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AND WHEN RECORDED MAIL TO:**

City of Beaumont
Attention: City Clerk
550 East 6th Street
Beaumont, CA 92223

**This document was electronically submitted
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Received by: SOPHIA #466

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APNs: 414-380-001 THROUGH 414-380-069; 414-390-001 THROUGH 414-390-059; 414-400-001 THROUGH 414-400-084; 414-410-001 THROUGH 414-410-073; 414-110-048; 414-420-001 THROUGH 414-420-072; 414-430-001 THROUGH 414-430-063; 414-440-001 THROUGH 414-440-083; 414-450-001 THROUGH 414-450-062; 414-460-001 THROUGH 414-460-040; 414-470-001 THROUGH 414-470-072; 414-480-001 THROUGH 414-480-081; 414-490-001 THROUGH 414-490-066; 414-500-001 THROUGH 414-500-067; 414-110-056 THROUGH 414-110-064; 414-100-039; AND 414-100-040.

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT**

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This FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (hereinafter this "Amendment") is entered into as of November 15, 2016 (the "Effective Date"), by and between THE CITY OF BEAUMONT, CALIFORNIA (the "City"), and LV HEARTLAND LLC, a Delaware limited liability company (the "Owner"). This Amendment is entered into with reference to the following Recitals:

RECITALS

A. Owner owns in fee that certain unimproved real property consisting of approximately four hundred seventeen (417) acres located in the City of Beaumont, County of Riverside, State of California, which property is more fully described on **Exhibit "A"** attached hereto and incorporated by reference herein (the "Property").

B. Heartland Beaumont California L.T.D. ("Original Developer") and the City previously entered into that certain Development Agreement with respect to the Property, which was adopted by the City on October 11, 1993, pursuant to Ordinance No. 726, and which became effective in accordance with its terms on December 9, 1993 (the "Original Development Agreement"). The Original Development Agreement was recorded in the Official Records of Riverside County, California (the "Official Records") on December 9, 1993, as Instrument Number 490898. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Original Development Agreement.

C. Temecula Valley, LLC, a Delaware limited liability company, as successor-in-interest to Original Developer, assigned all of its right, title, and interest in the Original Development Agreement to SunCal Heartland LLC, a Delaware limited liability company ("SunCal"), pursuant to that certain Assignment of Development Agreement dated May 26, 2005, and recorded in the Official Records on May 26, 2005, as Instrument Number 2005-0419668 (the "SunCal Assignment").

D. SunCal, through its Chapter 11 bankruptcy estate, subsequently assigned all of its right, title, and interest in the Original Development Agreement to Owner, as designee of SunCal's creditor Lehman ALI Inc., a Delaware corporation, pursuant to that certain Assignment and Assumption Agreement dated April 27, 2012 (the "Bankruptcy Court Assignment"). The Original Development Agreement is listed as item 1 of Exhibit "A" to the Bankruptcy Court Assignment, under the heading "Assumed Executory Contracts."

E. SunCal, through its Chapter 11 bankruptcy estate, and the City entered into that certain Memorandum of Understanding dated April 7, 2009 (the "Original Memorandum of Understanding"), which, among other things, contemplated that the City would acquire bridge materials from the Chapter 11 estate, and perform the environmental mitigation project.

F. Contemporaneously with entering into this Amendment the City and Owner are entering into that certain Settlement, Waiver, and Release Agreement (the "Settlement Agreement") whereby the parties release one another from certain claims as provided therein.

G. Contemporaneously with entering into this Amendment the City and Owner are also entering into that certain Memorandum of Understanding (the “New Memorandum of Understanding”) to, amongst other things, terminate the Original Memorandum of Understanding, as defined therein.

H. City and Owner now desire to amend the Original Development Agreement to, among other terms, extend the term of the Original Development Agreement, cooperate in the formation of a new community facilities district, and provide for payment to the City as provided therein.

I. Prior to entering into this Amendment, the City complied with all legal requirements for notice, public hearings, findings, votes, and other procedural matters necessary as a condition precedent to entering into this Amendment with Owner, including without limitation the requirements of the California Environmental Quality Act.

AGREEMENT

NOW, THEREFORE, in consideration of the above Recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. No Default. The City hereby confirms that (a) the Original Development Agreement, as assigned pursuant to the SunCal Assignment and the Bankruptcy Court Assignment and as amended by this Amendment (collectively, the “Development Agreement”), is in full force and effect and (b) to the best of City’s knowledge no breach or default exists under the Development Agreement, nor has any act or omission occurred which, solely as a result of the giving of notice or passage of time, or both, would constitute a breach or default under the Development Agreement.

2. “Owner” Defined.

(a) Section 1.1.17 of the Original Development Agreement is hereby deleted in its entirety and replaced with the following:

“Owner” means LV Heartland LLC, a Delaware limited liability company, and its successors in interest to all or any part of the Property.

(b) Notwithstanding anything to the contrary set forth in Section 2.7 of the Original Development Agreement, all notices to Owner shall be delivered as follows:

LV Heartland LLC
c/o Lehman Brothers Holdings Inc.
3121 Michelson Drive, Suite 200
Irvine, California 92612
Attention: Eric Hoffman
E-mail: eric.hoffman@lehmanholdings.com

with a copy to:

LV Heartland LLC
 c/o Lehman Brothers Holdings Inc.
 1271 Avenue of the Americas, 40th Floor
 New York, New York 10020
 Attention: Peter Campbell
 E-mail: peter.campbell@lehmanholdings.com

with a copy to:

Gibson, Dunn & Crutcher LLP
 333 South Grand Avenue, Suite 4900
 Los Angeles, California 90071
 Attention: Douglas M. Champion, Esq.
 E-mail: dchampion@gibsondunn.com

3. “Property” Defined. Exhibit “A” of the Original Development Agreement is hereby deleted in its entirety and replaced with **Exhibit “A”** attached hereto and incorporated herein by reference.

4. Term. Section 2.3 of the Original Development Agreement is hereby deleted in its entirety and replaced with the following:

“Term.

The term of this Agreement (the “Term”) shall commence on the Effective Date and shall expire on December 9, 2028 (the “Expiration Date”). The Expiration Date shall be subject to a single option to extend the Expiration Date by an additional term of five (5) years provided that Owner has obtained building permits for at least five hundred (500) residential lots within the Project prior to the initial Expiration Date.

5. Exactions. Notwithstanding anything to the contrary set forth in the Original Development Agreement, including without limitation Section 3.7.1(d) therein, the Project shall be subject to all Development Exactions levied by the City against the Project and those imposed by the City on behalf of any other public agency including, but not limited to Transportation Uniform Mitigation Fees (“TUMF”) and Riverside County Multiple Species Habitat Conservation Plan (“MSHCP”) fees, at the rate as required at the time such fees are due and payable, which shall be at the time of issuance of building permits, or otherwise as specified by applicable law.

6. Consideration. In consideration of the mutual covenants, conditions, and agreements in this Amendment, Owner shall remit to City a fee of three million dollars (\$3,000,000.00) which shall be due and payable at the earlier to occur of (a) the time of the close of escrow of the sale of the Property by Owner to a third-party purchaser (“Buyer”), and (b) February 28, 2017. City hereby consents to the transfer of the Property to Buyer to the extent such consent is required by the terms of the Original Development Agreement. City further consents to the assignment by Owner to Buyer or its designee of that certain Deposit Agreement for Expenses

Incurred, dated May 13, 2014, by and among Riverside-Corona Resource Conservation District, City, and Owner. Notwithstanding the forgoing provisions of this Section 6, if City has not timely received the sum of three million dollars (\$3,000,000.00) from Owner as provided in this Section 6, this Amendment, the Settlement Agreement and New Memorandum of Understanding will not take effect, and shall be deemed null and void *ab initio*.

7. Water Well. Section 4.3.1 of the Original Development Agreement is hereby deleted in its entirety and replaced with the following:

“The City acknowledges that Owner’s predecessor-in-interest previously executed a Bill of Sale for a water well (“Well”) located on the Property which Owner believes currently exists on Parcel 14 of Parcel Map 34880. However, City makes no representation or warranty regarding the legal status or effect of such Bill of Sale as it pertains to the ownership and title to the Well or the underlying water rights. The Owner may only make use of the Well for irrigation and construction water on the Property and any habitat mitigation land associated with the Project and not for any other or offsite use. Concurrent with Owner’s payment of the amounts set forth in Section 6, the City agrees, at no cost to City, to execute a Bill of Sale to convey whatever title is held by the City to the Well back to Owner in its “AS IS, WHERE IS” condition, and to cooperate with Owner, at no cost to City, in Owner’s efforts to make such use of the Well and, to that end, shall cooperate with the Owner, at no cost to City, in good faith in Owner’s efforts with any requisite public agencies with jurisdiction over the Well, including but not limited to the California Department of Fish and Wildlife (“CDFW”), the Beaumont Cherry Valley Water District (“BCVWD”), and any other public agencies having jurisdiction over such matters, as applicable. Owner agrees to hold harmless and release City from and against any claims, actions, liability, or costs associated with conveying whatever title is held by the City in the Well to Owner.”

8. Relinquishment of Offer of Dedication. The Parties acknowledge that Parcel Map 34880 contains offers of dedication to the City for part or all of Parcel 15 and Parcel 17. The City has not accepted this offer of dedication, and hereby relinquishes its right to do so provided that Owner conveys Parcel 15 and Parcel 17 for conservation purposes as required by CDFW and in compliance with all land use entitlements and conditions of approval applicable to the Property.

9. Assumption of Mitigation Obligation.

(a) City assigns, and Owner assumes, any remaining habitat mitigation obligations under that certain Habitat Mitigation and Monitoring Plan for the Heartland Project dated November 20, 2006 (as amended, the “HMMP”) subject to the approval of CDFW. Promptly following the execution of this Amendment, the City and Owner shall diligently pursue approval by CDFW of an assignment and assumption agreement whereby the City assigns, and Owner assumes, any remaining obligations, including, but not limited to, habitat mitigation obligations under the HMMP. The form of such documentation shall be reasonably acceptable to both City and Owner. In the event that CDFW does not so approve the assignment and assumption by Owner of the HMMP and/or during the period while the assignment and assumption of the HMMP is pending with CDFW, City shall not be obligated to comply with the terms of the HMMP unless Owner advances the costs of compliance with the terms of the

HMMP to the City or undertakes such compliance efforts on behalf of the City subject to its reasonable approval.

(b) In the event that part of the Property is transferred and the Property is held by two or more parties (other than residential purchasers) all of the parties shall be jointly and severally liable under the Development Agreement.

10. Formation of New Community Facilities District. The provisions set forth in **Exhibit "B"** attached hereto are incorporated herein by reference. All terms and conditions regarding the New CFD (as defined in Exhibit "B") shall be governed by Exhibit "B". References in the Development Agreement to the "CFD" refer to CFD No. 93-1 only and shall not affect the provisions regarding the New CFD in Exhibit "B".

11. HOA Maintenance Obligations. In connection with Owner or its successors and assigns entering into a declaration of covenants, conditions, and restrictions for the Property ("CC&Rs") as and when required by the conditions of approval of the Heartland Specific Plan, the residential property owners' association described in such CC&Rs (the "Association") shall assume responsibility, at the Association's sole cost and expense, for all of the onsite maintenance obligations for the Project including but not limited to those set forth on **Exhibit "C"** attached hereto and incorporated herein by reference (the "Assumed Maintenance Obligations"). The Assumed Maintenance Obligations shall be expressly set forth in the CC&Rs, and the provision of the CC&Rs related to such Assumed Maintenance Obligations shall be subject to the prior written approval of the City Planning Director, in consultation with the City Attorney, and not be amended without the written consent of the City Planning Director, such consent not to be unreasonably withheld, conditioned, or delayed.

