a court of competent jurisdiction, the parties agree to the bound by the terms of this Section 9.01, which shall survive such invalidation, nullification or setting aside.	Compliant to date.	There has been no need to exercise this provision of the agreement.	
9.02	Cure; Reapproval			

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a	If, as a result of any administrative, legal or equitable action or other proceeding as described in Section 9.01, all or portion of this Agreement, Project Approvals, or Subsequent Approvals are set aside or otherwise made ineffective by any judgement in such action or proceeding, the parties agree to use their respective best efforts to sustain or readopt this Agreement, Project Approvals, and/or Subsequent Approvals that the Deficiencies relate to, as follows, unless the parties mutually agree in writing to act otherwise:	Compliant to date.	There has been no need to exercise this provision of the agreement	
i	If any Judgement requires reconsideration or consideration by the City of this Agreement, Project Approval, or Subsequent Approval, then the City shall consider or reconsider that matter in a manner consistent with the intent of this Agreement. If any such Judgement invalidates or otherwise makes ineffective all or any portion of this Agreement or any Project Approval, or Subsequent Approval, then the parties shall cooperate and shall cure any Deficiencies identified in the Judgement or upon which the Judgement is based in a manner consistent with the intent of this Agreement and the Judgement. Upon the parties cure of such Deficiencies, City shall then take steps consistent with the Judgement necessary readopt or reenact this Agreement and any applicable Project Approval, Subsequent Approval, or any portion thereof.	Compliant to date.	There has been no need to exercise this provision of the agreement	
ii	Acting in a manner consistent with the intent of this Agreement or a Judgement includes, but is not limited to, recognizing that the parties intent hat Developer may develop a 415 single-family residential unit project, and adopting such ordinances, resolutions, and other enactments, including by not limited to, a general plan amendment, rezoning, vesting subdivision map approvals development plan approvals, PD plan approvals, design review, improvement agreements, use permits, grading permits, building permits, lot line adjustments, sewer and water connection permits, certificate of occupancy, final development plans, development agreements, permits, resubdivisions, and ant amendments to, or repealing of, any of the foregoing as are necessary to readopt or reenact all or any portion of this Agreement, Project Approvals, and/or Subsequent Approvals without contravening the Judgement.	Compliant to date.	There has been no need to exercise this provision of the agreement	
b	The parties agree that this Section 9.02 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.02, which shall survive such invalidation, nullification or setting aside.	Compliant to date.	There has been no need to exercise this provision of the agreement	
Article X: Defaults; Remedies; Termination				

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10.01	Defaults. Defaults. Any failure by either party to perform any term or provision of this Agreement, which failure continued uncured for a period of 30 days following written notice of such failure from the other party, shall constitute a default under this Agreement. The Complaining Party's notice shall specify the nature of the alleged failure and, may specify the manner in which the failure and, may specify the manner in which the failure satisfactorily may be cured By the other party. Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of a default or of any such rights and remedies as to any default shall not operate as a waiver of a default or of any such rights or remedies as to any default shall not operate as a waiver of a default or of any such rights or remedies. Delays by a Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies. If the nature of the alleged failure is such that it cannot be reasonably be cured within such 30-day period, then no fault shall be deemed to have occurred if: (a) the cure shall be commenced at the earliest practicable following receipt of the Default Notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (if no event later than 30 days after the Defaulting Party's receipt of the Default Notice), the Defaulting party provides written notice to the Complaining Party that the cure cannot practicably be completed within such 30-day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within 120 days after the Notice of Default is given. Complaining Party shall not send notice to any third party, including, but not limited to, bonding and surety companies, until such time as the cure opportunities set forth above have expired unless otherwise required by applicable law. Upon the occurrence of a default under this Agreement, the Complaining Party may institute legal proceedings to enforce the terms of this Agreement, or, in the event of a material default, terminate this Agreement. If the default is cured consistent with this Section, then no default shall exist and the Complaining Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured consistent with this Section, then no default shall exist and the Complaining Party shall take no further action.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 10.01.	
10.02	Termination. If City elects to consider terminating this Agreement due to a material default of Developer, then City shall give a notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the City Council at a duly noticed and conducted public hearing. As used herein, a finding of materiality shall be based on the effect of the default in relation to the size and scope of the Project. Developer shall have the right to offer written and oral evidence prior to or at the time of said public hearings. If the City Council determines that a material default has occurred and is continuing, and elects to terminate this Agreement, City shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated 60 days thereafter; provided, however, that if Developer files an action to challenge City's termination of this Agreement within such 60-day period, then this Agreement shall remain in full force and effect until a trial court has affirmed City's termination of this Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired).	See Comments/Action Items	There has been no need to exercise the provisions of Section 10.02.	
10.03	Periodic Review.	See Comments/Action Items	The City has conducted its Annual Review of the Development Agreement. As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, both parties were compliant with the DA.	

Exhibit - 1 - Sky Ranch DA - 2024 Annual Review Summary Table

a	Conducting the Periodic Review. Throughout the Term of this Agreement, at least once every 12 months following the execution of this Agreement , City shall review the extend of good-faith compliance by Developer with the terms of this Agreement. This review shall be conducted by the City Manager or his/her designee and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code 65865.1. Developer also agrees to pay City annually the greater of \$5000 or the actual cost of Periodic Review Fee (not to exceed \$10,000). The \$5,000 shall be increased annually thereafter by the CPI for the San Francisco-Oakland Area, with the first increase implemented in January 2017 reflecting 2016 increases. Such Periodic Review Fee shall only be paid in the years in which a Periodic Review is actually conducted.	Compliant to date.		
b	Notice. At least 10 days prior to the Periodic Review, and in the manner prescribed in Article 12 of this Agreement, City shall deposit in the mail to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review and, to the extent practical, related exhibits concerning Developer's performance hereunder. Developer shall be permitted an opportunity to respond to City's evaluation of Developer's performance, either orally at a public hearing or in a written statement, at Developer's election. Such response shall be made to the City Manager.	See Comments/Action Items	Notice of the Annual Review was given to the Developer on/or before December 23, 2024.	
c	Good Faith Compliance. During the Periodic Review, the City Manager shall review Developer's good faith compliance with the terms of this Agreement. At the conclusion of the Periodic Review, the City Manager shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. The decision of the City Manager shall be appealable to the City Council. If the City Manager finds and determines that the Developer has not complied wit such terms and conditions, the City Manager may recommend to the City Council that it terminate or modify this Agreement by giving notice of its intention to do so, in the manner set forth in California Government Code 65867 and 65868. The costs incurred by City in connection with the Periodic Review process described herein shall be shared equally Developer and City.	Compliant to date.		
d	Failure to Properly Conduct Periodic Review. If, after 30 days following Developer's notice requesting a Periodic Review, City fails to initiate the Periodic Review, such failure shall conclusively deemed an approval by City of Developer's compliance with the terms of this Agreement.	Compliant to date.		
e	Written Notice of Compliance. With respect to any year for which Developer has been determined or deemed to have complied with this Agreement, City shall, within 30 days, following a written request by Developer, provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City. Developer shall have the right, in Developer's sole discretion, to record such notice of compliance.	See Comments/Action Items	Written Notice of Compliance will be sent to the Developer upon conclusion of the Annual Review.	
10.04	Default by City or Developer. In the event City or Developer defaults under the terms of this Agreement, City or Developer shall have all rights and remedies provided herein and under law.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024 there has been no need to exercise the provisions of Section 10.04.	

Exhibit - 1 - Sky Ranch DA - 2024 Annual Review Summary Table

10.05	Excusable Delay; Extension of Time of Performance. In addition to specific provisions of this Agreement, neither party shall be deemed to be default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorism, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting State or Federal laws or regulations, or judicial decisions. Neither party shall be deemed to be in default where delays in performance or failure to perform are due to a court order arising out of or related to litigation attacking the validity of this Agreement, the Project Approvals, the Subsequent Approvals, or any permit, ordinance, entitlement or other action of governmental agency other than City necessary for the development of the Project. Developer shall not be deemed to be in default where delays in performance or failure to perform are due to a court order arising out of or related to litigation attacking the validity of this Agreement, the Project Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project. Developer shall not be deemed to be in default where delays in performance or failure to perform are due to Developer's inability to obtain materials, power or public facilities (such as water or sewer service) to the Project and unrelated to Developer's actions or inactions and beyond Developer's control. Upon the properly noticed request of either party hereto, as required by Section 12.09, an extension of time for the performance of any obligation whose performance has been so prevented or delayed will be set forth in writing. The term of any such extension shall be equal to the period of the excusable delay or longer, as may be mutually agreed upon in writing.	See Comments/Action Items	There has been no need to exercise the provisions of Section 10.05.	
10.06	Legal Action. Either party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 10.06.	
10.07	California Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.	Compliant		

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10.08	Resolution of Disputes. With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer shall, at City's request, meet with City. The parties to any such meetings shall attempt in good faith to resolve any such disputes. If the parties are then unable to resolve their dispute, either party may commence mediation by providing to JAMS, or its successor, and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees are confidential, privileged, and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of the process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session or 90 days of filing the written request of mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties both agree in writing. The provision of this Section may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees, and expenses to be paid by the party against whom enforcement is ordered. Nothing in this Section shall in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters begin addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the parties to such meetings.	See Comments/Action Items	As of the 2024 DA review window period beginning January 1, and ending December 31, 2024, there has been no need to exercise the provisions of Section 10.08.	
10.09	Attorney's Fees. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, the prevailing party is entitled to reasonable attorney's fees and any related other costs incurred in that proceeding in addition to any other relief to which it is entitled.	Not Applicable		
Article XI: No Agency, Joint Venture or Partnerships				

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	It is specifically understood and agreed to by and between the parties hereto unless otherwise expressly provided herein (i) the subject development is a private development; (ii) City have no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of this Agreement or in connection with the various Project Approvals or Subsequent Approvals; (iii) Developer shall have full power over and exclusive control of the Project herein described, subject only to the limitations and obligations of Developer under this Agreement, the Project Approvals, Subsequent Approvals, and Applicable Law; and (iv) City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document between City and Developer. City agrees that nothing herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer. City agrees that Developer's obligations under this Agreement related to the construction of Project water, sewer, and drainage infrastructure improvements, the grading and construction of traffic improvements and the grading and construction of any other public improvements are all public works of improvement City is requiring as a condition of regulatory approval of the Project and that the Project is otherwise private development. The City further agrees that it will contribute no more money, or the equivalent of money, to the overall Project than is required to construct the Public Improvements and that City maintain no proprietary interest in the overall Project.	Compliant to date.		
Article XII: Miscellaneous				
12.01	Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.	Not Applicable		
12.02	Enforceability. City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this agreement shall be enforceable by party hereto notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or an other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by the City that changes, alters, or amends the rules, regulations and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by California Government Code 65866. In the event of any conflict between the provisions of this Agreement and Applicable Law, the Project Approvals or any Subsequent Approval, this Agreement shall prevail.	Not Applicable		
12.03	Finding. City hereby finds and determines that execution of this Agreement furthers public health, safety and general welfare and that the provisions of this Agreement are consistent with the General Plan.	Not Applicable		
12.04	Severability. If any term or provision of this Agreement or the application of any term or provision of this Agreement to a particular situation, is held by a competent jurisdiction to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Developer may (in their sole and absolute discretion) terminate this Agreement by providing written notice of such termination the other party.	Not Applicable		

Exhibit - 1 - Sky Ranch DA - 2024 Annual Review Summary Table

12.05	Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals and this Agreement and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.	Not Applicable		
12.06	Construction. Each reference in this Agreement to this Agreement or any of the Project Approvals or Subsequent Approvals shall be deemed to refer to the Agreement, Project Approval, or Subsequent Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.	Not Applicable		
12.07	Other Misc Terms. The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.	Not Applicable		
12.08	Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Project, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, California Civil code 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate runs with the Project Site and is binding upon the owner of all or a portion of the Project Site and each successive owner during its ownership of such property.	Not Applicable		

Exhibit - 1 - Sky Ranch DA - 2024 Annual Review Summary Table

12.09	Notices. Any notice or communication required hereunder between City or Developer must be in writing and may be given either personally, by fax (with original forwarded by regular US mail), by registered or certified mail (return receipt requested), or by FedEx or or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday or Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or b) 5 days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the US mail. If given by Federal Express or a similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving 10 days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below.....	Not Applicable		
12.10.	Entire Agreement, Counterparts, and Exhibits. This Agreement is executed in two duplicate counterparts, each of which is deemed to be an original. This Agreement consists of 29 pages and 3 exhibits which constitute in full, the final and exclusive understanding and agreement of the parties supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof. All waivers of any provisions of the Agreement shall be in writing and signed by the appropriate authorities of City and Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes: Exhibit A - Legal Description; Exhibit A-1 - Project Site Diagram; Exhibit B - Applicable Fees; Exhibit C - Form of Affordable Housing Agreement.	Not Applicable		
12.11	Recordation of Development Agreement. Pursuant to California Government Code § 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement, or Memorandum thereof, in the Official Records of the County of Contra Costa. The parties agree to cooperate as to preparation, execution, and recording of a Memorandum hereof.	See Comments/Action Items	The DA was recorded at the Contra Costa County Clerk-Recorder on July 26, 2017 (DOC 2017-0133911-00)	

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Periodic Review of Montreux Subdivision)
Development Agreement Between the)
City of Pittsburgh and Altec Homes, Inc.)
And Determination as to Compliance)
With Development Agreement)

RESOLUTION NO. 25-

WHEREAS, a Development Agreement between the City of Pittsburgh and Altec Homes, Inc., was executed on December 15, 2015, for the Montreux Property; and

WHEREAS, California Government Code Section 65864 *et seq.* ("Development Agreement Statutes") authorizes and regulates the execution of development agreements ("DAs") between certain public entities and persons who desire to develop private property within a public entity's jurisdiction; and

WHEREAS, pursuant to the Development Agreement Statutes, the City established procedures for the consideration of DA applications by property owners or other persons having an interest in property within City's jurisdiction; and

WHEREAS, Section 65865.1 requires City to conduct a periodic review of the City's active Development Agreements, at which time each respective developer is required to demonstrate good faith compliance with the terms of the Development Agreement ("Periodic Review"); and

WHEREAS, if, as a result of the Periodic Review, the City finds and determines, on the basis of substantial evidence, that a developer has not complied in good faith with the terms and conditions of the Development Agreement, the City may terminate or modify the DA pursuant to the Development Agreement Statutes; and

WHEREAS, the last periodic review of the Montreux Development Agreement was conducted, and on April 15, 2024, the City Council determined that the developer was in compliance with the terms of the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburgh finds and determines as follows.

