

2023000025399

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Ventura County Clerk-Recorder
Michelle Ascencion

Recording Requested By
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CITY CLERK
CITY OF MOORPARK
799 Moorpark Avenue
Moorpark, California 93021

04/07/2023
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EXEMPT FROM RECORDER'S FEES
Pursuant to §§ 6103, 27383 and 27388.1
of the California Government Code

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

BY AND BETWEEN

CITY OF MOORPARK

AND

ESSEX MOORPARK OWNER, L.P.

**THIRD AMENDMENT
TO DEVELOPMENT AGREEMENT**

This THIRD AMENDMENT TO DEVELOPMENT AGREEMENT ("Third Amendment") is dated as of April 5, 2023, and is entered into by and between the CITY OF MOORPARK, a municipal corporation ("City"), and ESSEX MOORPARK OWNER, L.P., a California limited partnership ("Developer").

RECITALS

WHEREAS, the City and Developer entered into that certain Development Agreement dated April 17, 2017, which was recorded on April 17, 2017 as Document No. 20170417-00050720-0 in the Official Records of Ventura County, California, and amended it by a First Amendment of Development Agreement ("First Amendment") dated August 2, 2022 which was recorded on August 4, 2022 as Document No. 2022-000082017 in such Official Records, and as further amended by a Second Amendment of Development Agreement ("Second Amendment") dated December 2, 2022 which was recorded on December 14, 2022 as Document No. 2022000115909 in such Official Records (as amended, the "DA"); and

WHEREAS, Developer is the owner of real property within the City, more specifically described in Exhibit "A" attached hereto (referred to hereinafter as the "Property"); and

WHEREAS, City and Developer desire to amend the DA to extend the date for satisfying certain conditions as set forth herein.

NOW, THEREFORE, the parties hereby agree as follows:

1. Amendments.

- a. Section 2 of the Second Amendment is hereby amended to extend the December 31, 2022 date set forth therein to June 30, 2023; and
- b. Exhibit "C" to the Second Amendment is hereby deleted and replaced in its entirety with Exhibit "B" to this Third Amendment.

2. Reaffirmation. Except as specifically amended hereby, the DA is and shall remain in full force and effect; and to the extent that there are any inconsistencies between the provisions of this Third Amendment and the DA, the provisions hereof shall control.

3. Counterparts. This Third Amendment may be executed by the parties hereto in separate counterparts, and signatures delivered electronically, and each counterpart when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed the day and year first above written.

DEVELOPER:

ESSEX MOORPARK OWNER, L.P.
a California limited partnership

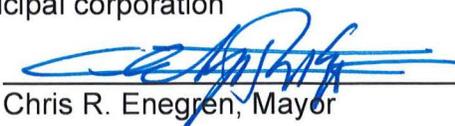
By: Essex Moorpark GP, L.P.
a California limited partnership
Its: General Partner

By: Essex Management Corporation
a California corporation
Its: General Partner

By: 
Name: Anne Morrison
Title: SVP + General Counsel

CITY:

CITY OF MOORPARK,
a municipal corporation

By: 
Chris R. Enegren, Mayor

ATTEST:


Ky Spangler, City Clerk

APPROVED AS TO FORM:

By: 
Kevin G. Ennis, City Attorney



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

State of California)
County of San Mateo)

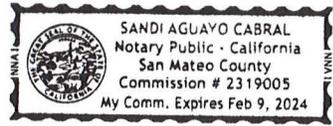
On 3/6/2023, before me, Sandi Aguayo Cabral,
(insert name and title of the officer)

Notary Public, personally appeared Anne Morrison,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

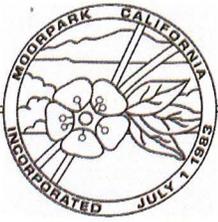
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]



(Seal)