12. Lien Contracts. City agrees that Owner and its successors and assigns may utilize lien contracts pursuant to California Government Code Section 66499(a)(4) in lieu of bonds as security under the Subdivision Improvement Agreements executed in connection with the Project. Such lien contracts shall provide that prior to obtaining any ministerial permit for the Project, including a grading or building permit, or prior to commencing the installation and construction of any portion of the Improvements required by a Subdivision Improvement Agreement, Owner shall deposit any application or inspection fees, if any such fees are required under City regulations, applicable law, or ordinance, and Owner shall substitute payment and performance bonds within the entirety of the applicable Tract, for any other improvements which are needed for ingress and egress to the Tract and improvements which are amenities, utilities and other improvements which are related to such Tract in amounts satisfactory to the City in place of the lien contract, and at such time the City shall release the applicable lien contract and the City's lien associated therewith. The lien contracts shall be recorded in a first position ahead of any other mortgage, deed of trust, lien or encumbrance other than the lien for taxes and assessments not yet due and payable. The City shall not be required at any time to subordinate the lien contracts to any mortgage, deed of trust or other lien or encumbrance.

13. Recordation of Amendment; Runs with the Land. This Amendment shall be recorded in the Official Records by City. This Amendment shall run with the land and bind the successors and assigns of Owner.

14. Severability. If any term, provision, covenant or condition of this Amendment shall be determined invalid, void or unenforceable, the remainder of this Amendment shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Amendment.

15. Interpretation and Governing Law. This Amendment and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Amendment shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Amendment, all parties having been represented by counsel in the negotiation and preparation hereof.

16. Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Amendment.

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

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

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

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

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

22. Approval. This Amendment shall not become effective until it has been approved by both parties and executed by their duly authorized representatives. In the case of City, approval requires compliance with the Development Agreement amendment process contained in Government Code Sections 65867, 65867.5 and 65868 including a notice of intent, public hearing and adoption by an ordinance.

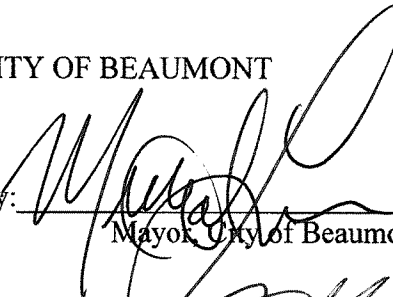
23. Interpretation. Except as specifically amended by this Amendment, the Original Development Agreement shall remain in full force and effect. To the extent of any inconsistency between this Amendment and the Original Development Agreement, this Amendment shall control. The Recitals to this Amendment are hereby incorporated herein by reference.

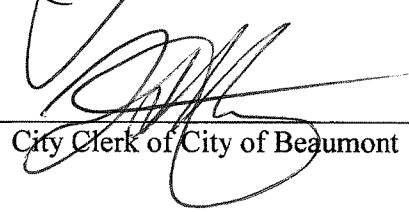
[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day and year first set forth above.

CITY:

CITY OF BEAUMONT

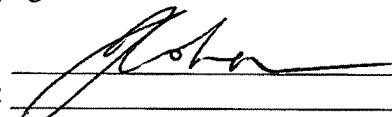
By:  _____
Mayor, City of Beaumont

Attest:  _____
City Clerk of City of Beaumont

OWNER:

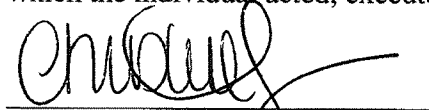
LV HEARTLAND LLC

By: LV M/H Ventures LLC, a DE LLC, its
managing member

By:  _____
Name: _____
Title: _____
Jonathan Cohen
Authorized Signatory

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 25th day of October in the year 2016 before me, the undersigned, personally appeared Jonathan Cohen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person or entity upon behalf of which the individual acted, executed the instrument.



Signature and Office of individual
taking acknowledgment

CHRISTINE NEGROM
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01NE6327770
QUALIFIED IN QUEENS COUNTY
MY COMMISSION EXPIRES JUL 13, 2019

EXHIBIT A

Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1: (414-380-001 THROUGH 414-380-069)

LOTS 1 THROUGH 69, INCLUSIVE, AND LETTERED LOTS A THROUGH F, INCLUSIVE, OF TRACT NO. 27971-1, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 443, PAGES 95 THROUGH 99, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 2: (414-390-001 THROUGH 414-390-059)

LOTS 1 THROUGH 59, INCLUSIVE, AND LETTERED LOTS A THROUGH G, INCLUSIVE, OF TRACT NO. 27971-2, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 443, PAGES 100 THROUGH 104, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 3: (414-400-001 THROUGH 414-400-084)

LOTS 1 THROUGH 84, INCLUSIVE, AND LETTERED LOTS A THROUGH F, INCLUSIVE, OF TRACT NO. 27971-3, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 1 THROUGH 5, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 4: (414-410-001 THROUGH 414-410-073)

LOTS 1 THROUGH 73, INCLUSIVE, AND LETTERED LOTS A THROUGH F, INCLUSIVE, OF TRACT NO. 27971-4, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 6 THROUGH 9, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 5: (414-110-048)

LOTS 1 THROUGH 127, INCLUSIVE, AND LETTERED LOTS A THROUGH J, INCLUSIVE, OF TRACT NO. 27971-5, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 448, PAGES 58

THROUGH 63, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 6: (414-420-001 THROUGH 414-420-072)

LOTS 1 THROUGH 72, INCLUSIVE, AND LETTERED LOTS A THROUGH E, INCLUSIVE, OF TRACT NO. 27971-6, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 10 THROUGH 14, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 7: (414-430-001 THROUGH 414-430-063)

LOTS 1 THROUGH 63, INCLUSIVE, AND LETTERED LOTS A THROUGH E, INCLUSIVE, OF TRACT NO. 27971-7, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 15 THROUGH 19, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 8: (414-440-001 THROUGH 414-440-083)

LOTS 1 THROUGH 83, INCLUSIVE, AND LETTERED LOTS A THROUGH G, INCLUSIVE, OF TRACT NO. 27971-8, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 20 THROUGH 24, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 9: (414-450-001 THROUGH 414-450-062 AND 414-460-001 THROUGH 414-460-040)

LOTS 1 THROUGH 102, INCLUSIVE, AND LETTERED LOTS A THROUGH F, INCLUSIVE, OF TRACT NO. 27971-9, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 25 THROUGH 30, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 10: (414-470-001 THROUGH 414-470-072 AND 414-480-001 THROUGH 414-480-081)

LOTS 1 THROUGH 153, INCLUSIVE, AND LETTERED LOTS A THROUGH J, INCLUSIVE, OF TRACT NO. 27971-10, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 31 THROUGH 36, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 11: (414-490-001 THROUGH 414-490-066)

LOTS 1 THROUGH 66, INCLUSIVE, AND LETTERED LOTS A THROUGH D, INCLUSIVE, OF TRACT NO. 27971-11, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 37 THROUGH 40, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 12: (414-500-001 THROUGH 414-500-067)

LOTS 1 THROUGH 67, INCLUSIVE, AND LETTERED LOTS A THROUGH E, INCLUSIVE, OF TRACT NO. 27971-12, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 41 THROUGH 44, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 13: (414-110-056 THROUGH 414-110-064 AND 414-100-039 AND 414-100-040)

PARCELS 13 THROUGH 23, INCLUSIVE, AND LETTERED LOTS A, C, F, G, H, I, AND X ALL OF PARCEL MAP NO. 34880, RECORDED IN BOOK 237 OF PARCEL MAPS, PAGES 67 THROUGH 76, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA.

EXHIBIT B

Community Facilities District Financing Provisions

1.1 Formation of New CFD

(a) Background. Owner desires to form a New CFD (as defined below) to develop over time approximately two hundred twenty-eight acres of the Property as approximately 981 single-family residential lots (the “**CFD Property**”), and to finance various infrastructure improvements through such New CFD.

(b) Formation. City shall, upon the petition of the Owner described below, take the steps to establish a community facilities district (“**New CFD**”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “**CFD Act**”) in the manner described in this Section 1.1.

(c) Petition. At any time, Owner may petition City under the CFD Act to establish the New CFD over the CFD Property. In its petition, Owner may include proposed specifications for the New CFD, including special tax rates (“**Special Taxes**”), New CFD boundaries and any proposed tax zones, the total tax burden that will result from the imposition of the special taxes (subject to the 2.00% Limitation (as defined below) for residential units), and other provisions. Owner’s proposed specifications will be based on Owner’s development plans, market analysis, and required preferences, but in all cases will be subject to the Development Agreement and the CFD Goals (as defined herein). The City shall have the right to review and object to any market analysis or home price assumptions it believes to be unreasonable. The City reserves the right to hire an independent pricing analyst to review and verify the Owner’s projected pricing. The City’s obligation to form the New CFD shall be subject to the provisions of the Development Agreement, the CFD Goals, and the reasonable exercise of the City Council’s legislative discretion.

(d) Commencement of Formation of New CFD. Within ninety (90) days following City’s receipt of a petition and a deposit of \$50,000.00, the City Council shall adopt a resolution of intention to form the New CFD consistent with the petition. The New CFD shall have a rate and method of apportionment of special tax (the “**RMA**”), authorization to issue one or more series of special tax bonds (“**CFD Bonds**”), and an appropriations limit. A notice of special tax lien required by Section 3114.5 of the California Streets and Highways Code (the “**Notice of Special Tax Lien**”) shall be recorded against each taxable parcel within the New CFD upon completion of formation of the New CFD.

(e) Authorized Financing. The New CFD shall be authorized to finance both of the following:

(i) Refunding of all outstanding bonds of Improvement Area No. 5 of City of Beaumont Community Facilities District No. 93-1 that encumber the CFD Property (the “**Refunding**”); and

(ii) The Facilities (as defined in Section 1.2 below), irrespective of the geographic location of the improvements financed.

(f) Service Special Taxes. The New CFD shall include special taxes to pay for police, fire, and paramedics and other emergency services (“**Public Safety Services**”) of \$419 annually escalating by the greater of 5% or CPI. Such special tax rate shall escalate commencing in Fiscal Year 2018.

(g) Joint Community Facilities Agreements. Under the CFD Act, City may be required to enter into one or more joint community facilities agreements with other governmental entities that will own or operate any of the Facilities to be financed by the New CFD. The City and Owner agree that they will take all reasonable steps to procure the authorization and execution of any required joint community facilities agreements with other governmental entities before the issuance of any CFD Bonds that will finance the construction or acquisition of Facilities that will be owned or operated by such other governmental entities. Owner acknowledges and agrees that the ability of the City to enter into joint community facilities agreements is subject to the discretion of the other governmental entities.

1.2 Scope of CFD-Financed Costs

(a) Facilities. The New CFD shall be authorized to finance all or any portion of the items described in Section 53313.5 of the CFD Act, in each case to the extent agreed upon by the City and Owner at the time of formation of the New CFD (collectively, the “**Facilities**”). Under no circumstances shall the New CFD be obligated to finance capital improvement fees in lieu of facilities.

1.3 Parameters of CFD Formation

(a) Cooperation. Owner and City agree to cooperate reasonably in developing the RMA to be used in the New CFD. Owner and City will each use good-faith reasonable efforts at all times to furnish timely to the other, or to obtain and then furnish to the other, any information necessary to develop the RMA, such as Owner’s plans for the types, sizes, numbers, and timing for construction of buildings within the New CFD.

(b) Maximum Special Tax Rates for Developed Property. The RMA for the New CFD will specify the maximum Special Tax rates for “**Developed Property**” (property for which a building permit has been issued) within the New CFD (the “**Maximum Special Tax Rates**”). The Maximum Special Tax Rates for Developed Property may vary based on sizes, densities, types of buildings to be constructed, and other relevant factors. The RMA will establish Maximum Special Tax Rates assuming that any CFD Bonds issued will have a minimum debt service coverage-ratio of one hundred ten percent (110%) plus administrative expenses of the City. The Maximum Special Tax Rates shall include a special tax to pay for Facilities (a “**Facilities Special Tax**”) and a special tax to pay for Public Safety Services.

(c) Total Tax Obligation. The Maximum Special Tax Rates which shall include the special taxes levied for Facilities and Public Safety Services will be set so that the Total Tax Obligation (as defined below) on any residential unit within the New CFD at the time of formation of the New CFD will not exceed two percent (2.00%) of the anticipated sales price

of that residential unit (the “**2.00% Limitation**”). The anticipated sales price of a residential unit may be based on reasonable projections of value over time or at the City’s sole discretion a market price study prepared by an independent consultant and paid for by the Owner.