Section 1. Findings

The City Council hereby finds and determines that the above recitals are true and correct and have served as the basis, in part, for the findings and actions of the City Council set forth below.

Section 2. Compliance with Development Agreement

The City Council hereby finds and determines that, based on the information provided by the Developer and City Staff, as well as the information contained in the "Montreux DA – 2024 Annual Review", attached hereto and incorporated herein by reference as "Exhibit 1," the Developer has demonstrated good faith compliance with the Montreux Development Agreement.

Section 3. Certificate of Compliance

The City Council hereby directs and authorizes the City Manager to issue a certificate codifying the "Finding of Compliance" for Montreux Subdivision Development Agreement in a form that can be recorded by the Developer.

Section 4. Certification

The City Clerk shall certify the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Exhibit -1 - Montreux DA - 2024 Annual Review Summary Table

DA Section	Condition/Requirement	Status	Comments	Action Items
Article II: Effective Date; Term				
2.01	This Agreement shall become effective upon the date the ordinance approving this Agreement becomes effective.	Per the Development Agreement, the effective date is December 16, 2015.		No action.
2.02	Term. The term of this Agreement shall commence upon the Effective Date and continue for a period of 16 years.	Based on the effective date of December 16, 2015, this development agreement would expire in 2031.		No action.
Article III: Obligations of Developer				
3.01	Obligations of Developer Generally. The parties acknowledge and agree that the City's agreement to perform and abide by the covenants and obligations of City set forth in this Agreement is a material consideration for Developer's agreement to perform and abide by its long term covenants and obligations, as set forth herein. The parties acknowledge that many of Developer's long term obligations set forth in this Agreement are in addition to Developer's agreement to perform all the mitigation measures identified in the Mitigation Monitoring Program. As material consideration for the long term assurances and vested rights provided by this Agreement and as a condition of approval to one or more of the Project Approvals, Developer agrees to each of the following:	Compliant to date.		No action.
3.02	Drainage Improvements. Subject to the terms of this Agreement, as a condition of approval to one or more of the Project Approvals, Developer agrees to construct and offer for dedication to the City those Project storm water drainage improvements to be located within City's boundaries and required to serve the Project Site ("Drainage Improvements"). The City shall accept the offer of dedication of the Drainage Improvements, as long as the Drainage Improvements comply with the City's standards, applicable rules and regulations, and this Agreement. The parties agree that the construction of the Drainage Improvements shall be phased according to a construction schedule determined by Developer, subject to the written approval of the City Manager. City shall not require any improvements to onsite or offsite drainage facilities to address pre-existing deficiencies provided that Developer demonstrates to City's reasonable satisfaction that impact to downstream facilities are not being exacerbated.	Not applicable at this time.	Grading plans submitted. Drainage improvements would be required.	Construct and offer for dedication stormwater drainage improvements in compliance w City standards.
3.03	Facility Reserve Charges. Developer agrees to pay City's Facility Reserve Charges ("FRC") as set or modified by the City Council from time to time.	Not applicable at this time.	FRC's may be impacted based on final outcome of water & sewer. Due when submitting to Building.	Pay FRCs.
3.04	Water Infrastructure. Developer shall comply with the 2015 Water System Master Plan, as amended. Developer shall have the option, subject to the written approval by the City Manager, to provide water infrastructure facilities as specified by the City or to construct the water infrastructure facilities in phases subject to a storage requirement and site analysis study, commissioned by the City, that incorporates the water infrastructure requirements pursuant to the 2015 Water System Master Plan, as amended.	Not applicable at this time.	Not yet submitted.	Provide water infrastructure facilities, or construct them in phases.
3.05	School Facilities Impact Mitigation. Developer shall pay in lieu school impact fees in accordance with Government Code 65995 et seq. Compliance with this section shall satisfy all of Developer's obligations required by City to mitigate school impacts resulting from the Project.	Not applicable at this time.	Due when submitting to Building.	Pay in lieu school impact fees.

Exhibit -1 - Montreux DA - 2024 Annual Review Summary Table

3.06	Applicable Fees. City may levy development fees, and charges during this term of this Agreement relative to the development of the Project Site which are in force and effect as of the Effective Date as more particularly described and according to the payment schedule set force on Exhibit B ("Applicable Fees") and the adjustments and/or modifications referenced in Section 3.07. Unless otherwise provided in this Agreement, no development fees, or charges, or categories thereof, shall be imposed on Project other than those fees, and charges identified as Applicable Fees on Exhibit B, which exhibit shall exclusively govern the Applicable Fee payment schedule. The parties agree that any and all Project development fees, charges or exaction related to schools, fire prevention, water, sewer, stormwater, and storm drainage facilities, which are to be paid by Developer directly or indirectly to third party governmental agencies, are not subject to or within the scope of this Agreement whether such third party charges exist or are subsequently imposed by such third parties, whether directly upon Developer or through City. This provision shall not be construed to benefit any Non-Assuming Transferees, as such term is defined in herein.	Not Applicable at this time.		
3.07	Applicable Fee Adjustments. Developer shall pay fees and charges consistent with Section 3.06, and the applicable adjustments currently provided in such fees and as modified from time to time by the City, whether such adjustment or modification is an increase or a decrease. City retains the right to modify, amend, or adjust the Applicable Fees by more than that authorized by ordinances, resolutions, or policies in place at the time of this Agreement's Effective Date, and Developer retains the right to challenge the imposition of any new fees not referenced in this Agreement or the modification, amendment, or adjustment of all Applicable Fees pursuant to Government Code 66000 et seq., not already authorized by ordinances, resolutions, or policies in place at the time of this Agreement's Effective Date. Should the City Council approve a new AB 1600 fee study and/or authorize a decrease in any of the Applicable Fees during the term of this Agreement by ordinance or by resolution, Developer shall have the option at its sole discretion to pay the lower fee, as may be adjusted by the applicable CPI or ENR, unless otherwise bound by separate contract or memorandum of understanding with City. In no event shall Developer receive retroactive adjustments for lower fees.	Not Applicable at this time.		
3.08	City Local Traffic Mitigation Fee. Developer shall pay the City Local Traffic Mitigation Fee, which fee is necessary to finance unmet City traffic improvement needs in the amount in effect as of the Effective Date and subject to adjustments in accordance with Resolution 07-10917 with credit for certain improvements constructed by Developer per Section 4.05 below. If the City Council approves a new AB 1600 fee study and/or authorize a decrease in any of the Applicable Fees during the term of this Agreement by ordinance or by resolution, Developer shall have the option, at its sole discretion, to pay the lower fee, as may be adjusted by the applicable CPI or ENR, unless otherwise bound by separate contract or memorandum of understanding with City. In no event shall Developer receive retroactive adjustments for lower fees.	Not Applicable at this time.	Due when submitting to Building.	Pay local Traffic Mitigation Fee.
3.09	Regional Traffic Fee. Developer shall pay the ECCRFA regional traffic fee should it be imposed by the City in an amount equal to or less than the amount paid by projects in the Cities of Antioch, Brentwood, and Oakley or in accordance with the existing valid MOU dated June 29, 2010 as amended, whichever is less.	Not Applicable at this time.	Due when submitting to Building.	Pay ECCRFA regional traffic fee.
3.10.	Fees, Assessments, and/or Taxes to be Paid by Developer. Developer agrees to pay its fair share of any levies imposed by any assessment district, geologic hazard abatement district, landscaping and lighting district, community facilities district, tax-exempt financing mechanisms or other funding mechanisms related to public safety; traffic; sewer; water; fire; the prevention, mitigation, abatement, or control of geologic hazards; or other infrastructure improvements (including without limitation, design, acquisition, construction and maintenance costs) (collectively, Funding Mechanisms) within the Project Site, provided that such Funding Mechanism is referenced herein and/or was legally created pursuant to applicable law.	Not Applicable at this time.		Pay fair share of levies imposed by assessment districts.

Exhibit -1 - Montreux DA - 2024 Annual Review Summary Table

3.11	Affordable Housing. Developer shall comply with PMC 18.86.080 and VTM Condition of Approval No. 7 by constructing at least 35 rental secondary units within the Project. A covenant shall be recorded limiting the amount of rent that may be charged for these secondary units, consistent with the terms and conditions set forth in the affordable housing agreement. 26 of these units shall be constructed no later than the 263rd building permit for the Project. Prior to the City's issuance of the first certificate of occupancy Developer agrees to enter into an affordable housing agreement with the City (the "Affordable Housing Agreement," attached as Exhibit C) which further memorializes the provisions of this section and is consistent with applicable law, including Pittsburg Municipal Code Chapter 18.50. Developer agrees that the secondary units referenced in this section shall not be built or otherwise allowed on adjoining lots without the prior written approval of the City Manager.	Not applicable at this time.	Plans not yet submitted.	Construct 35 rental secondary units (26 by 263rd building permit). Record covenant limiting rent amount. Enter into Affordable Housing Agreement before Certificate of Occupancy issued.
a	Timing. The Affordable Housing Agreement shall establish provisions to implement the affordable housing requirements within this Agreement and shall include but not be limited to, implementation and monitoring provisions to ensure compliance with municipal law related to affordable housing. The agreement shall include provisions for the reasonable reimbursement of costs to the City for the administration and monitoring of the agreement.	Not applicable at this time.		Implement and monitor provisions to ensure compliance with municipal law related to affordable housing. Include provisions to reimburse City for cost of
b	Inclusionary Housing Ordinance. Notwithstanding any provision of this Agreement, in the event that the City has rescinded its respective previously adopted affordable housing ordinance and not replaced it with another affordable housing or similar ordinance, or such ordinance has been declared illegal, Developer shall not be obligated to comply with the provisions for affordable housing set forth in this Agreement. In the event, prior to or during the development of the Project, the City amends or replaces or eliminates its affordable housing ordinance which would result in a reduction in the number of secondary units required to be constructed in the Project or elimination of the requirement.	Not applicable at this time.	Only applicable if City rescinds previously adopted affordable housing ordinance and not replaced it.	
3.12	Pre-payment for James Donlon Extension. Developer will pre-pay the City regional traffic mitigation fees for all units in the Project if at the time of the issuance of the first building permit for the Property for the first single-family residential production unit (or at any time during the build-out of the Project thereafter), the James Donlon Extension is either (i) under construction; (ii) is funded and scheduled for construction and the construction contract is awarded; or (iii) ECCRFFA has collected the funds necessary for its pro rate share of the James Donlon Extension. If none of the above conditions exist at the time of issuance of the first building permit, Developer will pay such fees on a permit-by-permit basis in the regular course of business. City and Developer agree that the obligations set forth in the March 15, 2006 Memorandum of Understanding ("March 2006 MOU") between City and Developer are met by compliance with this Section.	Not applicable at this time.	Applicable if/when the James Donlon Extension is either (i) under construction; (ii) is funded and scheduled for construction and the construction contract is awarded; or (iii) ECCRFFA has collected the funds necessary for its pro rate share of the James Donlon Extension	Pay the City regional traffic mitigation fees.
3.13	Open Space Mitigation. City and Developer agree that the obligations set forth in the May 3, 2006, Memorandum of Understanding between City and Developer, Albert D. Seeno, III and Albert D Seeno, Jr. with respect to open space mitigation can be met by compliance by Developer with the HCP or through other agreements or approvals by the HCP conservancy and/or Regulatory Agencies.	Compliant to date.		No action.
3.14	Security Improvements			
a	Developer shall pay to the City the actual cost incurred by the City (not to exceed \$75000) towards funding the acquisition and installation of security camera(s) at the intersection of James Donlon Extension and Kirker Pass Road. The security cameras will be installed under the supervision of the City's Police Chief. Developer shall pay such costs within 30 days of receipt of invoice.	Not applicable at this time.		Pay cost of installing security cameras at intersection of James Donlon Extension and Kirker Pass Road.
b	Developer shall install basic home security wiring in the Project homes (defined herein as wiring for basic home security system on the first floor windows and doors only). Developer shall offer one year of professional monitoring service to new homeowners. The monitoring service shall be at the election of the new homeowner.	Not applicable at this time.		Install basic home security wiring on first floor windows and doors. Offer one year of professional monitoring service.
3.15	Solar Roof System. Developer shall install a solar roof system on one of its model homes for example purposes only (which may consist of a few panels with photovoltaic compatibility or other comparable technologies) and offer solar installation as an option at the homeowner's expense.	Not applicable at this time.		Install solar roof system on one model home.