CITY OF MOORPARK

799 Moorpark Avenue, Moorpark, California 93021 | Phone (805) 517-6200 | Fax (805) 532-2205

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

PUBLIC AGENCY FORM OF ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss.
CITY OF MOORPARK)

On this 5th day of April in the year 2023, before me, Ky Spangler, City Clerk of the City of Moorpark, personally appeared Chris R. Enegren, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and who is personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity as the Mayor of the City of Moorpark, and that by his signature on the instrument, acknowledged to me that the City of Moorpark executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and Official Seal



Ky Spangler
City Clerk



EXHIBIT "A"

TO THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF PROPERTY

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL "A" AS SHOWN ON LOT LINE OF ADJUSTMENT NO. 2014-1, AS EVIDENCED BY DOCUMENT RECORDED AUGUST 31, 2016 AS INSTRUMENT NO. 20160831-00125261-0 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCEL 2B OF IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 2005-04 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, RECORDED JULY 21, 2005 AS DOCUMENT NO. 20050721-0178764 OR OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF LOT "T", TRACT NO. "L", RANCHO SIMI, AS PER MAP FILED IN BOOK 5, PAGE 5 OF MISCELLANEOUS RECORDS (MAPS) IN THE OFFICE OF SAID COUNTY RECORDER AND A PORTION OF LOT 4, TRACT NO. 3 AS PER MAP ENTITLED "MAP OF M.L. WICKS SUBDIVISION OF PART OF TRACT U AND ADDITION TO MOORPARK, IN THE RANCHO SIMI, VENTURA COUNTY, CALIFORNIA" IN SAID CITY, COUNTY AND STATE AS SHOWN ON MAP FILED IN BOOK 5, PAGE 37 OF SAID MISCELLANEOUS RECORDS (MAPS).

TOGETHER WITH THAT PORTION OF PARCEL 1A OF IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 2005-03 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, RECORDED MAY 3, 2005 AS DOCUMENT NO. 20050503-0108315 OR OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF LOT "T", TRACT NO. "L", RANCHO SIMI AS PER MAP FILED IN BOOK 5 PAGE 5 OF MISCELLANEOUS RECORDS (MAPS) IN THE OFFICE OF SAID COUNTY RECORDER, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT IN EAST LINE OF PARCEL 1A OF SAID LOT LINE ADJUSTMENT NO. 2005-03, DISTANT THEREON NORTH 292.97 FEET FROM THE SOUTHEASTERLY CORNER THEREOF;

1ST THENCE, DEPARTING SAID EAST LINE SOUTH 89°38'32" WEST 752.05 FEET;

2ND THENCE, SOUTH 27°20'34" WEST 36.75 FEET;

3RD THENCE, SOUTH 89°03'54" WEST 293.78 FEET TO A POINT IN THE WEST LINE OF SAID PARCEL 1A.

EXCEPT AS TO A PORTION OF SAID LAND ALL OIL, GAS OR OTHER HYDROCARBON SUBSTANCES, BUT WITHOUT THE RIGHT TO ENTER UPON THE SURFACE OR SUBSURFACE THEREOF WITHIN 500 FEET, MEASURED VERTICALLY FROM THE PRESENT SURFACE AS RESERVED BY MERI V. BURKHOLDER, BY DEED RECORDED IN BOOK 1592, PAGE 487 OF OFFICIAL RECORDS.

ALSO EXCEPT 50% OF A PORTION OF SAID LAND ALL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, AS RESERVED BY WALLY F. MCFFELT, IN THE DEED RECORDED MARCH 28, 1942 IN BOOK 653, PAGE 659 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED 25% IN AND TO A POINT ON SAID LAND THE TOTAL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, WITHOUT HOWEVER, THE RIGHT OF SURFACE OR SUBSURFACE ENTRY UPON SAID LAND WITHIN 500 FEET OF THE PRESENT SURFACE MEASURED VERTICALLY THEREFROM, AS RESERVED BY RILEY SPENCE AND DORA E. SPENCER, IN DEED RECORDED IN BOOK 1587, PAGE 274 OF OFFICIAL RECORDS.