(i) For purposes of this Section 1.3, the term “**Total Tax Obligation**” means, with respect to a residential unit at the time of calculation, the sum of: (a) the ad valorem taxes actually levied or projected to be levied if the residential unit were developed at the time of calculation; (b) the Maximum Special Tax Rates levied or projected to be levied if the residential unit were developed at the time of calculation; and (c) all other special taxes (based on assigned special tax rates) or assessments collected on the secured tax roll by the County and secured by a lien on the residential unit levied or projected to be levied if the residential unit was developed at the time of calculation. Homeowners' association fees shall not be included in the calculation of the Total Tax Obligation.

(d) No Escalation of Facilities Special Tax Rates. The Special Tax Rates for Facilities shall not escalate. The Special Tax Rates for Public Safety Services shall escalate as provided in Section 1.1(f) hereof.

(e) Use of Special Taxes for Direct Payment of Facilities. Owner and City agree that the RMA and the New CFD formation proceedings shall provide that Facilities may be financed directly from Facilities Special Taxes prior to the issuance of the first series of CFD Bonds but there shall be no obligation of the New CFD to levy Facilities Special Taxes directly for Facilities after the issuance of the first series of Bonds. The RMA will contain a provision that levies and apportions the Facilities Special Taxes at the maximum amount on all parcels of Developed Property regardless of debt service until the first series of CFD Bonds are issued, and all Facilities Special Taxes collected that remain after paying administrative expenses shall be used to finance Facilities.

(f) Prepayment. The RMA will include provisions allowing an Owner within an Improvement Area that is not in default of its obligation to prepay the Owner’s Special Tax obligation related to the Facilities. The Special Taxes related to Public Safety Services shall not be subject to prepayment. Prepaid Special Taxes will be placed in a segregated account in accordance with the applicable Indenture (defined below). The RMA and the Indenture will specify the use of prepaid Special Taxes. Before CFD Bonds are issued, all prepayment amounts other than those required for administrative expenses shall be used to finance Facilities (“Prepaid Special Taxes”).

1.4 Issuance of CFD Bonds

(a) Issuance. City, on behalf of the New CFD, intends to issue one or more series of CFD Bonds secured by the maximum Facilities Special Tax in the RMA for purposes of financing the Facilities. Provided that at least twenty percent (20%) of the residential units anticipated for the CFD Property have been closed to homeowners, the Owner may submit a written request that City issue CFD Bonds, specifying requested issuance dates, amounts, and main financing terms. Following Owner’s request, Owner and City will meet with City’s public financing consultants to determine reasonable and appropriate issuance dates, amounts, and main financing terms that are consistent with the Development Agreement and the CFD

Goals. CFD Bonds shall be issued pursuant to an indenture, trust agreement, or fiscal agent agreement (however denominated, an “**Indenture**”) between the New CFD and a fiscal agent or trustee (however denominated, the “**Fiscal Agent**”). Owner acknowledges that the City is currently under investigation by the United States Securities and Exchange Commission and may not have access to the public capital markets to issue CFD Bonds in accordance with this Section 1.4 until such investigation is concluded, and such delay shall in no way constitute a default hereunder.

(b) Term. Each issue of CFD Bonds will have a term of not less than thirty (30) years and not more than thirty-five (35) years unless Owner and City agree otherwise; provided that in no event shall the term of the CFD Bonds exceed the term of the Special Tax for Facilities.

(c) For each series of CFD Bonds, the underwriter’s discount shall not exceed 1% of the principal amount of such series of CFD Bonds, and the costs of issuance and incidentals for each series of CFD Bonds shall be not in excess of \$300,000.

1.5 CFD Goals

(a) CFD Goals. Under Section 53312.7 of the CFD Act, prior to formation of the New CFD, the City must consider and adopt local goals and policies concerning the New CFD (the “CFD Goals”). To the extent that CFD Goals have not previously been adopted, the City Council will, on or before initiating formation of the New CFD, adopt CFD Goals consistent with this Section 1.5. The CFD Goals shall apply to the CFD Property in the New CFD on the date of formation. Future amendments to the CFD Goals shall not be applicable to the New CFD or the CFD Property unless required under the CFD Act or other controlling State or federal law. In particular, the CFD Goals include the following provisions, each of which the Owner is relying on:

(i) Value-to-Lien Ratio. The appraised or assessed value-to-lien ratio required for each CFD Bond issue (including all relevant overlapping liens) will be three to one (3:1) or such higher ratio that is (A) required by bond market conditions at the time of bond issuance, or (B) required by the CFD Act.

(ii) Coverage Ratio. An issue of CFD Bonds will not have a debt service coverage-ratio (including all overlapping and outstanding CFD Bonds) of less than one hundred ten percent (110%) plus reasonable administrative expenses, unless otherwise agreed to by the Owner and the City.

(iii) Letter of Credit. If the City reasonably determines that a letter of credit is required in order to issue the CFD Bonds, each landowner that owns property responsible for 20% or more of the Special Taxes for Facilities (a “**Large Landowner**”) shall provide a letter of credit in a stated amount not in excess of the Special Taxes expected to be levied on the portion of the CFD Property then-owned by a Large Landowner in the first year of the term of the CFD Bonds. Each letter of credit shall be reduced as portions of the CFD Property are sold to homeowners and may be terminated when the property owned by the Large

Landowner is no longer responsible for 20% or more of the Special Taxes for Facilities. Under no circumstances shall a homeowner or a model home financing company be required to provide a letter of credit.

1.6 Miscellaneous CFD Provisions

(a) Reserve Fund Earnings. The Indenture for each issue of CFD Bonds will provide that earnings on any reserve fund that are not then needed to replenish the reserve fund to the reserve requirement will be transferred to: (i) the project fund for the CFD Bonds for allowed uses until it is closed in accordance with the Indenture; then (ii) the debt service fund held by the Fiscal Agent under the Indenture. Notwithstanding the forgoing, if the Project Fund has not closed within three (3) years of the CFD Bond Issuance the City may at its sole discretion direct the reserve fund earnings to the debt service fund.

(b) Authorization of Reimbursements. City will take all actions necessary to satisfy section 53314.9 of the Government Code or any similar statute subsequently enacted to use CFD Bond proceeds and Facilities Special Taxes to reimburse Owner for: (i) New CFD formation and CFD Bond issuance deposits; and (ii) advance funding of Facilities or costs.

(c) Acquisition Agreement. Contemporaneously with the formation of the New CFD, Owner and City will execute an acquisition and funding agreement (the "Acquisition Agreement") that will apply to the acquisition and construction of the Facilities for the New CFD. The Acquisition Agreements shall contain an acknowledgment by the City and Owner as to the following:

(i) Owner may be constructing Facilities before CFD Bond proceeds, Facilities Special Taxes, and Prepaid Special Taxes (herein, "**Funding Sources**") that will be used to acquire them are available;

(ii) The City will inspect Facilities and process payment requests even if Funding Sources for the amount of pending payment requests are not then sufficient to satisfy them in full;

(iii) Facilities may be conveyed to and accepted by the City or other governmental entity before the applicable payment requests are paid in full;

(iv) If the City or other governmental entity accepts Facilities before the applicable payment requests are paid in full, the unpaid balance will be paid when sufficient Funding Sources become available, and the Acquisition Agreement will provide that the applicable payment requests for Facilities accepted by the City or other governmental entity may be paid: (A) in any number of installments as Funding Sources become available; and (B) irrespective of the length of time payment is deferred;

(v) Owner's conveyance or dedication of Facilities to the City or other governmental entity before the availability of Funding Sources to acquire the Facilities is not a dedication or gift, or a waiver of Owner's right to payment of Facilities under the Development Agreement or the Acquisition Agreement; and

(vi) City will have no obligation to acquire the Facilities or reimburse Owner with any moneys other than the Funding Sources.

(d) the Owner acknowledges that in accordance with Section 53313.5 of the CFD Act, that the CFD may only finance the purchase of Facilities completed after the adoption of the resolution of the formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of the local agency that will own or operate the facility, and the Acquisition Agreement will contain the terms necessary to satisfy this condition.

(e) Initial and Continuing Disclosure. In connection with each issue of CFD Bonds, the Owner shall provide customary disclosure about the Owner and its development and financing plans including opinions of counsel and certificates and representations as may be reasonably and customarily required by the City and/or the underwriter of the CFD Bonds. In addition, Owner shall comply with all of its obligations under any continuing disclosure agreement it executes in connection with the offering and sale of any CFD Bonds. Owner acknowledges that a condition to the issuance of any CFD Bonds may be Owner's execution of a continuing disclosure agreement.

(f) No Other Land-Secured Financings. Other than the New CFD and any community facilities district initiated by the City as the result of a qualified petition of registered voters residing in the New CFD, City shall not form any additional community facilities district over any portion of the property in the Project without Owner's written consent which may be given in its sole discretion. The City shall not form any additional land-secured financing district over the property in the New CFD unless the property in the New CFD is found to have special benefit from the improvements being financed; provided, however, under no circumstances may an additional land-secured financing district be formed over the property in the New CFD to pay for any part of the costs of the Potrero Interchange improvements (it being understood and agreed by the City and the Owner that the Property shall have no obligation to fund such Potrero Interchange improvements). Notwithstanding that any such additional land-secured financing district qualifies under the preceding sentence, the Owner reserves the right to oppose or vote against any such formation or levy.

(g) Prevailing Wages. As a condition of the acquisition of Facilities financed through the New CFD, the Owner shall require, and the specifications and bid and contract documents shall require, all contractors engaged to perform work on the Facilities to pay prevailing wages and to otherwise comply with applicable provisions of the California Labor Code.

(h) Disclosure to Property Owners. Owner agrees to provide, or cause to be provided, the disclosure to purchasers of property in the New CFD in the manner and at the time required by the CFD Act.

(i) Attorneys' and Consultants' Fees. Owner agrees to enter into a deposit agreement whereby it advances the City's attorneys' and consultants' fees associated with implementing the New CFD. The deposit agreement shall provide that any costs so advanced by the Owner may be reimbursed to the Owner out of the proceeds of the CFD Bonds.

EXHIBIT C

HOA Maintenance Obligations

1. Landscape and Tree Maintenance: Lot BB of Parcel Map 34880; Lots 68 and 69 of Tract No. 27971-1; Lots 58 and 59 of Tract No. 27971-2; Lots 83 and 84 of Tract No. 27971-3; Lot 73 of Tract No. 27971-4; Lots 125 through 127, inclusive, of Tract No. 27971-5; Lots 71 and 72 of Tract No. 27971-6; Lots 60 through 63, inclusive, of Tract No. 27971-7; Lots 81 through 83, inclusive, of Tract No. 27971-8; Lots 101 and 102 of Tract No. 27971-9; Lots 152 and 153 of Tract No. 27971-10; Lots 59 through 66, inclusive, of Tract No. 27971-11; and Lots 62 through 67, inclusive, of Tract No. 27971-12
2. Community Walls and Monuments
3. Street Lights
4. Street Sweeping and Maintenance: Lots A through Z, inclusive; lots AA and CC of Parcel Map 34880; lettered lots A through F, inclusive, of Tract No. 27971-1; lettered lots A through G, inclusive, of Tract No. 27971-2; lettered lots A through F, inclusive, of Tract No. 27971-3; lettered lots A Through F, inclusive, of Tract No. 27971-4; lettered lots A through J, inclusive, of Tract No. 27971-5; lettered lots A through E, inclusive, of Tract No. 27971-6; lettered lots A through E, inclusive, of tract No. 27971-7; lettered lots A through G, inclusive, of Tract No. 27971-8; lettered lots A through F, inclusive, of Tract No. 27971-9; lettered lots A through J, inclusive, of Tract No. 27971-10; A through D, inclusive, of Tract No. 27971-11; lettered lots A through E, inclusive, of Tract No. 27971-12
5. Parks Maintenance: Parcels 14, 19, 20, 21, 22, 23 of Parcel Map 34880
6. Mitigation Open Space (to be transferred to 3rd party entity): Parcels 15 and 17 of Parcel Map 34880
7. Trails Maintenance: Parcels 14, 19, 21 and 23 and Lot BB of Parcel Map 34880
8. Graffiti Abatement
9. Drainage Improvements: Parcels 16 and 18 of Parcel Map 34880
10. Water Well: Parcel 14 of Parcel Map 34880

490898

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL
TO:

City Clerk
City of Beaumont
P. O. Box 158
Beaumont, Ca 92223

RECEIVED FOR RECORD
AT 8:00 O'CLOCK

DEC 9 - 1993

Recorded in Official Records
of Riverside County, California
W. J. [Signature] Recorder
Fees \$

HEARTLAND BEAUMONT CALIFORNIA L.T.D.
DEVELOPMENT AGREEMENT

490898

This Development Agreement (hereinafter this "Agreement") is entered into effective on the date it is recorded with the Riverside County Recorder (hereinafter the "Effective Date") by and between the City of Beaumont (hereinafter the "City"), and Heartland Beaumont California L.T.D. (hereinafter the "Owner"). This Agreement is entered into with reference to the following Recitals:

RECITALS

A. In order to strengthen the public planning process, to encourage private participation in comprehensive planning, and to reduce the economic risks of development, the Legislature of the State of California has adopted sections 65864 through 65869.5 of the Government code which authorize the City and the Owner to enter into this Agreement for purposes of facilitating the development of the property as described herein.