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3.16	C.3 Facilities. Developer shall submit a complete Stormwater Control Plan and Report for the Project. The C.3 treatment facilities shall be adequately sized to treat the stormwater runoff from the associated drainage management areas, and supporting calculations and plans shall be submitted to the Engineering Division for review prior to issuance of a grading permit. In the event it is discovered that the runoff cannot be treated on site, the developer shall treat the remaining portion of runoff or all of the equivalent amount of runoff at an off-site facility adequately sized and designed to meet the treatment and flow control needs. The offsite facility(ties) shall be constructed with the first phase of the project, as approved by the City Engineer.	Not applicable at this time.	Will be a separate phase.	Submit C.3 Plan.
Article IV: Obligations of City				
4.01	Obligations of City Generally. The parties acknowledge and agree that Developer's agreement to perform and abide by its covenants and obligations set forth in this Agreement, including Developer's decision to process the siting of the Project in the City, is a material consideration for City's agreement to perform and abide by the long term covenants and obligations of City, as set forth herein.	Compliant to date.		No action.
4.02	Processing of Annexation and Central Valley Project Inclusion. City shall promptly, in cooperation with Developer, process all documents necessary to achieve annexation of the Property to the City, CCWD, and Delta Diablo and inclusion into the Central Valley Project area.	Compliant.	LAFCO's Certificate of Completion effective date April 17, 2017.	Annex property to City, CCWD, Delta Diablo, and Central Valley Project Area.
4.03	Availability of Public Services.			
a	General. To the extent permitted by law and consistent with its authority, City shall reserve such capacity for water services as may be necessary to serve the Project. This reservation of water infrastructure capacity shall be assured for the Term to the extent consistent with applicable law.	Not applicable at this time.		City shall reserve capacity for water services for project.
b	Construction Water. City shall make construction water available to the Project by permitting the Project to hook up to existing City water supply infrastructure, at a location reasonably determined by the City, at Developer's cost and on those terms and conditions and charges customarily applied by City to similar projects consistent with City standards. City shall also permit Developer to install such temporary construction water pipelines and related infrastructure as reasonably necessary to provide construction water to the Project site for Developer's use in any and all Project grading and construction operations, as long as such water is unrelated to potable use.	Not applicable at this time.		City shall permit water hook ups to existing water supply infrastructure.
4.04	Developer's Right to Rebuild. City agrees that Developer, in Developer sole's discretion, may renovate or rebuild the Project within the Term of this Agreement should it become necessary due to natural disaster, changes in seismic requirements, acts of God, acts of terrorism, or damage to work in progress by reason of fire, floods, or other casualties. Any such renovation or rebuilding shall be subject to the square footage and height limitations vested by this Agreement, and shall comply with the Project Approvals, the building codes existing at the time of such rebuilding or reconstruction, and the requirements of CEQA and this Agreement.	Not applicable at this time.		Can rebuild within term.
4.05	Reimbursement of Infrastructure Costs.			
a	Reimbursement. Unless otherwise provided for herein, to the extent Developer incurs costs related to the planning and construction of traffic infrastructure, water delivery infrastructure, the off-site water tank, pump station, sewer infrastructure or other public infrastructure required by City or this Agreement for the Project that exceed the Project's fair share obligation for such infrastructure, City shall reimburse developer for City's portion of such costs, subject to the City's prior verification through inspection and construction that is subject to such reimbursement and upon final acceptance of the infrastructure by the City. This reimbursement shall be paid within 60 days after City's final acceptance or at any such other time as mutually agreed upon in writing by the parties. Developer shall be entitled to a management fee of 5% for City's share of approved infrastructure costs, including but not limited to design and special inspection costs. The management obligations of Developer hereunder shall include contracting and managing the construction of the infrastructure, retaining copies of records, photographs and as builts for the improvement(s) as well as attending meetings and providing necessary reports as reasonably requested by City.	Not applicable at this time.		City shall reimburse Developer for City portion of costs.

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b	City Authorization of Reimbursement. Notwithstanding any other provision of this Section or of this Agreement or VTM provisions, City shall not be responsible to reimburse or credit Developer for any costs, including as referenced in Section 4.05a herein, unless prior to Developer incurring any costs for which Developer will request reimbursement from City, Developer shall first provide written documentation as to the work to be performed, the estimated costs thereof, including a not-to-exceed cap, and such other details as reasonably requested by the City Manager and the City Manager approves the proposed costs and related work. If the City Manager fails to respond within 30 days of its receipt of such estimated costs, Developer shall provide written notice to the City Manager and to the City Engineer, if neither responds within 30 days of the City's receipt of the second request, the request shall be deemed approved. the City Manager shall have the discretion to require Developer to obtain competitive bids on any work for which Developer may request reimbursement or credit from the City where the total cost of that work is \$100,000 or more. City shall also have the opportunity to inspect any and all infrastructure during its construction, as well as to review any work product for which Developer requests reimbursement or credits. If mutually agreed by the parties in writing, any reimbursement due Developer pursuant to this Agreement may be satisfied by City in form of credits, which can actually be used by Developer to offset Developer's payment of Applicable Fees. In the event there are not enough credits to fully satisfy the reimbursement due Developer and subject to the terms of the mutual agreement between the parties referenced in the prior sentence, City shall reimburse Developer within 30 days of invoicing.	Not applicable at this time.		Before City reimburses, Developer must provide estimates to City not-to-exceed cap before hand. Must be approved by City Manager.
4.06	James Donlon Extension. Developer shall be entitled to build out the Project prior to construction of the James Donlon Extension, to the extend consistent with CEQA. Developer shall design the entrances to and exits from the Project so that all entrances and exists shall reasonably integrate into the future intersection at the James Donlon Extension and Kirker Pass Rd. The City acknowledges that the construction by Developer of the intersection shall be temporary up to the catch/tie-in point as determined by the City Engineer in writing. The City shall thereafter be responsible for coordinating and removing and replacing such temporary construction at the time the permanent intersection improvements are constructed, at no further cost to Developer.	Not applicable at this time.		Can build entrances to project that will integrate to intersection at James Donlon Extension before James Donlon is constructed.
4.07	Park Fee Credit. Developer may receive partial park fee credit for certain trails and trail improvements constructed by Developer. Developer and City agree that the park in-lieu fee amount will be \$9.40/sq ft increased annually by the CPI for the SF-Oakland area, with the first increase implemented in Jan 2017 reflecting 2016 increases. However, if a lower fee is established by the City Council in accordance with the provisions of the Pittsburg Municipal Code, than that fee shall apply.	Not applicable at this time.		Possible partial park fee credit for certain trails and improvements constructed by Developer.
4.08	EBRPD Fee. Pursuant to the May 2006 MOU, Developer shall pay to the East Bay Regional Park Ditrict (EBRPD) the fee of \$2,000 upon issuance of each building permit, for the purpose of either acquiring additional public open space or for the maintenance of open space areas. Additionally, Developer shall advance up to \$300,000 in these fees to EBRPD and shall receive credit for such advance as building permits are issued. This fee shall not constitute or otherwise affect any obligations under applicable law for Developer to fund park improvements to to otherwise pay park related fees as set forth in the May 2006 MOU.	Not applicable at this time.	No Building Permits issued at this time.	Pay \$2,000 to EBRPD upon issuance of each building permit.
Article V: Cooperation -- Implementation				
5.01	Processing Application for Subsequent Approvals. The parties agree that all Subsequent Approvals shall be processed by City in a manner consistent with the following provisions:			
a	Standard of Review. By adopting the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety, and general welfare. Accordingly, City shall not use its discretionary authority in considering any application for a Subsequent Approval to change the policy decisions reflected by the Project Approvals or otherwise prevent or delay development of the Project as set forth in the Project Approvals. Instead, the Subsequent Approvals shall be deemed tools to implement those final policy decisions and shall be issued by City so long as they comply with this Agreement and Applicable Law, as defined below, and are not inconsistent with the Project Approvals as set forth above and meet the intent and comply with any City adopted Designed Guidelines, as applicable. To the extend permitted by law, City shall not use its discretionary authority in considering these Subsequent Approval applications to revisit or frustrate the policy decisions or material terms reflected by the Project Approvals. Developer agrees that development under this Agreement shall comply with provisions reflected in Uniform Codes (whether building, fire, plumbing, or other applicable uniform codes) which may adopted subsequent to the Effective Date of this Agreement.	Compliant to date.		No action.

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b	Basis for Denial. City may deny and application for a Subsequent Approval only if such application does not comply with this Agreement or Applicable Law, defined below, or does not substantially comply with the Project Approvals (provided, however, that inconsistency with the Project Approvals shall not constitute grounds for denial of a Subsequent Approval which is requested by Developer as an amendment to that Project Approval). City may approve an application for such a Subsequent Approval subject to any conditions necessary to bring the Subsequent Approval into compliance with this Agreement or Applicable Law, or as is necessary to make this Subsequent Approval consistent with the Project Approvals. If City denies any application for a Subsequent Approval, City shall specify in writing the reasons for such denial and may suggest a modification which would be approved by City.	Not applicable at this time.	Subsequent approvals.	Review subsequent approvals to ensure they comply with DA.
5.02	Timely Submittals by Developer. Developer acknowledges that City cannot expedite processing of the Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use its best efforts to (i) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (ii) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans, and other necessary materials as set forth in Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Subsequent Approvals consistent with this Agreement.	Not applicable at this time.	Subsequent approvals.	
5.03	Timely Processing by City. Upon submission by Developer of all appropriate applications and processing fees for any Subsequent Approval, City shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Approval applications including, without limitation, (i) providing at the Developer's request and prior written approval, reasonable overtime staff assistance and/or staff consultants for planning and processing of each Subsequent Approval application; (ii) if legally required, providing notice and holding public hearings; and (iii) acting on any such Subsequent Approval application. If Developer elects to request and approve the use of overtime staff assistance or staff consultants for planning and processing of any Subsequent Approval pursuant to this Section, Developer's reimbursement to City for such services, in accordance with standard City practice.	Not applicable at this time.	Subsequent approvals.	
5.04	Other Government Permits. At Developer's sole discretion and in accordance with Developer's construction schedule, Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Project. City shall cooperate with Developer in its efforts to timely obtain such permits and approvals and shall, from time to time, at the request of the Developer, use its best efforts to ensure the timely availability of such permits and approvals. City shall cooperate with Developer to obtain any and all approvals from Contra Costa County related to the construction or operation of the Drainage Improvements. City shall cooperate with Developer, CCWD and the Bureau of Reclamation in all matters related to CCWD's application to the Bureau to expand the place of use of Central Valley Project water to include the Project Site.	Not applicable at this time.		Developer shall apply for permits from other entities as required.
5.05	Lighting and Landscaping District, Park Maintenance.			
a	Developer agrees that the Project Site will be annexed into City's existing Lighting and Landscaping District, as established pursuant to City Reso No. 88-7324 as well as City's Community Facilities District 2007-1 for park maintenance, City's Community Facilities District for the maintenance of C.3 facilities as, to the extent permitted by law, that the Project shall be assessed in a manner consistent with the provisions herein.	Not applicable at this time.		Annex into Lighting and Landscaping District and Community Facilities District.
b	Developer agrees that the base assessment applies to the Project and is subject to increase, provided any such increase of the base assessment imposed uniformly or similarly situated properties by City in a manner consistent with State law. Developer further agrees that the base assessment shall be levied upon recordation of each of the Project's final maps. The parties agree that the base LLD assessment described herein shall finance, among other things, the maintenance of any and all landscape improvements and the maintenance of parks.	Not applicable at this time.		No action.

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5.06	GHAD. Developer agrees to take all steps necessary to either expand the existing Southwest Pittsburg Geologic Hazard Abatement District or to establish a new GHAD, at no cost to the City or to the GHAD, to provide for, among other things, geologic hazard abatement, maintenance of detention basins, grassland maintenance, fire protection, and erosion control within portions of Project Site. Unless otherwise required by law, the parties intend that the Project Site will be assessed by the SW Pittsburg GHAD or a new GHAD upon the respective GHAD's acceptance of the GHAD Area identified in the Project Approvals (which GHAD Area shall include the detention basins and C.3 storm facilities).	Not applicable at this time.		Developer will either expand the existing Southwest Pittsburg Geologic Hazard Abatement District or to establish a new GHAD.
5.07	Police Services CFD. Developer agrees to take all steps necessary to include the Project Site into the City's existing police services Community Facilities District 2004-1, as adopted pursuant to Reso No. 04-10071 ("The Police Services District") at no cost to the City, in order to provide for police and other emergency services to the Project site. This process shall be completed, to the reasonable satisfaction of the City Manager and the City Attorney, before filing the first final map on the Project. Each legal residential lot located on the Project Site will be required to pay the levy by the Police Services District no earlier than the issuance of a building permit for such lot.	Not applicable at this time.		Developer shall include the Project Site into the City's existing police services Community Facilities District before filing first final map. Pay levy after issuance of building permit.
5.08	Fire Services CFD. In the event the City forms a City Community Facilities district to provide for fire protection services in the City for the Contra Costa Fire Protection District and acquisition or replacement and acquisition or replacement of equipment primarily situated in the fire stations located in the City, Developer agrees to take all steps necessary to include the Project Site into the district. This inclusion of the Project into the district shall be completed, to the reasonable satisfaction of the City Manager and the City Attorney, before filing the first final map on the Project. City agrees that the levy to be assessed on each legal residential lot in the Project shall be no greater than \$75.00 and increased annually by the CPI for the SF-Oakland area, with the first increase implemented in January 2016 reflecting 2015 increases. Each legal residential lot located on the Project Site will be required to pay the levy by for this district no earlier than the issuance of a certificate of occupancy for such lot (such levy shall not go into effect for any certificate of occupancy for such lot (such levy shall not go into effect for any certificate of occupancy issued for model homes in the Project until such model home is transferred to a third party homebuyers).	Not applicable at this time.	Include into district before filing first final map.	If the City forms a City Community Facilities district for fire protection services, the Developer will include project site into district.
5.09	General Plan Maintenance Fees. Developer agrees to pay development related fee to help fund the maintenance of the Pittsburg General Plan. The General Plan Maintenance Fee will be \$125.00 per building Permit.	Not applicable at this time.	No building permits issued.	Pay \$125/building permit for GP.
5.10.	Assessment Districts or Other Funding Mechanisms.			
a	City understands that City's long term assurances to Developer concerning fee, taxes, and assessments related to Project are a material consideration for Developer agreeing to process the siting of the Project in its present location and to pay the fees, the taxes and assessments described in this Agreement. City shall retain the ability to initiate or process applications for the formation of new assessment districts or other Funding Mechanisms, as defined in Section 3.10 of this agreement, covering all or any portion of the Project site. Notwithstanding the foregoing, Developer retains all its rights to oppose the formation or proposed assessment of any new assessment district, Funding Mechanism, or any and all increases thereto, or to request or pursue assessment credits or reductions, unless otherwise provided for herein or unless such assessment, Funding Mechanism, or related increases are in place and legally effective as of the date of this Agreement's Effective Date.	Not applicable at this time.	Only applicable in event of formation of new assessment districts.	
b	At the request of Developer, City shall cooperate in the formation of, or annexation to, those assessment districts, geologic hazard abatement district, landscaping and lighting districts, community facilities district, tax-exempt financing mechanisms, or other Funding Mechanisms that Developer and City determine are needed to fund infrastructure improvements and to ensure the orderly development of the Project, at no cost to the City. City shall diligently and expeditiously process applications by Developer necessary to establish such Funding Mechanisms as long as (i) the application complies with law, (ii) is consistent with City's standards, and (iii) provides for a lien to value ratio and other financial terms that are reasonably acceptable to City and which will result in no commitment of City funds. City shall diligently seek to sell any bonds to be issues and secured by such assessments upon the best terms reasonably available in the marketplace. Any and all costs associated with this Section shall be borne and/or advanced by Developer.	Not applicable at this time.	Only applicable in event of formation of new assessment districts.	