PARCEL 2:

PARCEL "B" AS SHOWN ON LOT LINE OF ADJUSTMENT NO. 2014-1, AS EVIDENCED BY DOCUMENT RECORDED AUGUST 31, 2016 AS INSTRUMENT NO. 20160831-00125261-0 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCEL 1A OF IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 2005-03 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, RECORDED MAY 3, 2005 AS DOCUMENT NO. 20050503-0108315 OR OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF LOT "T", TRACT NO. "L", RANCHO SIMI AS PER MAP FILED IN BOOK 5 PAGE 5 OF MISCELLANEOUS RECORDS (MAPS) IN THE OFFICE OF SAID COUNTY RECORDER.

EXCEPT THEREFROM THAT PORTION CONVEYED TO THE CITY OF MOORPARK BY DEED APRIL 30, 2009 AS INSTRUMENT NO. 20090430-00069389 OF OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPT THEREFROM THAT PORTION LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT IN EAST LINE OF PARCEL 1A OF SAID LOT LINE ADJUSTMENT NO. 2005-03, DISTANT THEREON NORTH 292.97 FEET FROM THE SOUTHEASTERLY CORNER THEREOF;

1ST THENCE, DEPARTING SAID EAST LINE SOUTH 89°38'32" WEST 752.05 FEET;

2ND THENCE, SOUTH 27°20'34" WEST 36.75 FEET;

3RD THENCE, SOUTH 89°03'54" WEST 293.78 FEET TO A POINT IN THE WEST LINE OF SAID PARCEL 1A.

ALSO EXCEPT AS TO A PORTION OF SAID LAND ALL OIL, GAS OR OTHER HYDROCARBON SUBSTANCES, BUT WITHOUT THE RIGHT TO ENTER UPON THE SURFACE OR SUBSURFACE THEREOF, WITHIN 500 FEET, MEASURED VERTICALLY FROM THE PRESENT SURFACE AS RESERVED BY MERI V. BURKHOLDER, BY DEED RECORDED IN BOOK 1592, PAGE 487 OF OFFICIAL RECORDS.

ALSO EXCEPT 50% OF A PORTION OF SAID LAND ALL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, AS RESERVED BY WALLY F. MCFELT, IN THE DEED RECORDED MARCH 28, 1942 IN BOOK 653, PAGE 659 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED 25% IN AND TO A POINT ON SAID LAND THE TOTAL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, WITHOUT HOWEVER, THE RIGHT OF SURFACE ENTRY UPON SAID LAND WITHIN 500 FEET OF THE PRESENT SURFACE MEASURED VERTICALLY THEREFROM, AS RESERVED BY RILEY SPENCE AND DORA E. SPENCER, IN DEED RECORDED IN BOOK 1587, PAGE 274 OF OFFICIAL RECORDS.

APN: 511-0-020-26 5 AND 511-0-020-275

EXHIBIT "B"

TO THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

DANCO SCHEDULE OF PERFORMANCE (DEADLINES)

(Originally Exhibit F of First Amendment and Exhibit C of Second Amendment)

Design Phase: Complete on or before March 30, 2023

Tax-Exempt Bond and Tax Credit Applications: March 16, 2022

Tax-Exempt Bond and Tax Credit Allocations: June 15, 2022

Plan Check/Building Permits: March 1, 2023

Date property must be acquired by Affordable Housing Owner: June 30, 2023

Evidence to City of all debt/equity funds for all Project costs (with comprehensive Project budget): 30 days prior to the scheduled close of escrow

Assignment to Affordable Housing Owner and Close Tax Credit and Bond Financing: June 30, 2023

Grading: To commence within 30 days after acquisition of property by Affordable Housing Owner or affiliate

Construction: 36 months from commencement of grading

Lease-Up: approximately three months following construction completion