B. The City, by adopting Resolution No. 1987-34, has adopted rules and regulations establishing procedures and requirements for the consideration of this Agreement.

C. This Agreement is also entered into with reference to and pursuant to the general municipal powers of the City as established by case law made by the courts of the State of California, including, without limitation, such law as has been established in the cases of Morrison Homes Corporation v. City of Pleasanton (1976) 58 Cal.App.3d 724 and Carruth v. City of Madera (1965) 233 Cal.App.2d 688.

D. Owner owns in fee that certain unimproved real property consisting of approximately four hundred twenty-nine (429) acres located in the City of Beaumont, County of Riverside, State of California, which property is more fully described and shown on Exhibit A attached hereto and incorporated by reference herein (hereinafter "Property").

E. Owner has heretofore indicated its desire to develop the Property in the manner provided for in this Agreement within the City. The City has heretofore indicated its desire to mitigate public facility impacts related to the development of the Project as provided for in this Agreement. To accomplish their mutual intent, the Owner and the City have heretofore taken the actions described in the Recitals set forth herein.

F. Prior to February 8, 1993, the City prepared the City of Beaumont General Plan and Environmental Impact Report (respectively the "General Plan" and "General Plan EIR"). On February 8, 1993, the City Council of the City, after duly complying with the California Environmental Quality Act and all statutes, ordinances and resolutions applicable to the adoption of the General Plan and certification of the General Plan EIR; adopted its Resolution No. 1993-04 certifying that the EIR had been completed in compliance with the California Environmental Quality Act and adopted its Resolution No. 1993-05 approving the General Plan.

G. On June 29, 1993, the City Council approved the City of Beaumont Community Facilities District No. 93-1 ("CFD No. 93-1" or the "CFD") as part of the City Comprehensive Public Facilities Financing Program (the "City Program") pursuant to which the City determined that it was appropriate to provide for certain public facilities and services in order to implement the General Plan and, further, that such facilities and services could best be facilitated through the City issuing bonds secured by liens on real property to be developed within the City. City and Owner determined that it is in the best interests of the City and Owner to participate in the CFD and, as part of such participation, to cooperate in the issuance of the bonds and the placing of a lien upon the Property to secure repayment of a portion of the bonded indebtedness created as a result of the establishment of the CFD.

H. This Agreement is consistent with the General Plan.

I. Prior to adopting this Agreement, City and Owner complied with all procedures and requirements of the California Environmental Quality Act with respect to the Project and the Agreement.

J. The terms and conditions of this Agreement have been extensively reviewed by the City, its Planning Commission and its City Council and have been found to be fair, just and reasonable, to be in the best interest of the citizens of the City, and to serve public health, safety, and welfare, and the City Council has further found that the Development of the Property in accordance with the General Plan, the General Plan EIR, the Development Plan, the EIR and this Agreement will provide substantial benefits to the City with respect to implementing City policies and goals which promote community, economic, public infrastructure, and high quality, managed development.

K. Owner has (i) advanced funds for CFD No. 93-1 public facility planning, design, environmental compliance and CFD No. 93-1 formation and issuance costs, (ii) incurred and will in the future incur substantial costs in order to develop the Property in accordance with this Agreement, and Owner would not incur such future costs without obtaining the legally enforceable assurances with respect to the Development of the Property as contained in the Development Plan, the CFD No. 93-1 formation documents, the Bond Sale Limitation Agreement and this Agreement. In addition, by participating in CFD No. 93-1, Owner has incurred and will incur in the future substantial costs in excess of the requirements generally applicable to Development of the Property such as that contemplated by this Agreement in order to insure vesting of legal rights related to Development of the Property in accordance with this Agreement.

L. Prior to entering into this Agreement, City complied with all legal requirements for notice, public hearings, findings, votes, and other procedural matters necessary as a condition precedent to entering into this Agreement with Owner.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "Bond Sale Limitation Agreement" means the agreement by and between the City and the Owner relating to the timing and amount of bonds to be issued under the CFD No. 93-1 proceedings.

1.1.3 "BSFF" means the \$500.00 component of the per EDU fee for City facility and service mitigation entitled the City Basic Services and Facilities Fee adopted pursuant to Ordinance No. 506 of the City.

1.1.4 "CFD" or "CFD No. 93-1" means Community Facilities District No. 93-1 of the City of Beaumont.

1.1.5 "City" means the City of Beaumont, a municipality duly incorporated under the laws of the State of California.

1.1.6 "City Program" means the City Comprehensive Public Facilities Financing Program which includes policies and procedures related to public infrastructure financing which are or will be adopted and/or implemented on a City-wide and/or area of benefit basis.

1.1.7 "Completion Date" means the date the City wastewater engineer certifies completion of construction of the City Stage I Wastewater Treatment Plant Expansion partially funded by the CFD.

1.1.8 "Critical Facilities and Services" means facilities and services of the City relating to law enforcement, fire protection, transportation, wastewater treatment and parks, recreation and open space.

1.1.9 "Development" means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of

buildings and structures; and the installation of landscaping. "Development" does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.10 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with Development of the Property including:

- (a) General Plan designations and amendments;
- (b) Specific plans and specific plan amendments;
- (c) Zoning;
- (d) Tentative and final subdivision and parcel maps;
- (e) Conditional use permits, public use permits and plot plans;
- (f) Planned unit development and planned development approvals;
- (g) Variances;
- (h) Lot line adjustments;
- (i) Grading and building permits; and
- (j) Occupancy permits

1.1.11 "Development Exaction" means any requirements of the City in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction or improvement of public facilities, or the payment of fees adopted by action of the City Council in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests; excepting therefrom development exactions by agencies other than the City applied through the Land Use Regulations or Development Approvals over which the City has no direct control, and Development Exactions with respect to sewer connection fees.

1.1.12 "Development Plan" means the Existing Development Approvals and the Existing Land Use Regulations applicable to Development of the Property.

1.1.13 "Effective Date" means the date this Agreement is recorded with the County Recorder.

1.1.14 "Existing Development Approvals" means all Development Approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the Development Approvals identified in Recital G herein and those incorporated herein as Exhibit "C," together with all other Development Approvals which are a matter of public record on the Effective Date.

1.1.15 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date. Existing Land Use Regulations includes the Land Use Regulations incorporated herein as Exhibit "D" and all other Land Use Regulations which are a matter of public record on the Effective Date.

1.1.16 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations and official policies of City governing the Development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. The term "Land Use Regulations" does not include any City ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) The conduct of businesses, professions, and occupations;
- (b) Taxes and assessments;
- (c) The control and abatement of nuisances;
- (d) The granting of encroachment permits, extensions of time and the conveyance of rights and interests which provide for the use of or the entry upon public property;
- (e) The exercise of the power of eminent domain.

1.1.17 "Owner" means Heartland Beaumont California L.T.D. and its successors in interest to all or any part of the Property.

1.1.18 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender and their successors and assigns.

1.1.19 "Project" means the Development of the Property contemplated by the Development Plan as such Plan may be further defined, enhanced, or modified pursuant to the provisions of this Agreement.

1.1.20 "Property" means the real property described on Exhibit "A" and shown on Exhibit "B" to this Agreement.

1.1.21 "Reservations of Authority" means the rights and authority excepted from the assurances and rights provided to Owner under this Agreement and reserved to City under Subsection 3.7.1 of this Agreement.

1.1.22 "Subsequent Development Approvals" means all Development Approvals required or requested by Owner and approved by City subsequent to the Effective Date in connection with Development of the Property.

1.1.23 "Subsequent Development Exaction" means all Development Exactions applied to the Development Plan following the Effective Date of this Agreement.

1.1.24 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit "A" -- Legal Description of the Property.

Exhibit "B" -- Map showing Property and its location.

Exhibit "C" -- Existing Development Approvals.

Exhibit "D" -- Existing Land Use Regulations.

Exhibit "E" -- CFD Resolutions of Formation.

Exhibit "F" -- Sewer Service Facilities Construction Schedule.

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out only in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of the fee simple title to the Property or a portion thereof.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of twenty five (25) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign the Property in whole or in part at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall be made only with notice to the City and shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following conditions precedent:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or part of the Property.

(b) Concurrent with any such sale, transfer or assignment, or within thirty (30) business days thereafter, Owner shall notify the City in writing, of such sale, transfer or assignment, ~~and shall provide the City with an executed release agreement, in a form acceptable to the City, by the purchaser, transferee or assignee and providing expressly and unconditionally that the purchaser, transferee, or assignee assumes all the rights, duties and obligations of the Owner under this Agreement with respect to the property interest sold, transferred or assigned.~~ *SPW III*

(c) In the event there is a transfer of a portion of the Property, then the Owner and the transferee may elect by written agreement to allocate between themselves fee credits available pursuant to Section 4.7, sewer connection rights pursuant to Section 4.2.5, or other benefits available to the Owner under this Agreement, in any manner they see fit and such allocations shall be as set forth in the written agreement between the Owner and the transferee, a copy of which agreement shall be filed with the City. In the event the Owner and the transferee have not made a written allocation of such benefits, then such benefits of the Agreement shall be allocated between the Owner and the transferee on a prorata (by area of land) basis as determined in the sole and reasonable discretion of the City.

Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by the Owner under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by Paragraph (b) of this Subsection 2.4.1, the rights, duties and obligations of this Agreement shall be binding upon such purchaser, transferee or assignee until and unless such agreement is executed.

A sale, transfer, or assignment of the Property, in whole or in part, shall not, in and of itself, give City the right to apply subsequent Development Exactions or Subsequent Land Use Regulations upon the Project.

2.4.2 Release of Transferring Owner. Notwithstanding any sale, transfer or assignment, a transferring Owner shall continue to be obligated under this

Agreement unless such transferring Owner applies for a release request and is given a release in writing by City, which release shall be provided by City upon the full satisfaction by such transferring Owner of the following conditions:

(a) Owner no longer has a legal or equitable interest in the Property (or portion of the Property) sold, transferred or assigned.

(b) Owner has provided City with the release request notice and executed release agreement required under Paragraph (b) of Subsection 2.4.1.

2.4.3 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section.

2.4.4 Partial Release of Purchaser, Transferee or Assignee of School Lot. A purchaser, transferee or assignee of a lot, which has been subdivided as provided for in the Development Plan and for which a school lot has been approved pursuant to the Development Plan, may submit a release request, in writing, to the City to release, ~~concurrently with the issuance of an occupancy permit~~, said lot from the rights, duties and obligations under this Agreement. Within ninety (90) days of such request, the City shall review, and if the above conditions are satisfied shall approve the request for release and notify the purchaser, transferee or assignee in writing thereof. The City shall not unreasonably withhold its approval of such a release. *SPWII*

2.4.5 Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply to the sale or lease (for a period longer than one year) of any lot which has been subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The lot has been subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user.