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5.11	Warranty Bonds. Developer agrees that every infrastructure improvement dedicated to City (except landscaping, unimproved real property, or open space dedications) pursuant to this Agreement shall be accompanied by a one year warranty bond in a form and in an amount, and with a surety acceptable to City or otherwise as determined in the applicable Subdivision Improvement Agreement.	Not applicable at this time.		One year warranty bond for infrastructure improvements dedicated to City.
Article VI: Standards, Laws, Procedures Governing the Project				
6.01	Vested Right to Develop. Developer shall have a vested right to develop the Project on the Project site in substantial conformance with the terms and conditions of this Agreement, the Project Approvals (as and when issued), the Subsequent Approvals (as and when issued), and amendments thereto as shall, from time to time, be approved pursuant to this Agreement. Nothing in this Section 6.01 shall be deemed to eliminate or diminish the requirement of Developer to obtain any required Subsequent Approvals.	Compliant to date.		
6.02	Permitted Uses Vested by This Agreement. The permitted uses of the Project Site; the density and intensity of use of the Project Site; the max height, bulk, and size of proposed buildings; provisions for reservation or dedication of land for public purposes and the location of public improvements; the general location of public utilities; and other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and, as and when they are issued (but not in limitation of any right to develop as set forth in the Project Approvals), the Subsequent Approvals.	Compliant to date.		
6.03	Applicable Law. Applicable Law shall mean the existing rules, regulations, official policies, standards and specifications governing permitted uses of the project site; governing density; and governing design, improvements, and construction standards and specifications applicable to the Project and Project site as set forth in this Agreement and the Project Approval, and in force and effect on the Effective Date of this Agreement. However, this Agreement and this Section shall not be construed to prevent the City, in any subsequent actions applicable to the Project Site, from applying new rules, regulations, official policies, standards, and specifications existing as of the Effective Date of the Agreement.	Compliant to date.		
6.04	Uniform Codes. Notwithstanding any other provision of this Agreement, City may apply to the Project Site, at any time during the Term, the then current Uniform Building Code and other uniform construction codes as properly modified by City and uniformly applied on a citywide basis, and City's then current design and construction standards for road and storm drain facilities. In no event shall any such uniform code or standard be adopted for the purpose of preventing or otherwise limited construction of all or any part of the Project.	Not applicable at this time.		
6.05	Moratorium And Conflicting Enactments. To the extent consistent with State Law, if any ordinance, resolution, or other measure in enacted, whether by action of the City, by initiative, referendum, or otherwise, that imposes a building moratorium, a limit on the rate of development, or a voter-approval requirement which would otherwise affect the timely development of the Project on all or any part of the Project Site, City agrees that such ordinance, resolution, or other measure shall not apply to the Project, the Project Site, this Agreement, the Project Approvals, or the Subsequent Approvals, if any, during the term of this Agreement, unless the building moratorium is imposed as part of a declaration of a local emergency or state of emergency as defined in Government Code Section 8558. Developer reserves the right to challenge in court any City action or inaction which Developer believes is in conflict with Applicable Law or this Agreement.	Not applicable at this time.		
6.06	Environmental Mitigation. The parties understand that the EIR for the Project is a project level CEQA document intended to be used in connection with each of the Project Approvals and Subsequent Approvals needed for the Project. Consistent with the CEQA policies and requirements applicable to the EIR, City agrees to use the EIR in connection with the processing of any Subsequent Approval to the extend allowed by law. City agrees not to impose on Developer any mitigation measures or other conditions of approval other than those specifically imposed by the Project Approvals and the Mitigation Monitoring Program described in the FEIR, specifically required by Applicable Law, or as properly required through the design or architecture review process as long as such mitigation measures or other conditions are imposed in a manner consistent with applicable design review guidelines.	Compliant to date		

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6.07	Life of Subdivision Maps, Development Approvals, and Permits. To the extend consistent with Applicable Law, the term of any subdivision map or any other map, permit, rezoning, or other land use entitlement approved as a Project Approval or a Subsequent Approval shall not include any period of time during which any applicable development moratorium (including, but not limited to, a water or sewer moratorium) or the actions of other public agencies that regulate land use, development or the provision of services to the land, prevents, prohibits, or delays the construction of the Project. The term of this Agreement and any subdivision map or other Project Approval or Subsequent Approval shall not include any period of time during which any applicable court order or other legal requirement prevents the processing of any Subsequent Approval or any Project development activities.	Not applicable at this time.		
6.08	State and Federal Law. As provided in California government Code 65869.5, if any state or federal laws or regulations, enacted after this Agreement's Effective Date prevent or preclude compliance with one or more provisions of this Agreement ("Changes in the Law"), such provision of the Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations as may be necessary to comply with such state or federal laws or regulations as may be necessary to comply with Changes in the Law, and City and Developer shall take such action as may be required pursuant to this Agreement including, without limitation, Article V and Section 10.05. Not in limitation of the foregoing, nothing in this Agreement shall preclude City from imposing on Developer any fee specifically required by State or Federal laws and regulations.	Not applicable at this time.		
6.09	Timing of Project Construction and Completion.			
a	Project Phasing. The Project is expected to be built in phases in response to then-existing market conditions over the Term of the Agreement. Except as otherwise specifically provided by this Agreement with respect to Project infrastructure timing, City and Developer expressly agree that there is no requirement that Developer initiate or complete development of the Project or any particular phase of the Project within any particular time period, and City shall not impose such a requirement on any Project Approval. The parties acknowledge that Developer cannot at this time predict when or the rate at which or the order in which phases will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market demand, interest rates, competition, and other similar factors.	Compliant to date.		
b	The parties agree that the Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time and Developer shall determine which part of the Project Site to develop first and at Developer's chosen schedule. In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in Pardee Construction Co v City of Camarillo, that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' desire to avoid that result by acknowledging that Developer shall have the right to develop the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgement. Developer's rights under this Section 6.09b shall be subject to the requirement that adequate infrastructure to service each phase of the Project is constructed concurrently with such phase. the City Manager shall reasonably determine what infrastructure will be required to serve each phase of the Project, which determination shall be consistent with Applicable law.	Compliant to date.		
c	Nothing in this Agreement shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.	Compliant to date.		
6.10.	Exempting Fees, Mitigation Measures and Similar Requirements Imposed by Outside Agencies. Notwithstanding any other provision of this Agreement, the City agrees to exclude Developer from any and all discretionary collection agreements regarding fees, mitigation measures and similar requirements including, but not limited to, development impact fees, which other public agencies request the City to impose at City's discretion on the Project or on the Project Site after the Effective Date through the Term of this Agreement. This Section shall not prohibit the City from imposing on Developer any fee, mitigation measure, or similar requirement or obligation that is required by a local or regional agency in accordance with local, regional, State, or Federal obligations and implemented by the City in cooperation with such local, regional, state, federal agencies, provided such fee, mitigation measure, or similar requirement or obligation is imposed in a similar manner on similarly situated properties within the City as, for example, stormwater related C.3 requirements and increases thereto.	Compliant to date.		

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6.11	City's Joint-Inspection Jurisdiction. Developer acknowledges that City has joint inspection jurisdiction within other third-party governmental entities within any and all City rights-of-way and easements.	Compliant to date.		
Article VII: Amendment				
7.01	Amendment to Project Approvals, Subsequent Approvals. To the extent permitted by state and federal law, any Project Approval or Subsequent Approval may, from time to time, be amended or modified in the following manner:			
a	Administrative Project Amendments. Upon the written request of Developer for an amendment or modification to a Project Approval or Subsequent Approval, the City Manager or his/her designee shall determine (i) whether the requested amendment or modification is minor when considered in light of the project as a whole; and (ii) whether the requested amendment or modification is consistent with this Agreement, Applicable Law, applicable uniform codes, and State or Federal Law. If the City Manager or his/her designee finds that the proposed amendment or modification is minor in the context of the entire project, consistent with this Agreement and Applicable Law, and will result in no new significant environmental impacts not addressed and mitigated in the EIR, the amendment shall be determined to be an Administrative Project Amendment and the City Manager or his/her designee may, except to the extend otherwise required by law, approve the Administrative Project Amendment without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, reductions in the density, intensity, scale, or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, changes in trail alignments, minor variations in lot layout, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project Site diagram or Project Site legal description shall be treated as Administrative Project Amendments.	Not applicable at this time.		City to review any requested amendments.
b	Non Administrative Project Amendments. Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.	Not applicable at this time.		Amendments to be reviewed.
7.02	Amendment of this Agreement. This Agreement may be amended from time to time in whole or in part by mutual written content of the parties hereto or their successors in interest as follows:			
a	The City Manager or his/her designee may, except to the extent otherwise required by law, enter into certain amendments of this Agreement on behalf of the City as long as any such amendment does not substantially affect (i) the Term of this Agreement, (ii) permitted uses of the Project Site, (iii) provisions for the reservation or dedication of land, (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions, (v) the density or intensity of use of the Project Site or the maximum height of size of proposed buildings or (vi) monetary contributions by Developer, and shall not, except to the extend otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. For purposes of this Section, the term substantially affect shall be evaluated in context of the entire project.	Not applicable at this time.		
b	Amendment Exemptions. No amendment of a Project Approval or Subsequent Approval, whether done administratively or not, shall require an amendment to this Agreement. Instead, any such matter automatically shall be deemed to be incorporated into the Project and vested under this Agreement when written and executed by both parties.	Not applicable at this time.		
c	Amendment Limitations. In consideration of the cope of the benefits to City set forth in this Agreement, any amendment to this Agreement shall only be subject to such new terms and conditions including new exactions or other obligations as are reasonably related to the impacts on City directly attributable to such amendment.	Not applicable at this time.		
Article VIII: Assignment, Transfer, and Notice				
8.01	Assignment of Interests, Rights and Obligations. Developer may transfer or assign all or any portion of its interests, rights, or obligations under this Agreement, the Project Approvals, or Subsequent Approvals to third parties acquiring an interest or estate in the Project or any portion thereof including without limitation, purchasers or ground lessees of lots, parcels, or facilities.			
8.02	Transfer Agreements.			

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a	In connection with the transfer or assignment by Developer of all or any portion of the Project (other than a transfer or assignment by Developer to an affiliated party, any deed of trust beneficiary or mortgagee, or a "Non-Assuming Transferee", Developer and the transferee shall enter into a written agreement regarding the respective interests rights, and obligations under the Agreement, the Project Approvals, or the Subsequent Approvals that pertain to that portion of the Project being transferred or assigned, as described in the Transfer Agreement, provided that the transferee expressly assumes such obligations (ii) transfer to the transferree vested rights to improve that portion of the Project being transferred and (iii) address ant other matter deemed by developer to be necessary or appropriate in connection with the transfer or assignment.	Not applicable at this time.		
b	Any Transfer Agreement shall be binding on Developer, City and the transferee and, unless otherwise provided for in Section 8.03 of this Agreement, shall require the City's prior written consent, which consent shall not be unreasonably withheld. Failure by City to respond within 30 days of a written request by Developer for City's consent shall be deemed City's approval of the Transfer Agreement in question. City may refuse to give its consent only id, in light of the proposed transferee's reputation and financial resources, such transferee would not in City's reasonable determination be able to perform the obligations proposed to be assumed by such trasnferee. Such determination shall be made by the City Manager and is appealable to the City Council. In no event, however, shall City refuse to give its consent ot a proposed transferee pursuant to this Section 8.02b if such transferee has a net worth of at least Ten Million Dollars documented in a manner reasonably acceptable to City. Upon recordation of any Transfer Agreement in the Official Records of Contra Costa Countu, Developer shall automatically be released from those obligations assumed by the transferee therein.	Not applicable at this time.		
c	Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.	Not applicable at this time.		
8.03	Non-Assuming Transferees. Except as otherwise required by Developer in Developer's sole discretion, the burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither a Transfer Agreement nor City's consent shall be required in connection with (i) any single residential parcel conveyed to a purchaser, (ii) any property transferred as fewer than 10 lots to a single retail builder, or (iii) any property that has been established as one or more separate legal parcels for office, commercial, open space, park, school, or other nonresidential uses. The transferee in such a transaction and its successors shall be deemed to have no obligations under this Agreement, but shall continue to benefit from the vested rights provided by this Agreement for the duration of the Term. Nothing in this section shall exempt any property transferred to Non-Assuming Transferee from payment of applicable fees and assessments or compliance with applicable conditions of approval.	Not applicable at this time.		
8.04	Notice of Compliance Generally. Subject to the City's finding that the facts contemplated by clauses (i) through (iii) herein are true and accurate, within 30 days following any written request which Developer may make from time to time, City shall execute and deliver to Developer a written "Notice of Compliance" in recordable form, duly executed and acknowledged by the City, that certifies that (i) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications, (ii) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default and (iii) any other information reasonably requested by Developer. City's failure to deliver such notice within such time period shall constitute a conclusive presumption against City that this Agreement is in full force and effect without modification except as may be represented by the Developer and that there are no uncured defaults in the performance of the Developer, except as may be represented by the Developer. Developer shall have the right at Developer's sole discretion, to record the Notice of Compliance.	Not applicable at this time.		
Article IX: Cooperation in the Event of Legal Challenge				
9.01	Cooperation			