(b) A Certificate of Occupancy has been issued for a building on the lot in accordance with the Development Plan and this Agreement.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or canceled in whole or in part only by written consent of the parties in the manner provided for in Government Code Section 65868. This provision shall not limit any remedy of City or Owner as provided by this Agreement.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

- (a) Expiration of the stated term of this Agreement as set forth in Section 2.3.
- (b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.
- (c) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by the City and applicable public agencies of all required dedications and public improvements.

2.7 Notices

(a) As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) on the date of delivery shown in the records of the telegraph company after transmission by telegraph to the recipient named below. All notices shall be addressed as follows:

If to City: City Clerk
City of Beaumont
550 East Sixth Street
Beaumont, CA 92223-0158

and City Manager
City of Beaumont
550 East Sixth Street
Beaumont, CA 92223-0158

If to Owner: Stephen P. Walker, III
Heartland Beaumont California L.T.D.
701 Fifth Avenue
Seattle, WA 98104

*c/o Heartland
4650 Columbia Center
SPWII*

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or

representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to the terms of this Agreement, including the Reservations of Authority, the Owner shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. Development of the Project shall be subject to all Subsequent Development Approvals and, subsequent to the date specified in Subsection 3.7.1(d), Subsequent Development Exactions required by the City to complete the Project as set forth in the Development Plan and this Agreement. The City agrees to process in good faith the balance of approvals needed to develop the Property in accordance with the Development Plan. Once approved, all Subsequent Development Approvals shall be deemed part of the Development Plan and subject to the vested rights set forth herein. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan. The Development Plan entitles the Owner to develop 1,291 single-family detached units on the Property. The exact mixture of each residential product type (single-family detached, single-family attached, and multi-family apartments) proposed in relation to Subsequent Development Approvals shall be at the sole election of the Owner, subject only to the limits set forth in the Development Plan. The Development Plan also entitles the Owner to develop retail commercial and/or industrial buildings, and such other uses as have been approved within the Development Plan.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement, including the Reservations of Authority; the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to development of the Property shall be the Existing Land Use Regulations and the Development Plan. In connection with any Subsequent Development Approval, the City shall exercise its discretion in accordance with the Development Plan, and as provided by this Agreement including, but not limited to, the Reservations of Authority. The City shall accept for processing, review and action all applications for Subsequent Development Approvals, and such applications shall be processed in the normal manner for processing such matters.

3.3 Effect of Agreement on General Plan. The City and the Owner acknowledge that the feasibility of the Development Plan and the value of the Property is dependent in part upon the City permitting the Development of the Property in accordance with the General Plan as set forth in the Existing Land Use Regulations and in accordance with the City Program. Therefore, the City shall not amend the General Plan in any manner which would materially and adversely impact the Owner's Development or use of the Property as provided in the Development Plan.

3.4 Timing of Development. The parties acknowledge that Owner cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of the Owner, such as market conditions, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the time of development to prevail over such parties' agreement; it is the parties' intent to cure that deficiency by acknowledging and providing that the Owner shall have the right to develop the Property in such order and at such rate and at such times as the Owner deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in the Development Plan or the Phasing Plan set forth in Section 3.5.

3.5 Phasing Plan. Development of the Property shall be subject to all timing and phasing requirements established by the Development Plan.

3.6 Changes and Amendments. The parties acknowledge that refinement and further Development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event the Owner finds that a change in the Existing Development Approvals is necessary or appropriate, the Owner shall apply for Subsequent Development Approvals to effectuate such change and the City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. If approved, any such change in the Existing Development Approvals shall be incorporated herein as an addendum to Exhibit "C", and may be further changed from time to time as provided in this Section. Unless otherwise required by law, as determined in the City's reasonable sole discretion, a change in the Existing Development Approvals shall be deemed "minor," shall not require a public hearing, and not require an amendment to this Agreement, and shall be made administratively by the City at the request of the Owner, provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or,
- (b) Increase the density or intensity of use of the Property as a whole; or,
- (c) Increase the maximum height and size of permitted buildings; or,
- (d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,
- (e) Constitute a project requiring an environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.7 Reservations of Authority.

3.7.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations, and no others, shall apply to the Development of the Property.

(a) Processing fees and charges reasonably imposed by City to cover the reasonable estimated actual costs to the City of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued provided that such fees and charges are applied uniformly or on an area of benefit basis to development in the City.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Regulations and policies governing construction standards, extensions of time and specifications including, without limitation, the City's Building Code, Plumbing code, Mechanical Code, Electrical Code, Fire Code and Grading Code.

(d) Subsequent Development Exactions; provided, however, that such exactions shall be only those for Critical Facilities and Services which are imposed on (1) residential development after the earlier of (a) ten (10) years from the Effective Date or (b) issuance of two hundred fifty nine (259) residential building permits for the Property, or any portion thereof, and, (2) non-residential development within the Project after twelve (12) years from the Completion Date; and, that no such exactions shall be applicable to the Development of the Property unless such exaction (i) is applied uniformly to development, either throughout the City or within a defined area of benefit which includes the Property, and (ii) complies with all laws applicable to such exactions. Any Subsequent Development Exactions which the City is empowered to levy pursuant to this Agreement shall not exceed the "fair share" of the benefit allocable to the specific parcel(a) against which such exaction is imposed, determined pro rata in proportion to the benefit allocable to all properties, developed or undeveloped, in the area of benefit of the program, facility or service to be funded, as provided by law.

No subsequently adopted Development Exaction shall apply if its application to the Property would substantially interfere with the Development of the Property in accordance with the existing development approvals.

(e) Regulations which are not in conflict with the Development Plan; however, any ordinance, resolution, regulation, or measure which is enacted, whether by action of the City, by initiative, referendum, or otherwise, which relates to the rate, timing or sequencing of the Development or construction of the Project, shall be deemed to be in conflict with the Development Plan and shall therefore not be applicable to

the Development of the Property. Without limiting the foregoing, any limitation affecting timing of the availability of permits, approvals, or other entitlements relating to subdivision maps, building permits, utility connections, or other entitlements necessary for the Development of the Project shall be deemed to be in conflict with the Development Plan and shall therefore not be applicable to Development of the Property.

3.7.2 Subsequent Development Approvals. This Agreement shall not restrict the City in acting on Subsequent Development Approvals and from applying Subsequent Land Use Regulations which do not conflict with but which may provide definition to the Development Plan, nor shall this Agreement prevent the City from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

3.7.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.7.4 Intent. The parties acknowledge and agree that the City is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to the City all of its police power which cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to the City all such power and authority which cannot be restricted by contract.

3.8 Provision of Real Property Interests by City. Except as otherwise provided herein, in any instance where the Owner is required, pursuant to a condition of approval of the Development of the Property, to construct any public improvement on land not owned by the Owner; the Owner shall attempt in good faith to provide or cause to be provided at its sole cost and expense the real property interests necessary for the construction of such public improvements. In the event the Owner is unable, after exercising reasonable efforts, including, but not limited to, the rights under Sections 1001 and 1002 of the Civil Code, to acquire the real property interests necessary for the construction of such public improvements, the City shall, if necessary, in accordance with the procedures established by law, use its power of eminent domain to acquire such required real property interests. The Owner shall pay all costs associated with such acquisition and condemnation proceedings, including City administration and legal costs. In the event of the advance funding of costs, City shall endeavor to provide a mechanism for Owner to recover such costs, including an adjustment for the cost of moneys advanced, from other owners of property benefiting from such improvements on a fair-share basis.

3.9 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of the City possess authority to regulate aspects of the Development of the Property separately from or jointly with the City and this Agreement does not limit the authority of such other public agencies acting separately from or jointly with the City. The City agrees to cooperate with and use its reasonable efforts in support of the Owner's efforts to obtain any required approvals from such other public agencies which may be necessary for the Development of Property in accordance with the Development Plan.

3.10 Tentative Tract Map Extension. Existing tentative subdivision or tentative parcel maps in connection with the Development of the Property shall be effective for the longer of the following periods of time:

(a) The period of time within which tentative subdivision or tentative parcel maps may be finalized on property which is not affected by a development agreement entered into pursuant to Government Code sections 65864 through 65869.5; or

(b) A term of ten (10) years from the Completion Date, provided that Owner may apply for and City may grant two (2) additional one-year extensions.

The terms of any tentative subdivision or tentative parcel map hereafter approved in connection with the Development of the Property pursuant to this Agreement shall be the longer of the following periods of time:

(a) The period of time within which tentative subdivision or tentative parcel maps may be finalized on property which is not affected by a development agreement entered into pursuant to Government Code sections 65864 through 65869.5; or

(b) Pursuant to Government Code section 66452.6(a), an initial term of ten (10) years from the approval of the tentative map, provided that Owner may apply for and City may grant two (2) additional one-year extensions and further provided that the total term of any such tentative map shall not exceed the term of this Agreement.

3.11 Vesting Tentative Maps. If any tentative or final subdivision map, or tentative or final parcel map, heretofore or hereafter approved in connection with Development of the Property, is a vesting map under Subdivision Map Act (Government Code Section 66410, *et seq.*) and if this Agreement is determined by a final judgment to be invalid or unenforceable insofar as it grants a vested right to develop to the Owner, then and to that extent the rights and protections afforded to the Owner under the laws and ordinances applicable to vesting maps shall supersede the provisions of this Agreement. Except as set forth immediately above, Development of the Property shall occur only as provided in this Agreement, and the provisions in this Agreement shall be controlling over any conflicting provision of law or ordinance concerning vesting maps.

4. PUBLIC IMPROVEMENTS AND FINANCING.

4.1 Streets and Highways.

4.1.1 Generally. The City has approved the conceptual Circulation Plan included within the Development Plan. Except as otherwise expressly provided herein, as Development of the Project proceeds and construction of various components of the Circulation Plan are required to serve the Project, the Owner shall dedicate to the City those specified streets and highways and related improvements to be constructed thereon which are designated as "public" streets and highways within the Circulation Plan of the Development Plan and subsequent Development Approvals; and the Owner shall construct or cause to be constructed the specified improvement for the streets and highways depicted within the Circulation Plan of the Development Plan and subsequent Development Approvals as Development of the Property proceeds. It is understood that such dedication and construction of the identified circulation improvements will proceed incrementally as reasonably determined by the City based upon traffic demands and in accordance with the phasing of the development of the Project. The City reserves the right to make minor changes to the Circulation Plan if the City determines in its sole reasonable judgement based upon traffic studies that such minor changes are necessary in order to accommodate projected traffic demands. Such minor changes shall in no event materially and adversely impact the Development Plan or the benefits to accrue to the Owner thereunder. The City agrees to use its best efforts to facilitate the construction of the circulation improvements in accordance with this Agreement.

4.1.2 Transportation Benefit District. The City agrees to use its best efforts to form and implement a "Transportation Benefit District" ("TBD") within two (2) years of the sale of CFD 1993A bonds for the purpose of allocating to and imposing fees and/or assessments upon other properties which benefit from the costs incurred by the Owner in improving streets identified by the General Plan or streets having four (4) or more travel lanes. The TBD shall provide for the allocation of costs, including interest on moneys advanced, fees and assessments based upon the City traffic indexes, credits and reimbursements, and shall be developed in conjunction with the City Program.

4.1.3 Through Streets. It is agreed that the streets with four (4) or more travel lanes which are identified in the Circulation Plan of the Development Plan ("Through Streets") will be improved such that their traffic carrying capacities will be sufficient to serve area-wide traffic requirements and meet traffic demands beyond those created by the Project. Therefore, the City agrees to use its best efforts to facilitate the formation and implementation of a TBD to provide reimbursement to the Owner of street improvement costs which exceed those improvement costs which would be required to serve only the Project. Owner agrees to grant or dedicate without cost to the City, rights-of-way within the Property necessary for the Through Streets, including the right-of-way necessary to serve non-Project related traffic demand. The dedications shall take place only as such streets are required in order to facilitate the incremental Development of the Project or to serve area-wide traffic requirements as determined by the City. The TBD to be created shall be

designed so as to allocate and assess all properties benefitting from the Through Streets, as and when such properties develop, with a fair share of the costs, including interest on moneys advanced, associated with the Through Streets based upon the City traffic indices and the City polices and procedures adopted, concurrently or subsequent to the adoption of the City Program and provide for reimbursement to properties charged or assessed in amount in excess of its fair share cost.

4.1.4 Off-Site Streets. The Owner shall construct or otherwise cause to be constructed off site streets in accordance with the Development Plan and the standards and specifications of the City and other agencies having jurisdiction. The City shall use its best efforts to assist the Owner in obtaining all necessary agency approvals associated with improving off site streets. In the event the other agencies having jurisdiction or any other jurisdiction, requires the Owner to construct any off site street improvements, then the City shall use its best effort to assist the Owner in obtaining reimbursement from such agencies, or other potentially responsible or benefitted parties, of those costs, including interest on moneys advanced, associated with acquiring the right-of-way and constructing improvements related to the off-site streets.

4.2 Sewer Service.

4.2.1 Generally. The City agrees to use its best efforts to provide public financing mechanisms to construct and operate wastewater collection, treatment and disposal facilities sufficient to collect, treat, and dispose of all sewage and wastewater generated in connection with the Project ("Sewer Service"). The Sewer Service facilities to be constructed and operated by the City to serve the Project shall be constructed in accordance with the City Program. The Owner shall be responsible for the cost of constructing and dedicating to the City those Sewer Service facilities necessary to serve the Project at such time as its Development requires such facilities. The Owner acknowledges that the availability of Sewer Service facilities is contingent upon the Owner's participation in the funding of Sewer Service facilities as determined by the City to be the Owner's fair share cost as determined by an area of benefit analysis defined in Section 4.2.2 of this Agreement and as set forth in this Agreement.

4.2.2 Sewer Benefit District. The City agrees to use its best efforts to form and implement a Sewer Benefit District (SBD) for the purpose of allocating to and imposing assessments or fees upon other properties which benefit from the costs incurred by the Owner in constructing Sewer Service facilities. The SBD shall provide for (i) the allocation of costs, fees and assessments to all affected parties based upon City engineering criteria and an area of benefit analysis and (ii) the reimbursement of any amounts paid on behalf of any parcel, including interest on moneys advanced, in excess of the benefit received, in the form of fee credits, redemption of bonds secured by such parcel or cash payment. The SBD shall be established in conjunction with the City Program.

4.2.3 "Will Serve" Commitment by City. The City will use its best efforts to serve the Project with Sewer Service in accordance with the development phasing

schedule of the Development Plan, and subject to City regulations, policies and procedures related to the issuance of sewer connection permits and this Agreement.

4.2.4 Schedule. The Sewer Service facilities funded by the CFD shall be completed by City in accordance with the City Program and in compliance with the schedule set forth in Exhibit "F" attached hereto and incorporated herein by reference. If, by reason of events or circumstances outside the reasonable control of City, City is unable to comply with the schedule set forth in Exhibit "F", then City may give notice to Owner of the need for such reasonable delays as are required as a result of such events or circumstances and City shall then diligently proceed with the completion of the Sewer Service in accordance with the adjusted schedule.

4.2.5 Priority Wastewater Treatment Plant Capacity Rights. By reason of the Owner's payment and City collection of sewer connection fees applicable at the time of issuance of a building permit, or by participation in the sale of CFD 1993A bonds secured by Improvement Area No. 5 to construct wastewater treatment plant capacity, the Owner shall receive an entitlement to sewer service for the number of units so paid or financed. This entitlement shall be calculated as the total of the Owner and/or Improvement Area No. 5 funded wastewater treatment plant facilities divided by the amount of the City sewer connection fee on (i) the date the sewer connection permits are issued or (ii) the date on which the bonds are sold to fund expansion of the wastewater treatment plant. Sewer Service is to be provided out of the expanded wastewater treatment plant to serve the Project. The City guarantees that this number of units of wastewater treatment plant capacity so paid or financed shall be reserved and, upon completion of the wastewater treatment plant expansion, available to the Owner without further payment. If Owner's participation in the CFD with respect to the funding of the expansion of the wastewater treatment plant takes the form of a cash contribution to the CFD rather than utilizing a special tax lien on the Property to secure repayment of CFD bonds, then Owner shall have the right to assign Owner's sewage treatment plant capacity rights to any other CFD participant, provided that City shall have the first right of refusal to purchase such capacity rights from Owner on the same terms and conditions agreed to between Owner and such CFD participant. If such sewer capacity was funded by the CFD, then City shall permit Owner to purchase capacity from other Improvement Areas of the CFD and/or the City if the owner of the Improvement Area land is a willing seller and such purchase conforms to the requirements of this Section. Such purchase shall be facilitated by City in a manner to be approved by bond counsel, which may include, among other mechanisms, a purchase by City and resale to Owner of the capacity from the selling Improvement Area, along with a reallocation of the infrastructure line item budget for the selling Improvement Area.

4.2.6 Package Sewage Treatment Plant. In the event that the City is unable to provide wastewater treatment plant capacity to the Owner for any phase of the Development of the Project, then the Owner may elect to pay in cash or privately finance the construction of a permitted package wastewater treatment plant to receive, treat, reclaim and discharge wastewater generated by the Project. The initial minimum treatment and disposal capacity of the package wastewater treatment plant is 150,000 gallons per day. The City

agrees to use its best efforts to assist the Owner in obtaining any necessary permits or public agency approvals for permitting construction and certification of the package wastewater treatment plant. The City shall maintain and operate the package wastewater treatment plant and shall establish a separate budget and financing system for performing its obligations of operation and maintenance with respect to the package wastewater treatment plant. The Owner agrees to pay all costs associated with the design, permitting, and construction of the package wastewater treatment plant, and of removing the package wastewater treatment plant when it is mutually agreed upon between the City and the Owner that the plant is no longer necessary for providing Sewer Service to the Property, or any portion thereof. Owner and City may decommission and/or sell the package wastewater treatment plant or sublease unused treatment capacity within the package wastewater treatment plant to other developments within the City as mutually agreed upon by the Owner and the City. The City shall have the right to approve any such sublease, but such approval shall not be unreasonably withheld. The City shall have a right of first refusal to purchase and/or sublease any capacity and shall be entitled to collect reasonable sewer service charges to pay for the City costs to operate and maintain the package wastewater treatment plant. The decision of the Owner to support and finance a package wastewater treatment plant shall not operate as a waiver of any claims the Owner may have against the City by reason of City's failure to provide wastewater treatment plant capacity to the Project. The City will cooperate to permit occupancy in January 1995, including support of alternate methods of disposal in accordance with City's policies and requirements.

4.2.7 Gravity and Force Mains. The Owner has agreed to pay, on a pro rata basis, CFD costs to fund a Master Sewer Plan which may require the construction of major gravity and force main sewer lines, and a sewage lift station within the Property. The major sewer lines may convey sewage from properties tributary thereto to a major sewage lift station and ultimately to a wastewater treatment plant owned and operated by the City.

(a) The City shall cause the major gravity and force main pipelines within the Property to be designed and constructed in accordance with the City Program; provided, however, that such design and construction shall not unreasonably burden the Development of the Property as contemplated by this Agreement. Prior to the commencement of any construction by the City pursuant to said plans for such facilities, the City shall submit such plans to the Owner for the Owner's approval. The Owner agrees to not unreasonably withhold its approval of said plans and the City agrees to make such changes in the design of such facilities as may be reasonably requested by the Owner which do not substantially increase the cost of construction of such facilities within the Property.

(b) The City shall cause the Sewer Service facilities located within the Property to be designed, whenever feasible, by the City to permit the Owner to make service lateral connections to the collector mains at locations reasonably appropriate for the Development of the Project. The cost of such service lateral connections shall be paid by the Owner, including as necessary, the construction of manholes, wyes and appurtenances in appropriate locations. The Owner shall be responsible for the prompt payment of said actual incremental costs so as to not unreasonably delay construction of the Sewer Service facilities.

The Owner and the City agree to cooperate and coordinate with each other in connection with the design and construction of the service lateral connection facilities within the collector mains.

(c) Sewer Service facilities may be located in right-of-way traversing the Property on alignments which generally correspond to the Development Plan, but which may be precisely determined by the City, or as otherwise agreed to by Owner. The Owner agrees to grant in fee to the City, at no cost to the City, any land which the Owner owns on the Effective Date necessary to construct the Sewer Service facilities. If additional right-of-way or easements are necessary within the Property to accommodate the Sewer Service facilities required for the development of adjacent properties in CFD 93-1, and such additional right-of-way adversely impacts the design or building densities of the Project as set forth in the Development Plan, then the Owner shall grant the right-of-way contemplated by this subsection and the City shall create a fee credit for the benefit of the Owner equal to the fair market value of the land acquired for the right-of-way as of the time the right-of-way is granted to the City. This credit may be used by the Owner as an offset against any fees, charges, or payments required to be made by the Owner to the City in connection with the development of the Project, excepting therefrom sewer connection fees. The granting of the Owner's land and the City fee credit to create the right-of-way above shall be done on the basis of appraised fair market value which shall be established by the Owner paying and the City retaining an independent MAI qualified appraiser which is reasonably acceptable to Owner and the City to determine the appraised fair market value of the land being granted for the right-of-way. In the event either the City or the Owner find the appraised value rendered by the first appraiser unacceptable, then either or both of them may elect to retain and pay another MAI qualified appraiser to appraise the right-of-way being granted to the City, and the appraised value determined by the first appraiser and the appraised value determined by the subsequent appraiser or appraisers retained by the City or the Owner shall be averaged in order to determine the value of the fee credits and the right-of-way being granted.

4.2.8 Major Lift Station. Pursuant to the City Program, the City may construct from funds provided by benefiting land owners as determined pursuant to Section 4.2.2 of this Agreement, a major lift station for the purpose of pumping wastewater from areas tributary to the major lift station to a City wastewater treatment plant. The City shall locate the major lift station in such a way as to assure the Owner that the major lift station will not impose conditions, constraints, or limitations (such as noise impacts, odor impacts, public safety impacts, architectural impacts, or similar impacts) upon the Property which might interfere with the Owner's Development of the Property pursuant to this Agreement. The City shall submit to the Owner the architectural plans for the structural components of the major lift station in order to give the Owner an opportunity to review and approve the architectural aspects of the structure. The Owner agrees it will not unreasonably withhold its approval of the architectural components of the major lift station. The Owner may reasonably require that the major lift station be appropriately screened and landscaped in order to mitigate impacts upon the Property and the cost of such landscaping shall be paid by benefiting landowners. If it is necessary to locate the major lift station on the Property, then

the land necessary to construct and maintain the major lift station shall be granted by the Owner to the City. The Owner shall, in all events, receive credits as described in Section 4.2.7(c) for the fair market value of the Property granted for the construction of the major lift station in the event the Property granted materially adversely impacts the design or building densities of the Project as set forth in the Development Plan.

4.8

4.3 Water Service. The City agrees that it will use its best efforts to cause the Project to be served with potable water for residential, industrial, commercial and municipal uses. Such service shall be facilitated by the City Program in accordance with the General Plan and the Cooperative Water Agreements between the City and the Beaumont-Cherry Valley Water District and among the City, the Beaumont-Cherry Valley Water District and the San Geronio Pass Water Agency.

4.3.1 Owner's Well on the Property. The City acknowledges that the Owner has a domestic water well ("Well") located on the Property. It is the Owner's intention to make economic use of the Well in connection with the Project. The City agrees to cooperate with Owner in Owner's efforts to make economic use of the Well and, to that end, shall cooperate with the Owner in the Owner's efforts to make water from the Well available at competitive rates to users within the Project, users outside the Project, or users within the Beaumont-Cherry Valley Water District municipal water system.

4.4 Other Utilities. The Owner shall have the right to establish its own cable television or satellite earth station and/or television communications systems or enter into a contract with another franchised and/or non-franchised cable television operator for service to the Property at the Owner's sole election and in accordance with City, state and federal laws related to the operation of cable television in the City. Electric service and telephone service may be provided to the Project by public utilities providing such service generally in the area. Electrical and telephone service within the Project shall be installed underground unless conditions make underground installation unreasonable, uneconomical, or impractical as mutually determined by the City and the Owner. Temporary overhead electric and telephone lines shall be permitted within the Project in order to facilitate phased construction of the Project.