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a	Developer agrees to indemnify, defend and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal, or equitable actions or other proceedings instituted by any person not a party to this Agreement challenging the validity of the Agreement or any Project Approval or any Subsequent Project Approval, or otherwise arising out of or stemming from this Agreement. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. The parties shall cooperate in defending such action or proceeding. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement on a monthly basis. Such costs shall include, but not be limited to all court costs and attorney's fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent in regard to defense of the action or proceeding. The parties shall use best efforts to select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis City for all such court costs, attorney fees, and time referenced herein.	Compliant to date.		No action.
b	Developer also agrees to indemnify, defend and hold harmless the City, its officials, officers, employees, agents and consultants from any claims, costs, damages or other liabilities for any personal injury or death, or property damage, resulting from the construction of the Project or of operations by the Developer, its officers, employees, agents or consultants. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense.	Compliant to date.		No action.
c	The parties agree that this Section 9.01 shall constitute a separate agreement entered into concurrently, and that if any provision of this Agreement, or the Agreement as a whole, is invalidated rendered null, or set aside by a court of competent jurisdiction, the parties agree to the bound by the terms of this Section 9.01, which shall survive such invalidation, nullification or setting aside.	Compliant to date.		No action.
9.02	Cure; Reapproval.			
a	If, as a result of any administrative, legal or equitable action or other proceeding as described in Section 9.01, all or portion of this Agreement, Project Approvals, or Subsequent Approvals are set aside or otherwise made ineffective by any judgement in such action or proceeding, the parties agree to use their respective best efforts to sustain or readopt this Agreement, Project Approvals, and/or Subsequent Approvals that the Deficiencies relate to, as follows, unless the parties mutually agree in writing to act otherwise:	Not applicable at this time.		
i	If any Judgement requires reconsideration or consideration by the City of this Agreement, Project Approval, or Subsequent Approval, then the City shall consider or reconsider that matter in a manner consistent with the intent of this Agreement. If any such Judgement invalidates or otherwise makes ineffective all or any portion of this Agreement or any Project Approval, or Subsequent Approval, then the parties shall cooperate and shall cure any Deficiencies identified in the Judgement or upon which the Judgement is based in a manner consistent with the intent of this Agreement and the Judgement. Upon the parties cure of such Deficiencies, City shall then take steps consistent with the Judgement necessary readopt or reenact this Agreement and any applicable Project Approval, Subsequent Approval, or any portion thereof.	Not applicable at this time.		
ii	Acting in a manner consistent with the intent of this Agreement or a Judgement includes, but is not limited to, recognizing that the parties intent that Developer may develop a 351 single-family residential unit project, and adopting such ordinances, resolutions, and other enactments, including by not limited to, a general plan amendment, rezoning, vesting subdivision map approvals development plan approvals, PD plan approvals, design review, improvement agreements, use permits, grading permits, building permits, lot line adjustments, sewer and water connection permits, certificate of occupancy, final development plans, development agreements, permits, resubdivisions, and any amendments to, or repealing of, any of the foregoing as are necessary to readopt or reenact all or any portion of this Agreement, Project Approvals, and/or Subsequent Approvals without contravening the Judgement.	Not applicable at this time.		
b	The parties agree that this Section 9.02 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.02, which shall survive such invalidation, nullification or setting aside.	Compliant to date.		No action.
Article X: Defaults; Remedies; Termination				

Exhibit -1 - Montreux DA - 2024 Annual Review Summary Table

10.01	Defaults. Any failure by either party to perform any term or provision of this Agreement, which failure continued uncured for a period of 30 days following written notice of such failure from the other party, shall constitute a default under this Agreement. The Complaining Party's notice shall specify the nature of the alleged failure and, may specify the manner in which the failure and, may specify the manner in which the failure satisfactorily may be cured By the other party. Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of a default or of any such rights and remedies as to any default shall not operate as a waiver of a default or of any such rights or remedies as to any default shall not operate as a waiver of a default or of any such rights or remedies. Delays by a Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies. If the nature of the alleged failure is such that it cannot be reasonably be cured within such 30-day period, then no fault shall be deemed to have occurred if: (a) the cure shall be commenced at the earliest practicable following receipt of the Default Notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (if no event later than 30 days after the Defaulting Party's receipt of the Default Notice), the Defaulting party provides written notice to the Complaining Party that the cure cannot practicably be completed within such 30-day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within 120 days after the Notice of Default is given. Complaining Party shall not send notice to any third party, including, but not limited to, bonding and surety companies, until such time as the cure opportunities set forth above have expired unless otherwise required by applicable law. Upon the occurrence of a default under this Agreement, the Complaining Party may institute legal proceedings to enforce the terms of this Agreement, or, in the event of a material default, terminate this Agreement. If the default is cured consistent with this Section, then no default shall exist and the Complaining Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured consistent with this Section, then no default shall exist and the Complaining Party shall take no further action.	Not applicable at this time.		
10.02	Termination. If City elects to consider terminating this Agreement due to a material default of Developer, then City shall give a notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the City Council at a duly noticed and conducted public hearing. As used herein, a finding of materiality shall be based on the effect of the default in relation to the size and scope of the Project. Developer shall have the right to offer written and oral evidence prior to or at the time of said public hearings. If the City Council determines that a material default has occurred and is continuing, and elects to terminate this Agreement, City shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated 60 days thereafter; provided, however, that if Developer files an action to challenge City's termination of this Agreement within such 60-day period, then this Agreement shall remain in full force and effect until a trial court has affirmed City's termination of this Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired).	Not applicable at this time.		
10.03	Periodic Review.			
a	Conducting the Periodic Review. Throughout the Term of this Agreement, at least once every 12 months following the execution of this Agreement , City shall review the extend of good-faith compliance by Developer with the terms of this Agreement. This review shall be conducted by the City Manager or his/her designee and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code 65865.1. Developer also agrees to pay City annually the greater of \$5000 or the actual cost of Periodic Review Fee (not to exceed \$10,000). The \$5,000 shall be increased annually thereafter by the CPI for the San Francisco-Oakland Area, with the first increase implemented in January 2017 reflecting 2016 increases. Such Periodic Review Fee shall only be paid in the years in which a Periodic Review is actually conducted.		Payment request sent. 1/21/25	Complete DA Review annually. Developer pays City fee.
b	Notice. At least 10 days prior to the Periodic Review, and in the manner prescribed in Article 12 of this Agreement, City shall deposit in the mail to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review and, to the extent practical, related exhibits concerning Developer's performance hereunder. Developer shall be permitted an opportunity to respond to City's evaluation of Developer's performance, either orally at a public hearing or in a written statement, at Developer's election. Such response shall be made to the City Manager.	Compliant to date.		Notice sent at least 10 days prior.

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c	Good Faith Compliance. During the Periodic Review, the City Manager shall review Developer's good faith compliance with the terms of this Agreement. At the conclusion of the Periodic Review, the City Manager shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. The decision of the City Manager shall be appealable to the City Council. If the City Manager finds and determines that the Developer has not complied wit such terms and conditions, the City Manager may recommend to the City Council that it terminate or modify this Agreement by giving notice of its intention to do so, in the manner set forth in California Government Code 65867 and 65868. The costs incurred by City in connection with the Periodic Review process described herein shall be shared equally Developer and City.	Compliant to date.		City Manager make written findings and determination if Developer has complied in good faith.
d	Failure to Properly Conduct Periodic Review. If, after 30 days following Developer's notice requesting a Periodic Review, City fails to initiate the Periodic Review, such failure shall conclusively deemed an approval by City of Developer's compliance with the terms of this Agreement.	Compliant to date.		No action.
e	Written Notice of Compliance. With respect to any year for which Developer has been determined or deemed to have complied with this Agreement, City shall, within 30 days, following a written request by Developer, provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City. Developer shall have the right, in Developer's sole discretion, to record such notice of compliance.	Compliant to date.		Provide developer written notice of compliance within 30 days of request.
10.04	Default by City or Developer. In the event City or Developer defaults under the terms of this Agreement, City or Developer shall have all rights and remedies provided herein and under law.	Not applicable at this time.		
10.05	Excusable Delay; Extension of Time of Performance. In addition to specific provisions of this Agreement, neither party shall be deemed to be default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorism, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting State or Federal laws or regulations, or judicial decisions. Neither party shall be deemed to be in default where delays in performance or failure to perform are due to a court order arising out of or related to litigation attacking the validity of this Agreement, the Project Approvals, the Subsequent Approvals, or any permit, ordinance, entitlement or other action of governmental agency other than City necessary for the development of the Project. Developer shall not be deemed to be in default where delays in performance or failure to perform are due to a court order arising out of or related to litigation attacking the validity of this Agreement, the Project Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project. Developer shall not be deemed to be in default where delays in performance or failure to perform are due to Developer's inability to obtain materials, power or public facilities (such as water or sewer service) to the Project and unrelated to Developer's actions or inactions and beyond Developer's control. Upon the properly noticed request of either party hereto, as required by Section 12.09, an extension of time for the performance of any obligation whose performance has been so prevented or delayed will be set forth in writing. The term of any such extension shall be equal to the period of the excusable delay or longer, as may be mutually agreed upon in writing.	Not applicable at this time.		
10.06	Legal Action. Either party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.	Not applicable at this time.		
10.07	California Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.	Compliant to date.		Follow state law.

Exhibit -1 - Montreux DA - 2024 Annual Review Summary Table

10.08	Resolution of Disputes. With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer shall, at City's request, meet with City. The parties to any such meetings shall attempt in good faith to resolve any such disputes. If the parties are then unable to resolve their dispute, either party may commence mediation by providing to JAMS, or its successor, and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written made in the course of the mediation by any of the parties, their agents. employees, experts and attorneys, and by the mediator and any JAMS employees are confidential, privileged, and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of the process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session or 90 days of filing the written request of mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties both agree in writing. The provision of this Section may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees, and expenses to be paid by the party against whom enforcement is ordered. Nothing in this Section shall in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters begin addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the parties to such meetings.	Not applicable at this time.		
10.09	Attorney's Fees. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, the prevailing party is entitled to reasonable attorney's fees and any related other costs incurred in that proceeding in addition to any other relief to which it is entitled.	Not applicable at this time.		
Article XI: No Agency, Joint Venture or Partnership				
	It is specifically understood and agreed to by and between the parties hereto unless otherwise expressly provided herein (i) the subject development is a private development; (ii) City have no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of this Agreement or in connection with the various Project Approvals or Subsequent Approvals; (iii) Developer shall have full power over and exclusive control of the Project herein described, subject only to the limitations and obligations of Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer. The City agrees that Developer's obligations under this Agreement related to the construction of Project water, sewer and drainage infrastructure improvements, the grading and construction of traffic improvements are all public works of improvement the City is requiring as a condition of regulatory approval of the Project and that the Project is an otherwise private development. The City further agrees that it will contribute no more money, or the equivalent of money, to the overall Project than is required to construct the Public Improvements and that City maintain no proprietary interest in the overall Project.	Compliant to date.		No action.
Article XII: Miscellaneous				
12.01	Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.	Compliant to date.		No action.

Exhibit -1 - Montreux DA - 2024 Annual Review Summary Table

12.02	Enforceability. City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this agreement shall be enforceable by party hereto notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or an other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by the City that changes, alters, or amends the rules, regulations and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by California Government Code 65866. In the event of any conflict between the provisions of this Agreement and Applicable Law, the Project Approvals or any Subsequent Approval, this Agreement shall prevail.	Compliant to date.		
12.03	Finding. City hereby finds and determines that execution of this Agreement furthers public health, safety and general welfare and that the provisions of this Agreement are consistent with the General Plan.	Compliant to date.		No action.
12.04	Severability. If any term or provision of this Agreement or the application of any term or provision of this Agreement to a particular situation, is held by a competent jurisdiction to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Developer may (in their sole and absolute discretion) terminate this Agreement by providing written notice of such termination the other party.	Not applicable at this time.		
12.05	Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals and this Agreement and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.	Compliant to date.		Deliver documents as necessary.
12.06	Construction. Each reference in this Agreement to this Agreement or any of the Project Approvals or Subsequent Approvals shall be deemed to refer to the Agreement, Project Approval, or Subsequent Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.	Compliant to date.		No action.
12.07	Other Misc Terms. The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.	Compliant to date.		No action.
12.08	Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Project, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, California Civil code 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate runs with the Project Site and is binding upon the owner of all or a portion of the Project Site and each successive owner during its ownership of such property.	Compliant to date.		No action.

Exhibit -1 - Montreux DA - 2024 Annual Review Summary Table

12.09	Notices. Any notice or communication required hereunder between City or Developer must be in writing and may be given either personally, by fax (with original forwarded by regular US mail), by registered or certified mail (return receipt requested), or by FedEx or or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday or Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or b) 5 days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the US mail. If given by Federal Express or a similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving 10 days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below. If to City, to: ☐ City Manager City of Pittsburg Civic Center 65 Civic Avenue Pittsburg, CA 94565-2830 With Copies , to:☐ Ruthann G. Zeigler City Attorney Meyers Nave 555 Capitol Mall, Suite 1200 Sacramento, CA 95814	Compliant to date.		10 days written notice.
12.10.	Entire Agreement, Counterparts, and Exhibits. This Agreement is executed in two duplicate counterparts, each of which is deemed to be an original. This Agreement consists of 32 pages and 3 exhibits which constitute in full, the final and exclusive understanding and agreement of the parties supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof, excluding the March 2006 MOU, the May 2006 MOU, and the July 2005 Faria MOU. The Parties, however, agree that to the extent Developer complies with all terms and conditions of this Development Agreement, Developer has fully met the obligations of the March 2006 MOU and Sections B, C and D of the May 2006 MOU. All waivers of any provisions of this Agreement shall be in writing and signed by the appropriate authorities of City and Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes: Exhibit A - Legal Description Exhibit A-1 - Project Site Diagram Exhibit B - Applicable Fees Exhibit C - Affordable Housing Agreement.	Compliant to date.		No action.
12.11	Recordation of Development Agreement. Pursuant to California Government Code § 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement, or Memorandum thereof, in the Official Records of the County of Contra Costa. The parties agree to cooperate as to preparation, execution, and recording of a Memorandum hereof.	Compliant. Recorded Thursday, April 21, 2016.	Recorded on Thursday, April 21, 2016	Record DA.

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Periodic Review of Columbia Solar)
Energy Development Agreement)
Between The City of Pittsburgh and)
Columbia Solar Energy LLC)
And Determination as to)
Compliance With Development)
Agreement)

RESOLUTION NO. 25-

WHEREAS, California Government Code Section 65864 *et seq.* (“Development Agreement Statutes”) authorizes and regulates the execution of development agreements (“DAs”) between certain public entities and persons who desire to develop private property within a public entity’s jurisdiction; and

WHEREAS, pursuant to the Development Agreement Statutes, the City established procedures for the consideration of DA applications by property owners or other persons having an interest in property within City’s jurisdiction; and

WHEREAS, Section 65865.1 requires City to conduct a periodic review of the City’s active Development Agreements, at which time each respective developer is required to demonstrate good faith compliance with the terms of the Development Agreement (“Periodic Review”); and

WHEREAS, if, as a result of the Periodic Review, the City finds and determines, on the basis of substantial evidence, that a developer has not complied in good faith with the terms and conditions of the Development Agreement, the City may terminate or modify the DA pursuant to the Development Agreement Statutes; and

WHEREAS, the last periodic review of the Columbia Solar Development Agreement was conducted, and on April 15, 2024, the City Council determined that the developer was in compliance with the terms of the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburgh finds and determines as follows.

Section 1. Findings

The City Council hereby finds and determines that the above recitals are true and correct and have served as the basis, in part, for the findings and actions of the City Council set forth below.

Section 2. Compliance with Development Agreement

The City Council hereby finds and determines that, based on the information provided by the Developer and City Staff, as well as the information contained in the "Columbia Solar DA – 2024 Annual Review", attached hereto and incorporated herein by reference as "Exhibit 1," the Developer has demonstrated good faith compliance with the Columbia Solar Development Agreement.

Section 3. Certificate of Compliance

The City Council hereby directs and authorizes the City Manager to issue a certificate codifying the "Finding of Compliance" for Columbia Solar Development Agreement in a form that can be recorded by the Developer.

Section 4. Certification

The City Clerk shall certify the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Exhibit - 1 - Columbia Solar DA Periodic Review 2024 Summary Table

DA Section	Condition/Requirement	Department	Status	Comments
DA Term:				
Start Date	May 20, 2013	Planning	Active	
End Date	May 20, 2033	Planning	Active	
Length of Term	20 years	Planning	Active	
SECTION 4: GENERAL DEVELOPMENT OF THE PROPERTY				
Section 4.01	Project development	Planning	Compliant	CSE has obtained all necessary City approvals for rezoning, design review, and environmental review subject to CEQA.
Section 4.02	Development on the project site	Planning	Compliant	Development has been completed in compliance with the terms and conditions of this Agreement and the Project Description, the City's building standards, Design Review process, and applicable rules and regulations.
Section 4.03(a)	Permitted Uses: Mitigated Negative Declaration	Planning	Compliant	City and developer compliant. Current project consistent with development envisioned in MND.
Section 4.03(b)	Permitted Uses: Design Review Approval by the City	Planning	Compliant	City and developer compliant. Current project consistent with development envisioned in Design Review approval.
Section 4.03(c)	Permitted Uses: Such other uses permitted by Agreement	Planning	Compliant	City and developer compliant. Current project consistent with development envisioned in Development Agreement (DA).
Section 4.04	Approvals	Planning	Compliant	City and developer compliant. Current project consistent with development envisioned in DA.
Section 4.05	Vested right to develop	Planning and Engineering	Compliant	City and developer compliant. Current project consistent with development envisioned in DA.
Section 4.06	Amendment to applicable ordinances	Planning	Compliant to date	No amendments to the zoning code to provide more favorable development standards have been adopted.
Section 4.07	Application of new rules, regulations, and policies	Planning	City complaint to date	No subsequent development applications have been submitted to date.
Section 4.08	Future public financing	City Manager	N/A	
Section 4.09	Changes in Local, Regional, State and Federal Rules and Regulations	Community Development	N/A	
SECTION 5: PERIODIC REVIEW				
Section 5.01	Annual review	Planning	City compliant to date	The Columbia Solar Project was completed in 2015. The City is continuing to review the provisions on a yearly basis.
Section 5.02	Procedure for annual review	Planning	City compliant to date	This annual review has been prepared in accordance with the City's adopted procedures for Development Agreement Review.
Section 5.03	Notice of annual review	Planning	City compliant to date	The City has provided CSE with notice of the Annual Review at least 30 days prior.
Section 5.04	Good-faith compliance	Planning	Compliant to date	CSE has exhibited compliance with all measures of the DA and requests for information during this process.
Section 5.05	Production of documents and other evidence	Planning	Compliant to date	CSE has exhibited compliance with all measures of the DA and requests for information during this process.
Section 5.06	Cost of annual review	Planning	Compliant to date	
SECTION 6: OBLIGATIONS OF CSE				

Exhibit - 1 - Columbia Solar DA Periodic Review 2024 Summary Table

Section 6.01	General obligations	Planning	Compliant to date	CSE has exhibited compliance with all requirements of this Agreement to date
Section 6.02	Nexus/reasonable relationship challenges	Attorney and Planning	Compliant	
Section 6.03	Cooperation by CSE	Planning	Compliant to date	CSE has exhibited compliance with all measures of the DA and requests for information during this process.
Section 6.04	Other governmental permits	Community Development	Compliant	CSE obtained all necessary permits and approvals in order to construct project
Section 6.05.1	Property Taxes			Staff has confirmed with the Contra Costa County Tax Collector's website that all property taxes currently due have been paid (through FY 2023-24).
Section 6.05.2	Sales and use taxes	Planning	Compliant	
Section 6.05.3	HCP/NCCP Fees	Planning	Compliant to date	All HCP/NCCP payments due during the 2023-24 FY have been paid in full.
Section 6.06	Mitigation Measures	Planning	Compliant to date	See below
Section 6.07	Decommissioning	Planning	N/A	Project is still operational and no decommission date has been set
Section 6.08	Continuing obligations	Planning	Compliant	
SECTION 7: OBLIGATIONS OF CITY				
Section 7.01(a)	Holding of all required public hearings	Planning	City compliant	
Section 7.01(b)	Processing of all ministerial matters	Community Development	City compliant	
Section 7.02	Fire main and PG&E line extensions	Engineering	Complaint	City granted an easement extension to provide for the relocation of a PG&E utility pole. Relocation was completed at CSE's expense.
Section 7.03	Approval of ministerial applications	Community Development	Compliant	
SECTION 8: AMENDMENTS				
Section 8.01	Major amendments	City Attorney	Compliant	No amendments have been requested
Section 8.02	Minor amendments	City Attorney	Compliant	No amendments have been requested
Section 8.03	Discretion of manager	City Manager	Compliant	
SECTION 9: TRANSFERS AND ASSIGNMENTS				
Section 9.01	City's intent	City Attorney	Compliant	
Section 9.02	CSE's Right to Assign or Transfer	City Attorney	Compliant	City Manager to approve a Transfer in writing as per DA.
Section 9.03	Restriction on Assignment Does Not Constitute an Unreasonable Restraint on Alienation	City Attorney	Compliant	
Section 9.04	Restriction on Assignment Shall Not Prevent CSE From Conveying the Project Site	City Attorney	Compliant	
Section 9.05	Request procedure	City Attorney	Compliant	
Section 9.06	Additional information	City Attorney	Compliant	
Section 9.07	Approval of assignment	City Attorney	Compliant	
Section 9.08	Notice of proposed assignment	City Attorney	Compliant	
Section 9.09(a)	Conditions and standards: assignee or transferee possesses the experience, reputation and financial resources to cause the Project Site to be developed and maintained in the manner contemplated by the City's General Plan and this Agreement.	City Attorney	Compliant	

Exhibit - 1 - Columbia Solar DA Periodic Review 2024 Summary Table

Section 9.09(b)	Conditions and standards: assignee or transferee enters into a written assumption agreement, in form and content satisfactory to the City Attorney, expressly assuming and agreeing to be bound by the provisions of this Agreement.	City Attorney	Compliant	
Section 9.09(c)	Conditions and standards: assignment or transfer will not impair the ability of City to achieve the objectives of its general Plan and this Agreement.	City Attorney	Compliant	
Section 9.10	Financing exemption	City Attorney	Compliant	
Section 9.11	Notice of assignment	City Attorney	Compliant	
Section 9.12	Unapproved assignment	City Attorney	Compliant	
MITIGATION MEASURES				
MM-BIO-1	Permit coverage under the ECCC HCP/NCCP	Planning	Compliant to date	All HCP/NCCP payments due during the 2023-2024 years have been collected.
MM-BIO-2	Preconstruction nesting bird surveys for protected species	Planning	Complaint	
MM-HAZ-1	Compliance with DTSC Covenants	Planning	Compliant	
MM-NOISE-1	Noise generating activities	Planning	Compliant	
MM-NOISE-2	Stationary electrical equipment sound pressure levels	Planning	Compliant	
OUTSTANDING CONDITIONS OF APPROVAL				
COA No. 3	The applicant shall submit a landscaping and irrigation plan to add landscape screening along the southwest corner of the site across from the single family residences to the south and from Central Park to the west.	Planning	Compliant	The applicant has installed climbing vines along the fence lines in a sufficient amount to provide visual screening of the facility for viewers from these locations once the vines are mature.
COA No. 4	All landscaping shall be maintained in good growing condition.	Planning	Compliant to date	CSE has maintained the vines installed and watered regularly to date.
COA No. 6	The site shall be maintained at all times in a neat and clean manner, free of trash and debris.	Planning	Compliant to date	The project site is currently free of all loose trash and debris.
COA No. 30	The applicant shall be supportive of the Delta Trail, as it may extend past, and in close proximity, to the solar facility.	Planning	Compliant to date	No plans to construct portions of the Delta Trail in the vicinity of the project site have been formalized.

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**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Establishing the Maximum Number of Condominium Conversions for Calendar Year 2025

MEETING DATE: February 3, 2025

EXECUTIVE SUMMARY

Section 17.44.070 of the Pittsburg Municipal Code (PMC) limits the number of apartments (multifamily rental units) that can be converted annually to condominiums to an amount established by the City Council at the beginning of each calendar year. If approved by the City Council, the proposed resolution would establish the maximum number of condominium conversions for the year 2025.

FISCAL IMPACT

There is no fiscal impact associated with the establishment of the maximum number of condominium conversions for the year 2025.

RECOMMENDATION

City Council adopt the attached resolution allowing a maximum of 497 multifamily rental units to be converted to condominiums in 2025.

BACKGROUND

In 1986, the City Council adopted Ordinance No. 86-897 amending the subdivision ordinance (PMC Title 17) to limit the number of multifamily rental units that may be converted annually to individually-owned condominiums. Pursuant to that ordinance and current PMC section 17.44.070, the number of multifamily rental units that may be converted is a policy decision to be made by the City Council, set on an annual basis at the beginning of each calendar year.

The total number of multifamily rental units eligible to be converted is derived by calculating the total number of existing multifamily rental units in the City (in buildings with two or more residential units) and subtracting the total number of multifamily rental units with existing, approved condominium maps.

Staff determined the number of multifamily rental units by conducting a query of specific use codes in the Contra Costa County database, including duplex, triplex, fourplex, combinations, and apartments. The total number of multifamily rental units found in the City of Pittsburg was 5,309. Of these units, 332 have existing, approved condominium maps:

- Delta Hawaii 55+ at 701 Stoneman Avenue - 24 units
- La Almenara at 1065 Beacon Street - 20 units
- Lakeview at intersection of E Leland Road and Lakeview Circle - 132 units
- Ventana (formerly Leland Terrace) at intersection of E Leland Road and Piedmont Way - 156 units

If subtracted from the total number of existing multifamily rental units in the City of Pittsburg, the net total number of multifamily rental units eligible for conversion under the condominium conversion ordinance is 4,977.

SUBCOMMITTEE FINDINGS

This item was not reviewed by a Subcommittee.

STAFF ANALYSIS

For the past 36 years, the City Council has adopted a policy of allowing up to 10 percent of its existing multifamily rental housing stock to be converted to condominiums annually. However, no condominium conversions have been approved (or requested) since 2006, when the Planning Commission approved the conversion of Creekside Senior Apartments (88 units) though the Planning Commission subsequently rescinded this action.

Staff recommends a continued policy of allowing up to 10 percent of multifamily rental units without pre-existing final or tentative condominium maps to be converted to condominiums for this calendar year. This policy decision would allow a maximum of 497 multifamily rental units to be converted to condominiums during the 2025 calendar year. This would be consistent with past actions and ensures housing opportunities and housing affordability for low and moderate-income households.

ATTACHMENTS: Resolution

Report Prepared by: Alison Spells, Senior Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Establishing the Maximum Number of)
Condominium Conversions for Calendar)
Year 2025, in Accordance with Section)
17.44.070 of the Pittsburgh Municipal Code)

RESOLUTION NO. 25-

WHEREAS, Pittsburgh Municipal Code section 17.44.070 provides in part that the maximum number of multifamily rental units that may be approved for condominium conversion in any one calendar year shall be limited to a number established by City Council resolution at the beginning of that same calendar year; and

WHEREAS, based on the above, the City Council wishes to establish the maximum number of multifamily rental units that may be approved for conversion to condominiums during the 2025 calendar year; and

WHEREAS, staff has determined that as of January 1, 2025, there are 4,977 multifamily rental units in buildings of two or more units in the City that are not covered by pre-existing final condominium maps.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pittsburgh that the maximum number of apartment units that may be approved for conversion to condominiums during the calendar year 2025 is 497 units.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing the City Manager to Execute a Contract with Environmental Systems Research Institute, Inc. (ESRI) to Upgrade the ArcGIS Software Subscription

MEETING DATE: February 3, 2025

EXECUTIVE SUMMARY

The Information Technology Division (IT) is seeking to upgrade the City's geographic information system (GIS). A GIS system captures, stores, manages, analyzes, and presents all types of geographical data that is used in the City's daily operations.