4.5 Drainage Facilities. The Parties acknowledge the necessity of constructing and/or improving drainage facilities needed for the Development of the Project in accordance with the Development Plan. The City and the Owner shall use their best efforts to coordinate the drainage facility improvements with adjacent property owners and all public agencies which have jurisdiction over the construction and/or improvement of drainage facilities needed for the Development of the Project in accordance with the Development Plan.

4.6 CFD Implementation and Participation. The City and the Owner shall use their best efforts to establish the CFD and issue the bonds pursuant thereto in accordance with the formation documents of the CFD and the City Program. Provided that the CFD complies with the terms and conditions set forth in Exhibit "E" or future formation

documents, the Owner shall participate in the formation of the CFD and shall cooperate in causing the Property to be encumbered by a lien securing payment of the special tax necessary to support repayment of the Series 1993 A Bonds or subsequently approved bonded indebtedness of the CFD authorized by the Owner and approved by the City, as limited by the terms of the Bond Sale Limitation Agreement by and between the City and the Owner..

4.7 Fee Credits. Fee Credits shall be available to the Owner in the amounts, for the term and in the order listed below:

(a) In consideration of the Owner's participation in the CFD funding of the City Program, including the payment of CFD issuance, formation and facility master plan costs, and upon the issuance of the CFD Series 1993 A bonds and for a period of ten (10) years thereafter, Owner shall be entitled to a credit against BSFF fees attributable to the Project at the time payment of such fees would be due, calculated as an amount equal to the 1994-95 and 1995-96 fiscal years' CFD scheduled debt service payments attributable to Undeveloped Property, based on an assumed issuance date of November 1, 1993, and available incrementally for the corresponding period if Owner is not delinquent in the payment of its special taxes. If Owner elects to pay the amount of the special tax lien attributable to its Property for the Series 1993A bonds in full prior to sale, the credit shall be similarly calculated as if the Series 1993A special tax bonds for its Property had been issued on November 1, 1993. The credit may be used only to offset BSFF fees imposed at the time of issuance of building permits; provided, however, that if the City discontinues imposition of the BSFF, or adopts a new fee in lieu thereof, then this credit may be applied against any successor fees imposed by the City for the same purpose in connection with the issuance of building permits for the Project.

(b) In anticipation of entering into this Agreement and in anticipation of the City implementing a public financing program to facilitate the construction of the public facilities contemplated by the City Program, the Owner has advanced to the City the sum of One Hundred Eighty-Seven Thousand, Three Hundred Twenty and 94/100 Dollars (\$187,320.94) ("Advanced Funds"). The Advanced Funds were used by the City in connection with the design of the facilities and the formation of the CFD. The Owner is therefore entitled to a credit against BSFF fees, or successor or additional fees for the same purpose, attributable to the Project up to the amount of the Advanced Funds, to be taken at the time of the issuance of building permits for the Project, for the full period of this Agreement. The parties acknowledge, however, that this credit is available only as an offset against BSFF fees, or successor or additional fees for the same purpose, attributable to the Project as they become due and may not be fully recoverable in the event no fees are due. Such credit may only be applied in the event that all credits due under Section 4.7(a) of the Agreement have been taken or have expired. As full consideration for the Advanced Funds fee credit, the Owner agrees to release and hold harmless the City from all claims and causes of action resulting from or arising out of the previous Sewer Agreement and the proceedings related to formation of Assessment District No. 92-1, applicable only to those owners which were parties to that previous Sewer Agreement.

4.8 Financing Generally of Public Improvements. In addition to specific obligations with respect to the financing of public improvements as set forth in this Agreement and the City Program, the City and the Owner agree, whenever feasible as determined in the sole discretion of the City, to facilitate and utilizing various methods of public finance for the construction of the public streets, wastewater treatment and wastewater reclamation facilities, storm drains, and other public improvements and infrastructure located within the Project or required to serve the Project. It is contemplated that the Owner and the City will consider various public financing programs, including tax-exempt lease-purchase, the formation of community facility districts, formation of assessment districts through the Municipal Improvement Act of 1913 and the Improvement Bond Act of 1915, the issuance of Industrial Development Bonds, the formation of maintenance districts and the formation of Benefit Districts.

The City shall use its best efforts to adopt ordinances and/or resolutions providing for the collection of mitigation fees for the construction of sewer facilities, storm drains, street improvements, and other infrastructure facilities which serve the Project and other developments within the City, which ordinances or resolutions shall provide for the collection of mitigation fees with respect to property which receives the benefits of the various public facilities, and reimbursement to other properties which have paid or been assessed for the acquisition and construction necessary to complete the various improvements in excess of a proportionate share based upon the fair assessment of the relative benefits of the various properties as set forth in the City Program. Such ordinances and/or resolutions shall further provide that when the reimbursement to properties participating in the bond program occurs in accordance with the City Program, then such reimbursement shall be used by the City (i) to retire any outstanding assessments or bonded indebtedness imposed upon the properties which initially financed the public improvements for which the mitigation fees are being paid or (ii) pay in cash to the Owner if such facilities costs were paid by the Owner in cash.

The City further agrees to cooperate with the Owner and any school districts serving the Project in reaching acceptable mitigation and reimbursement agreements with respect to the amount of school impact mitigation fees and, when appropriate, the waiver of school impact mitigation fees for Development of the Project which does not impact school facilities, as determined by the Beaumont Unified School District. The City shall not unlawfully impose assessments, special taxes, or similar financial burdens upon the Property.

4.9 Timing of Public Facilities to be Provided by Owner. To the extent this Agreement or the Development Plan require Owner to provide public facilities by, for example, dedicating land or constructing a public improvement, Owner shall not be obligated to provide the required public facilities until such time as Development takes place within the Project which necessitates provision of the public facilities as set forth in the Development Plan. It is understood that Development within the Project will take place incrementally and over several years as set forth in the Development Plan. Therefore, it is understood and agreed that the public facilities to be provided by Owner will be provided incrementally and over a period of years in coordination with the actual Development of the Property.

4.10 Subdivision Security. Owner shall be relieved from the requirement for posting subdivision security, including payment and performance bonds, for any and all infrastructure improvements for which construction funding is provided by sales of bonds of Improvement Area No. 5 of CFD 93-1. In the event that Owner has posted subdivision security prior to the sale of such CFD bonds then Owner shall be entitled to the immediate release of such subdivision security upon receipt of CFD bond proceeds intended for the bonded facilities.

4.11 No Cross-Collateralization. City has informed Owner that it intends to sell and deliver bonds of the CFD pursuant to provisions of the Marks-Roos Local Bond Pooling Act of 1985, Government Code § 6584, et seq. City agrees that no special taxes shall be levied on the Property within Improvement Area No. 5 to (i) replenish a bond reserve fund applicable to bonds of any other Improvement Area of the CFD, (ii) provide any funds to secure against the default or possible default of debt service payments to bondholders of any other Improvement Area of the CFD, or (iii) provide any other benefit for any Improvement Area in the CFD save and except for the benefit of Improvement Area No. 5. However, the reserve fund established for the bonds of the Marks-Roos Local Bond Pool shall be available to cover delinquencies in any Improvement Area, notwithstanding the restriction on replenishment thereof.

In the event the City does not finance any of the required public infrastructure improvements in the City Program through a public financing mechanism, the City shall cooperate with the Owner in obtaining the necessary permits for such improvements and entering into owner participation agreements and/or reimbursement agreements, as appropriate, to facilitate the construction and funding of the improvements and the repayment of Owner on a fair-share basis based on a benefit analysis from payments received from other benefiting owners.

5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The City Planning Director shall review this Agreement annually, within a period of ninety (90) days following the anniversary of the Effective Date, in order to ascertain the good faith compliance by the Owner with the terms of the Agreement. The Owner agrees to pay the City for administrative and legal costs which are reasonable, customary and related to such review; provided that the charge to Owner for each annual review shall not exceed \$800, while the land is undeveloped, or \$2,000, once development has commenced, both fees adjusted for 1995 and subsequent years based on the increase in the Engineering News-Record Cost Index for Los Angeles over its value on January 1, 1994.

5.2 Special Review. The City Council or the City Planning Commission may order a special review of compliance with this Agreement at any time at no cost to Owner. The City Planning Director shall conduct such special reviews.

5.3 Procedure.

(a) During either a periodic review or a special review, the Owner shall be required to demonstrate good faith compliance with the terms of this Agreement. The burden of proof on this issue shall be on the Owner.

(b) Upon completion of a periodic review or a special review, the City Planning Director shall submit a report to the City Council setting forth the evidence concerning good faith compliance by the Owner with the terms of this Agreement and shall present the recommended finding on that issue in writing.

(c) If the City Council finds on the basis of substantial evidence that the Owner has complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.

(d) If the City Council makes a preliminary finding that the Owner may not have complied in good faith with the terms and conditions of this Agreement, including failure to pay CFD special taxes in a timely manner, the City Council shall commence proceedings as provided in Section 5.4 and Section 5.5. Notice of possible default as provided under Section 6.4 of this Agreement shall be given to Owner prior to or concurrent with, proceedings under Section 5.4 and Section 5.5.

5.4 Proceedings Upon Modification or Termination. If, upon a finding under Section 5.3, the City determines to proceed with modification or termination of this Agreement, the City shall give written notice to the Owner of its intention to do so. The notice shall be given at least thirty (30) calendar days prior to the scheduled hearing and shall contain:

- (a) The time and place of the hearing;
- (b) A statement as to whether or not City proposes to terminate or to modify the Agreement; and,
- (c) Such other information as is reasonably necessary to inform Owner of the nature of proceeding.

5.5 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, the Owner shall be given an opportunity to be heard. The Owner shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on the Owner. If the City Council finds, based upon substantial evidence that the Owner has not complied in good faith with the Agreement, and that the decision of the City Council is in the best interest of the City, then pursuant to authority of Government Code Section 65865.1 the City Council may extend, terminate or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City and the participants of CFD No.

93-1, subject to first complying with the requirement of Section 6.3 hereof. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

5.6 Certificate of Agreement Compliance. If, at the conclusion of a periodic or special review, the Owner is found to be in compliance with this Agreement, the City shall, upon request by the Owner, issue a Certificate of Agreement Compliance ("Certificate") to the Owner stating that after the most recent periodic or special review and based upon the information known or made known to the City Planning Director and the City Council that (i) this Agreement remains in effect and (ii) the Owner is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a periodic or special review and shall state the anticipated date of commencement of the next periodic review. The Owner may record the Certificate with the County Recorder.

Whether or not the Certificate is relied upon by assignees or other transferees or The Owner, the City shall not be bound by a Certificate if a default existed at the time of the periodic or special review, but was concealed from or otherwise not known to the City Planning Director or the City Council.

6. DEFAULT AND REMEDIES.

6.1 Remedies in General. In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement.

6.2 Specific Performance. The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance is a particularly appropriate remedy for the enforcement of this Agreement and should be available to all parties. Due to the size, nature and scope of the Project, it may not be practical or possible to restore the Property to its natural condition once implemented, and the Owner or the City may be foreclosed from other choices related to the Development of the Property or portions thereof, in accordance with the Development Plan and the City Program. The Owner and the City have invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing significant time and resources with respect to the Development of the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate the Owner or the City for such efforts.

6.3 Suspension of Agreement for Default of Owner. The City may suspend Owner's rights under this Agreement for any failure of the Owner to perform any material duty or obligation of the Owner under this Agreement or to pay CFD special taxes in a timely manner or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default"); provided, however, the City may suspend this Agreement pursuant to this Section only after providing written notice to the Owner of the default setting forth the nature

of the default and the actions, if any, required by the Owner to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default.

6.4 Termination of Agreement for Default of City. The Owner may terminate this Agreement only in the event of a default by the City in the performance of a material term of this Agreement and only after providing written notice to the City of default setting forth the nature of the default and the actions, if any, required by the City to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default.