FISCAL IMPACT

The total cost to upgrade the software subscription for three fiscal years is \$117,500.

Item	Amount
Enterprise Agreement Annual Subscription - Year 1	26,500
Enterprise Agreement Annual Subscription - Year 2	32,500
Enterprise Agreement Annual Subscription - Year 3	58,500
Total:	\$ 117,500

When permits are issued, a fee is collected for the management, maintenance, and upgrades to the City's GIS. These funds are held in account 110-20050 – Deferred Rev-GIS Mapping Fees which currently has a balance of \$128,574. There are sufficient funds to pay for the upgraded subscription.

RECOMMENDATION

City Council approve the attached Resolution authorizing the City Manager to execute a contract with Environmental Systems Research Institute, Inc. (ESRI) to upgrade the ArcGIS software subscription to a small government enterprise agreement in an amount not exceeding \$117,500.

BACKGROUND

IT has used the ArcGIS Workgroup edition (ArcGIS) to provide GIS services for the City since December 2015. However, as the demand for GIS solutions continues to grow, the City's current software subscription no longer meets the required licensing standards necessary to effectively manage data, share content, and support the expanding GIS application services.

The City currently faces a significant shortage of end-user licenses, which hampers efficiency and productivity. Furthermore, staff's access to ArcGIS tools and applications is quite restricted. The current subscription lacks advanced analytics, automation, and integration capabilities. The limited options for customization and extensibility make it challenging to manage the City's growing GIS infrastructure effectively. Finally, the security features are also inadequate, offering minimal control over user access.

SUBCOMMITTEE FINDINGS

This item was not reviewed by a subcommittee.

STAFF ANALYSIS

Recognizing the limitations of the current GIS software, the IT team conducted research and collaborated with ESRI technical resources to identify software solutions that could address these challenges and provide the scalability, reliability, security, and advanced functionality necessary to support a more complex GIS environment and keep up with technological growth and demands.

The new small government enterprise agreement for ArcGIS provides adequate user licenses to manage GIS applications effectively. It offers access to a complete range of ArcGIS applications, tools, and resources, enhancing collaboration and delivering a unified user experience. The subscription also enhances security features and allows for better control over user access. ArcGIS enterprise edition equips users with robust tools for building a scalable and secure GIS infrastructure. Whether for mapping, data management, or spatial analysis, it is a comprehensive solution tailored to the City's GIS requirements.

ATTACHMENTS: Resolution
 Exhibit A ESRI Quote

Report Prepared By: Sunil Gopala, Deputy Director IT Operations

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Authorizing the City Manager to Execute)
A Contract with Environmental Systems)
Research Institute, Inc, to upgrade the)
ArcGIS Software Subscription)

RESOLUTION NO. 25-

WHEREAS, the Information Technology division (IT) has used the ArcGIS Workgroup edition to provide GIS services to the City since December 2015. The current software subscription no longer meets the required licensing standards necessary to effectively manage data, share content, and support the expanding GIS application services; and

WHEREAS, the security features are also inadequate, offering minimal control over user access. Finally, the current subscription lacks advanced analytics, automation, and integration capabilities. The limited options for customization and extensibility make it challenging to manage the City's growing GIS infrastructure effectively; and

WHEREAS, the IT team conducted research and collaborated with Environmental Systems Research Institute, Inc. technical resources to identify software solutions that could address these challenges and provide the scalability, reliability, security, and advanced functionality necessary to support the GIS environment and recommends an upgrade to the subscription via a small government enterprise agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburgh hereby authorizes the City Manager to execute the Contract with Environmental Systems Research Institute, Inc. to upgrade the ArcGIS software subscription for an amount not to exceed \$117,500.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk



Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853
DUNS Number: 06-313-4175 CAGE Code: 0AMS3

Quotation # Q-527628

Date: December 5, 2024

Customer # 362106 Contract # ENTERPRISE AGREEMENT

City of Pittsburg
Information Technology Dept.
65 Civic Ave
Pittsburg, CA 94565-3814

ATTENTION: Jitendra Kanaria
PHONE: (925) 252-4852
EMAIL: jkaneria@pittsburgca.gov

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 11/19/2024 To: 2/17/2025

Material	Qty	Term	Unit Price	Total
168179	1	Year 1	\$26,500.00	\$26,500.00
Populations of 50,001 to 100,000 Small Government Enterprise Agreement Annual Subscription				
168179	1	Year 2	\$32,500.00	\$32,500.00
Populations of 50,001 to 100,000 Small Government Enterprise Agreement Annual Subscription				
168179	1	Year 3	\$58,500.00	\$58,500.00
Populations of 50,001 to 100,000 Small Government Enterprise Agreement Annual Subscription				
Subtotal:				\$117,500.00
Sales Tax:				\$0.00
Estimated Shipping and Handling (2 Day Delivery):				\$0.00
Contract Price Adjust:				\$0.00
Total:				\$117,500.00

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact: Jesse Gonzalez	Email: jesse_gonzalez@esri.com	Phone: (909) 793-2853 x1106
The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, then unless otherwise stated in this quotation, Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.		

GONZALEZJ

This offer is limited to the terms and conditions incorporated and attached herein.

Esri Use Only:

Cust. Name _____
 Cust. # _____
 PO # _____
 Esri Agreement # _____



SMALL ENTERPRISE AGREEMENT COUNTY AND MUNICIPALITY GOVERNMENT (E214-3)

This Agreement is by and between the organization identified in the Quotation ("**Customer**") and **Environmental Systems Research Institute, Inc. ("Esri")**.

This Agreement sets forth the terms for Customer's use of Products and incorporates by reference (i) the Quotation and (ii) the Master Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the Master Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Customer is located without reference to conflict of laws principles, and the United States of America federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

Table A
List of Products

Uncapped Quantities**Desktop Software and Extensions** (Single Use)

ArcGIS Desktop Advanced
 ArcGIS Desktop Standard
 ArcGIS Desktop Basic
 ArcGIS Desktop Extensions: ArcGIS 3D Analyst,
 ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst,
 ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS
 Schematics, ArcGIS Workflow Manager, ArcGIS Data
 Reviewer

Enterprise Software and Extensions

ArcGIS Enterprise (Advanced and Standard)
 ArcGIS Monitor
 ArcGIS Enterprise Extensions: ArcGIS 3D Analyst,
 ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst,
 ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS
 Workflow Manager, ArcGIS Data Reviewer

Enterprise Additional Capability Servers

ArcGIS Image Server

Developer Tools

ArcGIS Runtime Standard
 ArcGIS Runtime Analysis Extension

Limited Quantities

Two (2) ArcGIS CityEngine Single Use Licenses
 250 ArcGIS Online Viewers
 250 ArcGIS Online Creators
 37,500 ArcGIS Online Service Credits
 250 ArcGIS Enterprise Creators
 5 ArcGIS Insights in ArcGIS Enterprise
 5 ArcGIS Insights in ArcGIS Online
 50 ArcGIS Location Sharing User Type Extension (Enterprise)
 50 ArcGIS Location Sharing User Type Extension (Online)
 12 ArcGIS Advanced Editing User Type Extension (Enterprise)

OTHER BENEFITS

Number of Esri User Conference registrations provided annually	4
Number of Tier 1 Help Desk individuals authorized to call Esri	4
Maximum number of sets of backup media, if requested*	2
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement	

*Additional sets of backup media may be purchased for a fee

Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("**Ordering Document**"). **ADDITIONAL OR CONFLICTING TERMS IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN.** This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("**Effective Date**").

Term of Agreement: Three (3) years

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

(Customer)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

CUSTOMER CONTACT INFORMATION

Contact: _____

Telephone: _____

Address: _____

Fax: _____

City, State, Postal Code: _____

E-mail: _____

Country: _____

Quotation Number (if applicable): _____

1.0—ADDITIONAL DEFINITIONS

In addition to the definitions provided in the Master Agreement, the following definitions apply to this Agreement:

"Case" means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

"Deploy", "Deployed" and "Deployment" mean to redistribute and install the Products and related Authorization Codes within Customer's organization(s).

"Fee" means the fee set forth in the Quotation.

"Maintenance" means Tier 2 Support, Product updates, and Product patches provided to Customer during the Term of Agreement.

"Master Agreement" means the applicable master agreement for Esri Products incorporated by this reference that is (i) found at <https://www.esri.com/en-us/legal/terms/full-master-agreement> and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed Esri master agreement or license agreement that supersedes such electronically acknowledged master agreement.

"Product(s)" means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

"Quotation" means the offer letter and quotation provided separately to Customer.

"Technical Support" means the technical assistance for attempting resolution of a reported Case through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

"Tier 1 Help Desk" means Customer's point of contact(s) to provide all Tier 1 Support within Customer's organization(s).

"Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk.

"Tier 2 Support" means the Esri Technical Support provided to the Tier 1 Help Desk when a Case cannot be resolved through Tier 1 Support.

2.0—ADDITIONAL GRANT OF LICENSE

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Esri grants to Customer a personal, nonexclusive, nontransferable license solely to use, copy, and Deploy quantities of the Products listed in Table A—List of Products for the Term of Agreement (i) for the applicable Fee and (ii) in accordance with the Master Agreement.

2.2 Consultant Access. Esri grants Customer the right to permit Customer's consultants or contractors to use the Products exclusively for Customer's benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of Products by consultants or contractors not exclusively for Customer's benefit is prohibited. Customer may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor servers for the benefit of Customer.

3.0—TERM, TERMINATION, AND EXPIRATION

3.1 Term. This Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified in the Term of Agreement, unless this Agreement is terminated earlier as provided herein. Customer is only authorized to use Products during the Term of Agreement. For an Agreement with a limited term, Esri does not grant Customer an indefinite or a perpetual license to Products.

3.2 No Use upon Agreement Expiration or Termination. All Product licenses, all Maintenance, and Esri User Conference registrations terminate upon expiration or termination of this Agreement.

3.3 Termination for a Material Breach. Either party may terminate this Agreement for a material breach by the other party. The breaching party will have thirty (30) days from the date of written notice to cure any material breach.

3.4 Termination for Lack of Funds. For an Agreement with government or government-

owned entities, either party may terminate this Agreement before any subsequent year if Customer is unable to secure funding through the legislative or governing body's approval process.

3.5 Follow-on Term. If the parties enter into another agreement substantially similar to this Agreement for an additional term, the effective date of the follow-on agreement will be the day after the expiration date of this Agreement.

4.0—PRODUCT UPDATES

4.1 Future Updates. Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Customer. Customer may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Customer via written notice for incorporation into the Products schedule at no additional charge. Customer's use of new or updated Products requires Customer to adhere to applicable additional or revised terms and conditions in the Master Agreement.

4.2 Product Life Cycle. During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at <https://support.esri.com/en/other-resources/product-life-cycle>. Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Customer will not be able to Deploy retired Products.

5.0—MAINTENANCE

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at <https://www.esri.com/en-us/legal/terms/maintenance>). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other

than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

a. Tier 1 Support

1. Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer's authorized users.
2. The Tier 1 Help Desk will be fully trained in the Products.
3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
4. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.
5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer's organization.
6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.
2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.
3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to

supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.

4. Tier 2 Support will attempt to resolve the Case submitted by Tier 1 Help Desk.
5. When the Case is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

6.0—ENDORSEMENT AND PUBLICITY

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Customer's endorsement of Products. Either party may publicize the existence of this Agreement.

7.0—ADMINISTRATIVE REQUIREMENTS

7.1 OEM Licenses. Under Esri's OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this Agreement. Customer will not seek any discount from the OEM partner or Esri based on the availability of Products under this Agreement. Customer will not decouple Esri products or services from the OEM partners' application or service.

7.2 Annual Report of Deployments. At each anniversary date and ninety (90) calendar days prior to the expiration of this Agreement, Customer will provide Esri with a written report detailing all Deployments. Upon request, Customer will provide records sufficient to verify the accuracy of the annual report.

8.0—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

8.1 Orders, Delivery, and Deployment

- a. Upon the Effective Date, Esri will invoice Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Customer to download,

operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee up to thirty (30) calendar days before the annual anniversary date for each year.

- b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri reserves the right to suspend Customer's access to and use of Products if Customer fails to pay any undisputed amount owed on or before its due date. Esri may charge Customer interest at a monthly rate equal to the lesser of one percent (1.0%) per month or the maximum rate permitted by applicable law on any overdue fees plus all expenses of collection for any overdue balance that remains unpaid ten (10) days after Esri has notified Customer of the past-due balance.

- c. Esri's federal ID number is 95-2775-732.

- d. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Customer will pay any such sales or use tax associated with the receipt of tangible media.

8.2 Order Requirements. Esri does not require Customer to issue a purchase order. Customer may submit a purchase order in accordance with its own process requirements, provided that if Customer issues a purchase order, Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.

- a. All orders pertaining to this Agreement will be processed through Customer's centralized point of contact.
- b. The following information will be included in each Ordering Document:
 - (1) Customer name; Esri customer number, if known; and bill-to and ship-to addresses
 - (2) Order number
 - (3) Applicable annual payment due

9.0—MERGERS, ACQUISITIONS, OR DIVESTITURES

If Customer is a commercial entity, Customer will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Customer with or into another corporation or entity; (ii) Customer's acquisition of another entity; or (iii) a transfer or sale of all or part of Customer's organization (subsections i, ii, and iii, collectively referred to as "**Ownership Change**"). There will be no decrease in Fee as a result of any Ownership Change.

- 9.1** If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.
- 9.2** If an Ownership Change results in transfer or sale of a portion of Customer's organization, that portion of Customer's organization will transfer the Products to Customer or uninstall, remove, and destroy all copies of the Products.
- 9.3** This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Chair and Governing Board Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a PACF Resolution to Accept and Allocate Grant Funds from Keller Canyon Mitigation Fund for Fiscal Year 2024/25 and Fiscal Year 2025/26 Recreation Programs

MEETING DATE: February 3, 2025

EXECUTIVE SUMMARY

Pittsburg Arts and Community Foundation (PACF) has been awarded a \$20,000 grant supporting Early Literacy and Art Education. Staff is requesting adoption of a resolution to accept the grants and allocate the appropriate funds to the Fiscal Year 2024/25 budget.

FISCAL IMPACT

If approved, the resolution will authorize allocation of the \$20,000 grant funds to Fiscal Year 2024/25. No additional expenditure is required for the receipt of the grants since no matching funds are required. The term of this grant is July 1, 2024 through June 30, 2026.

RECOMMENDATION

Pittsburg Arts and Community Foundation Governing Board adopt the attached resolution authorizing acceptance of the grants and allocation of the additional \$20,000 to Fiscal Year 2024/25 PACF budget and authorizing the Executive Director to take further actions as necessary to carry out the intent of the Agreement.

BACKGROUND

Staff applied for and was awarded grant funding from the Keller Canyon Mitigation Fund to support an Early Literacy and Art Education program for youth. This fund is administered by Contra Costa County.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee for discussion.

STAFF ANALYSIS

The Keller Canyon Mitigation Fund grants must provide services that fall within one of the broad categories previously approved by the Contra Costa County Board of Supervisors:

- Code Enforcement
- Community Beautification
- Community Services
- Public Safety (Including Public Health)
- Youth Services

Additionally, services funded by the Keller Canyon Mitigation Fund must be offered in the mitigation area, which includes the unincorporated community of Bay Point, the City of Pittsburg, and the City of Antioch.

The Early Literacy and Art Education program will provide classes that engage and teach approximately 30 children, ages 3-7, how to read through creative art. The curriculum engages students in socialization and collaboration while teaching creative thinking.

ATTACHMENTS: Resolution
 Funding Memorandum of Understanding Agreement Project #95

Report Prepared By: Kolette Simonton, Director of Recreation

BEFORE THE GOVERNING BOARD OF THE PITTSBURG ARTS AND COMMUNITY
FOUNDATION OF THE CITY OF PITTSBURG

In the Matter of:

Accepting and Allocating Grant)
Funds from Keller Canyon)
Mitigation Fund for FY 24/25 and)
FY 25/26 Recreation Programs)

RESOLUTION NO. 25-

WHEREAS, the Pittsburg Arts and Community Foundation (PACF) applied for and was awarded a \$20,000 grant for a two-year period from the Keller Canyon Mitigation Fund, administered by Contra Costa County; to support art and literacy programs; and

WHEREAS, services funded by the Keller Canyon Mitigation Fund must be offered in the mitigation area, which includes the unincorporated community of Bay Point, the City of Pittsburg, and the City of Antioch; and

WHEREAS, PACF's Early Literacy and Art Education program will provide classes that engage and teach approximately 30 children, ages 3-7, how to read through creative art; and

WHEREAS, PACF wishes to accept these grants and allocate the additional \$20,000 to the Fiscal Year 2024/25 PACF Operating Budget (Fund 560-48100).

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of the Pittsburg Arts and Community Foundation hereby accepts a \$20,000 grant from the Keller Canyon Mitigation Grant Fund and allocates the appropriate funds to the PACF Operating Budget for Fiscal Year 2024/25 and authorizes the City Manager to take further actions as necessary to carry out the intent of the Agreement.

PASSED AND ADOPTED by the Governing Board of the Pittsburg Arts and Community Foundation of the City of Pittsburg at a regular meeting on the 3rd day of February 2025, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Chair

ATTEST:

Alice E. Evenson, Board Secretary

FUNDING MEMORANDUM OF UNDERSTANDING
BETWEEN
COUNTY OF CONTRA COSTA
AND
PITTSBURG ARTS AND COMMUNITY FOUNDATION, INC.
FOR THE
EARLY LITERACY AND ART EDUCATION

This memorandum of understanding (“MOU”) is dated as of July 1, 2024 (the “Effective Date”), and is between the County of Contra Costa (the “County”) and Pittsburg Arts and Community Foundation, Inc. (“Recipient”).

RECITALS

- A. In 1990, the Contra Costa County Board of Supervisors (Board) approved the Keller Canyon Landfill land use permit and franchise agreement, and established mitigation fees to mitigate the impacts of the landfill. The Board subsequently established the Keller Canyon Mitigation Fund (KCMF) to administer the allocation of these mitigation funds, which may be allocated by the Board in its sole discretion. The current program/project service categories considered for funding from the KCMF include youth services, code enforcement, public safety, community beautification, and community services.
- B. On May 14, 2024, the Board established a two-year funding cycle for the administration of the KCMF program.
- C. On August 13, 2024, the Board of Supervisors considered an allocation plan for the KCMF, for the period July 1, 2024, through June 30, 2026 (the “Funding Period”).

At the August 13, 2024 meeting, the Board of Supervisors approved an allocation of \$20,000.00 to Recipient during the Funding Period, for the Early Literacy and Art Education (the “Project”). The Project is described in Schedule 1, attached hereto (the “Service Plan”). The Project meets the most recent policies governing the implementation and administration of the KCMF.

AGREEMENT

1. Payment of Funds. The County shall contribute up to \$20,000.00 (the “County Contribution”) to Recipient, on a cost-reimbursement basis, for Recipient’s use toward the Project. The County Contribution will be made in accordance with the payment schedule set forth in Schedule 2, attached hereto.
2. Use of Funds. Recipient shall use the County Contribution solely for the Project, as specified in the Schedule 1 - Service Plan.
3. Right to Withhold. County has the right to withhold payment to Recipient when, in the opinion of County, expressed in writing to Recipient, (a) Recipient’s performance, in whole or in part, either has not been carried out or is insufficiently documented, (b) Recipient has neglected, failed or refused to furnish information or to cooperate with any inspection, review or audit of its program, work or records, or (c) Recipient has failed to sufficiently itemize or document its demand(s) for payment.
4. Term and Termination. This MOU is effective on the Effective Date and remains in effect until June 30, 2026. The County may terminate this MOU at any time by giving written notice to Recipient if Recipient fails to properly perform any of its obligations under this MOU.
5. Progress Reports. Recipient shall submit progress reports, in the time, form, and manner set forth in the Service Plan, to the County’s District 5 Supervisor, or his or her designee, detailing Recipient’s accomplishments in carrying out the Service Plan and the Project.
6. Records; Audit. Recipient must keep and make available for inspection and copying by authorized representatives of the County, the Recipient’s regular business records and such additional records pertaining to this MOU as may be required by the County. This provision is binding on the heirs, successors, assigns and representatives of Recipient.
 - a. Retention of Records. Recipient must retain all documents pertaining to this MOU for five years from the date of submission of Recipient’s final payment demand and until any audit is completed and exceptions resolved for the Funding Period. Upon request, Recipient must make these records available to authorized representatives of the County.
 - b. Access to Books and Records. Recipient must, upon written request and until the expiration of five years after furnishing services pursuant to this MOU, make available to the County or any of its authorized representatives, the books, documents, and records of Recipient necessary to certify the nature and extent of all costs and charges incurred under this MOU.

If Recipient carries out any of the duties of this MOU through a subcontract, the subcontract must contain a clause to the effect that upon written request and until the expiration of five years after furnishing services under the subcontract, the

subcontractor must make available to the County or any of its authorized representatives, the books, documents and records of the subcontractor necessary to verify the nature and extent of all costs and charges incurred under the subcontract.

- c. Audit. Recipient shall make its records available for, and an audit may be required by, the County. If an audit is required, Recipient must provide the County with the audit.
 - d. Inspection. Recipient's performance, place of business, and records pertaining to this MOU are subject to monitoring, inspection, review and audit by authorized representatives of the County, the State of California, and the United States Government.
7. Modification. This MOU may be modified only with the written approval of both parties.
8. Hold Harmless. Recipient shall fully defend, hold harmless, and indemnify the County, its officers, agents and employees against any and all claims, demands, damages, costs, expenses and liability arising out of this MOU [and arising out of the design, implementation and/or construction of the Project], except for liability arising out of the sole negligence or willful misconduct of the County, its officers, agents or employees. This section shall survive the termination of this MOU.
9. Insurance. During the term of this MOU and any extension or modification thereof, Recipient shall keep in effect insurance policies meeting the following insurance requirements unless otherwise expressed in Schedule 3:
- a. Commercial General Liability Insurance. Recipient will provide commercial general liability insurance, including coverage for business losses and for owned and non-owned automobiles, with a minimum combined single limit coverage of \$500,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance must be endorsed to include County and its officers and employees as additional insureds as to all services performed by Recipient under this MOU. Said policies must constitute primary insurance as to County, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance program(s) will not be required to contribute to any loss covered under Recipient's insurance policy or policies.
 - b. Workers' Compensation. Contractor must provide workers' compensation insurance coverage for its employees.
 - c. Certificate of Insurance. The Recipient must provide County with (a) certificate(s) of insurance, evidencing liability and worker's compensation insurance as required herein no later than the effective date of this MOU. If Recipient should renew the insurance policy(ies) or acquire either a new insurance policy(ies) or amend the

coverage afforded through an endorsement to the policy at any time during the term of this MOU, then Recipient must provide (a) current certificate(s) of insurance.

- d. Additional Insurance Provisions. No later than five days after Recipients receipt of: (i) a notice of cancellation, a notice of an intention to cancel, or a notice of a lapse in any of Recipient's insurance coverage required by this MOU; or (ii) a notice of a material change to Recipient's insurance coverage required by this MOU, Recipient will provide County a copy of such notice of cancellation, notice of intention to cancel, notice of lapse of coverage, or notice of material change. Contractor's failure to provide County the notice as required by the preceding sentence is a violation of this MOU.

10. Notices: All correspondence regarding this MOU, including demands and notices, is to be directed to the following persons at the following addresses and telephone numbers:

County:

Daniel Davis, Planner
Department of Conservation & Development
County of Contra Costa
30 Muir Road, Martinez, CA 94553
(925) 655-2884
Daniel.Davis@dcd.cccounty.us

Recipient:

Rose Mary Tumbaga, Program Director
Pittsburg Arts and Community Foundation, Inc.
65 Civic Avenue, Pittsburg, CA 94565-3814
925-427-2334 | rtumbaga@pittsburgfoundation.org

11. Counterparts. The parties recognize and agree that separate counterpart signature pages may be used to execute this MOU, but that all such pages constitute one and the same MOU.
12. No Third-Party Beneficiaries. This MOU is intended solely for the benefit of the parties hereto and no third party will have any right or interest in any provision of this MOU or as a result of any action or inaction of any party in connection with this MOU.
13. Remedy. The sole remedy for violation of this MOU is specific performance of this MOU. The County and Recipient waive their respective rights to trial by jury of any claim or cause of action arising out of this MOU. The County and Recipient have no liability for damages to one another or to any other person or entity resulting from any violation of this MOU.
14. Authorization. Recipient, or the representative(s) signing this MOU on behalf of Recipient, represents and warrants that it has full power and authority to enter into this MOU and to perform the obligations set forth herein.

15. Entire MOU. This MOU contains the entire understanding of the parties relating to the subject matter of this MOU. No promise, representation, warranty or covenant not included in this MOU has been or is relied upon by any party.

The parties are signing this MOU as of the Effective Date.

CONTRA COSTA COUNTY

**PITTSBURG ARTS AND COMMUNITY
FOUNDATION, INC.**

By: _____

By: _____

Name: John Kopchik

Name: _____

Title: Director – Department of

Title: _____

Conservation & Development

SCHEDULE 1
TO
FUNDING MEMORANDUM OF UNDERSTANDING
DATED JULY 1, 2024
SERVICE PLAN

Recipient: Pittsburg Arts and Community Foundation, Inc.
Project Name: Early Literacy and Art Education

Project Description

Provide arts and literacy program to approximately 30 students. The Project will teach and engage students to read the books and create the arts.

Tasks to be Performed by Recipient

Recipient will administer a curriculum that will engage students in socialization and collaboration, have them learn creative thinking skills, and participate in the creative arts.

Reporting

Recipient shall submit a series of three progress reports to the County's District 5 Supervisor, or his or her designee, via the Benevity Grants web-based management platform. The first progress report must be submitted by January 29, 2025; the second progress report by July 31, 2025; and the third progress report by January 29, 2026. These reports must provide updated information on the status of the Recipient's current KCMF allocation, Project milestones, Project objectives, and any modifications to the Project. Reports may include information on scheduling, personnel, budget projections, etc.

Recipient shall submit a final outcomes report to the County's District 5 Supervisor, or his or her designee, by July 31, 2026. This report must provide an assessment of how effective the Project was and indicate its results.

SCHEDULE 2
TO
FUNDING MEMORANDUM OF UNDERSTANDING
DATED JULY 1, 2024
PAYMENT SCHEDULE

Recipient: Pittsburg Arts and Community Foundation, Inc.
Project Name: Early Literacy and Art Education
Total Reimbursement: \$20,000.00

Use of Keller Canyon Mitigation Funds

Personnel and program supplies.

Payment Demands

Recipient shall submit a written request for payment. This request shall document anticipated expenditures that the Recipient will incur during the Funding Period. Recipient shall submit request upon the execution of this MOU, and prior to the commencement of the Project. Upon approval of payment request by the head of the County department for which this MOU is made, or his or her designee, County will make payments as specified in Recitals B above.

Other Requirements

Recipient will ensure recognition of the Keller Canyon Mitigation Fund in providing services through this MOU.

The use of Keller Canyon Mitigation Funds for political advocacy is prohibited. Furthermore, Recipient warrants that all goods and services under this MOU will be available to all qualified persons, regardless of age, gender, race, religion, color, national origin, ethnic background, disability, or sexual orientation/preference, and that none will be used, in whole or in part, for religious worship.