7. THIRD PARTY LITIGATION.

7.1 General Plan Litigation. The City has determined that this Agreement is consistent with its General Plan and that the General Plan meets all requirements of law. The Owner has reviewed the General Plan and concurs with the City's determination. The City shall have no liability under this Agreement for any failure of the City to perform under this Agreement or the inability of the Owner to develop the Property in accordance with the Development Plan as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

7.2 Third Party Litigation Concerning Agreement. The Owner shall defend, at its expense, including attorneys' fees, indemnify, and hold harmless the City, its agents, officers, employees and subcontractors or independent contractors from any claim, action or proceeding against the City, its agents, officers, or employees to attack, set aside, void, or annul the approval, enforcement or operation of this Agreement. The City shall promptly notify the Owner of any such claim, action or proceeding, and the City shall cooperate in the defense. If the City within sixty (60) days of being so notified of any claim, action or proceeding fails to notify the Owner of any such claim, action or proceeding, or if the City fails to cooperate in the defense, the Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City. The City may in its sole discretion participate in the defense of any such claim, action or proceeding.

7.3 Indemnity. In addition to the provisions of 7.2 above, the Owner shall indemnify and hold the City, its agents, officers, employees, subcontractors and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of the Owner, its agents, officers, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (Owner's employees included) or any other element of damage of any kind or nature, relating to or in any way connected with

or arising from Owner's acts or omissions related to the Development of the Property, including, but not limited to, the study, design, engineering, construction, completion, failure and conveyance of the public improvements save and except claims for damages arising through the active negligence or willful misconduct of the City. The Owner shall defend, at its expense, including attorneys' fees, the City, its agents, agents, employees, subcontractors and independent contractors in legal action based upon such alleged acts or omissions. The City may in its discretion participate in the defense of any such legal action.

7.4 Environmental Assurances. The Owner shall indemnify and hold the City, its agents, officers, employees, subcontractors and independent contractors free and harmless from any liability, based or asserted, upon any act or omission of Owner, its agents, officers, employees, subcontractors, ~~predecessors in interest, successors, assigns~~ and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and the Owner shall defend, at its expense, including attorneys' fees, the City, its agents, officers, employees, subcontractors and independent subcontracts in any action based or asserted upon any such alleged act or omission. The City may in its discretion participate in the defense of any such action. SP-III

7.5 Reservation of Rights. With respect to Sections 7.2, 7.3 and 7.4 herein, the City reserves the right to either (i) approve the attorney(s) which the Owner selects, hires or otherwise engages to defend the City hereunder, which approval shall not be unreasonably withheld, or (ii) if the Owner fails to provide such defense to the City, conduct its own defense, provided, however, that the Owner shall reimburse the City forthwith for any and all reasonable expenses incurred for such defense, including reasonable attorneys' fees, upon billing and accounting therefor.

7.6 Survival. The provisions of this Section 7.1 through 7.6, inclusive, shall survive the termination of this Agreement.

8. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit the Owner, in any manner, at the Owner's sole discretion, from encumbering the Property or any portion thereof or any private improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. The City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with the Owner and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. The City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from the City of any default by the Owner in the performance of the Owner's obligations under this Agreement.

(c) If the City timely receives a request from a Mortgagee requesting a copy of any notice of default given to the Owner under the terms of this Agreement, the City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to the Owner. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement.

9. MISCELLANEOUS PROVISIONS.

9.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the Clerk of the City within the period required by Section 65868.5 of the Government Code.

9.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

9.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

9.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

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

9.7 Obligations Run With the Land. If at any time during the term of this Agreement, an ownership interest in the Property is transferred to another entity, (i) any obligation under this Agreement which relates to or depends on the area of land owned shall be apportioned to the underlying ownership interest (by area of land) as though the successor owner had been an original party to this Agreement and (ii) all obligations which are not subject to apportionment shall additionally become an obligation of such successor owner. Notwithstanding the foregoing, no Owner of a single lot which has been finally subdivided and sold to such Owner as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement.

9.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

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

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

9.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for Performance by either party of any of its obligation hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

9.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefitted thereby of the covenants to be performed thereunder by such benefitted party.

9.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to Development of the Property: (i) is for the benefit of and is a burden upon every portion of the Property; (ii) runs with the Property and each portion thereof; and, (iii) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

9.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

9.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the Development of the Project is a private undertaking, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between the City and the Owner is that of a government entity regulating the development of private property and the owner of such property.

9.17 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplate hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment of affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

9.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by the City of its power of eminent domain.

9.19 Agent for Service of Process. In the event the Owner is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, the Owner shall file with the City Planning Director, upon its execution of this Agreement, a designation of a natural person residing in the State

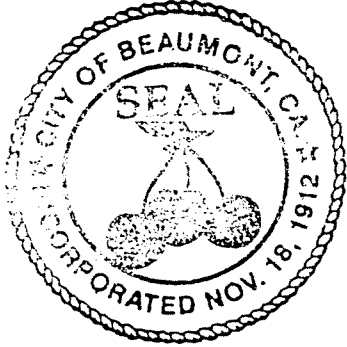
of California, giving his or her name, resident and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon the Owner. If for any reason service of such process upon such agent is not feasible, then in such event the Owner may be personally served with such process out of the County of Riverside, State of California and such service shall constitute valid service upon the Owner. The Owner is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests hereto.

9.20 Authority to Execute. The person or persons executing this Agreement on behalf of the Owner warrants and represents that he/they have the authority to execute this Agreement on behalf of his/their corporation, partnership or business entity and warrants and represents that he/they has/have authority to bind the Owner to the performances of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

CITY:

CITY OF BEAUMONT



By: Jan Lopez
Mayor, City of Beaumont

Attest: Daphne Kelle
City Clerk of City of Beaumont

OWNER:

HEARTLAND BEAUMONT CALIFORNIA
L.T.D.

By: [Signature]
President Heartland Group, Inc
Its: General Partner

By: _____

State of _____

County of _____

I, _____ before me, _____
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared _____
NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(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.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)

TITLE(S)

- PARTNER(S) LIMITED GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT _____

NUMBER OF PAGES _____ DATE OF DOCUMENT _____

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

SIGNER(S) OTHER THAN NAMED ABOVE _____

FORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of Washington

County of King

On 11/24/99 before me, Marc R. Angelillo
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Stephen P. Walker III
NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(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.

WITNESS my hand and official seal.

Marc R. Angelillo
SIGNATURE OF NOTARY

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)

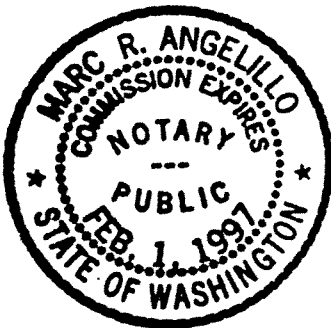
TITLE(S)

- PARTNER(S) LIMITED GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR

OTHER: Corporate officer of General Partner

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)



OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

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Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

SIGNER(S) OTHER THAN NAMED ABOVE _____

EXHIBIT "A"

Legal Description of Property

CFD 93-1
LEGAL DESCRIPTION FOR
HEARTLAND CALIFORNIA BEAUMONT LIMITED PARTNERSHIP

IMPROVEMENT AREA NO. 5

APN 414-110-018

THAT PORTION OF LOT 7, OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO BASE AND MERIDIAN, WHICH IS WITHIN THE FOLLOWING DESCRIBED PARCEL:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 6;

THENCE SOUTH 00° 00' 15" EAST, A DISTANCE OF 4498.96 FEET TO THE SOUTH LINE OF THE LAND CONVEYED TO MARY CORDEIRO BY DEED RECORDED SEPTEMBER 18, 1974 AS INSTRUMENT NO. 120470, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE ALONG SAID SOUTH LINE NORTH 88° 36' 23" WEST, A DISTANCE OF 4131.73 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID SOUTH LINE NORTH 88° 36' 23" WEST, A DISTANCE OF 880.00 FEET;

THENCE ALONG SAID SOUTH LINE NORTH 64° 00' 41" WEST, A DISTANCE OF 299.00 FEET TO THE WEST LINE OF SECTION 6;

THENCE ALONG SAID WEST LINE NORTH 00° 08' 55" WEST, A DISTANCE OF 465.00 FEET;

THENCE NORTH 83° 55' 20" EAST, A DISTANCE OF 650.00 FEET;

THENCE SOUTH 54° 07' 32" EAST, A DISTANCE OF 625.00 FEET;

THENCE SOUTH 00° 33' 00" WEST, A DISTANCE OF 320.00 FEET TO THE TRUE POINT OF BEGINNING.

APN 414-110-020

BEGINNING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "THENCE SOUTH 64° 05' 00" EAST, 299.00 FEET," IN DEED TO MARY CORDEIRO RECORDED SEPTEMBER 18, 1974 AS INSTRUMENT NO. 120470, OFFICIAL RECORDS OF SAID COUNTY;

THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID CORDEIRO PARCEL SOUTH 88° 39' 33" EAST, 5012.15 FEET TO THE EAST LINE OF SAID SECTION 6;

CFD 93-1
Heartland California Beaumont L.P.
Improvement Area No. 5
Page 2

APN 414-110-020

THENCE ALONG SAID EAST LINE, SOUTH 00° 14' 42" EAST, 146.99 FEET TO A POINT WHICH IS NORTH 00° 14' 42" WEST, 133.04 FEET FROM A THREE-QUARTER (3/4) INCH IRON PIPE AS SHOWN BY RECORD OF SURVEY IN BOOK 17 OF RECORDS OF SURVEY, PAGE 21, IN THE RIVERSIDE COUNTY RECORDER'S OFFICE, MARKING THE SOUTHEAST CORNER OF SAID SECTION 6;

THENCE NORTH 89° 21' 30" WEST, 638.34 FEET TO A TANGENT CURVE CONCAVE SOUTH HAVING A RADIUS OF 2200.00 FEET;

THENCE WESTERLY ALONG SAID CURVE THROUGH AN ANGLE OF 15° 17' 30" A DISTANCE OF 587.16 FEET;

THENCE SOUTH 75° 21' 00" WEST, 754.82 FEET TO A TANGENT CURVE CONCAVE NORTH HAVING A RADIUS OF 2827.00 FEET;

THENCE WESTERLY ALONG SAID CURVE THROUGH AN ANGLE OF 15° 27' 30" A DISTANCE OF 762.72 FEET;

THENCE NORTH 89° 11' 30" WEST, 816.26 FEET TO A NON-TANGENT CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 2000.00 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE FROM A TANGENT BEARING OF NORTH 87° 47' 31" EAST, THROUGH AN ANGLE OF 28° 05' 07" A DISTANCE OF 980.36 FEET;

THENCE NORTH 64° 07' 22" WEST, 476.14 FEET;

THENCE NORTH 30° 12' 59" WEST, 222.95 FEET TO THE POINT OF BEGINNING.

SUBJECT TO THE RESERVATION OF SOUTHERN CALIFORNIA EDISON COMPANY RECORDED SEPTEMBER 20, 1970 AS INSTRUMENT NO. 93335, OFFICIAL RECORDS OF SAID COUNTY.

THERE SHALL BE NO ABUTTERS RIGHTS OF ACCESS APPURTENANT TO THE ABOVE-DESCRIBED REAL PROPERTY IN AND TO THE ADJACENT STATE FREEWAY.

THE ABOVE-DESCRIBED REAL PROPERTY IS LANDLOCKED AND WITHOUT ANY DIRECT ACCESS TO THE FREEWAY OR TO ANY PUBLIC OR PRIVATE ROAD. THE STATE OF CALIFORNIA IS WITHOUT OBLIGATION OR LIABILITY TO PROVIDE ACCESS TO THE SAID REAL PROPERTY.

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Heartland California Beaumont L.P.
Improvement Area No. 5
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APN 414-110-014 and 414-110-016

PARCEL 1

GOVERNMENT LOT 6 IN FRACTIONAL SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT THAT PORTION DESCRIBED IN DEED TO THE CITY OF BEAUMONT, A MUNICIPAL CORPORATION RECORDED MAY 31, 1984 AS INSTRUMENT NO. 116461 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN 414-100-006

PARCEL 2

THAT PORTION OF GOVERNMENT LOT 5 AND THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY;

EXCEPT THAT PORTION THEREOF DESCRIBED IN DEED TO THE COUNTY OF RIVERSIDE RECORDED MAY 5, 1905 IN BOOK 202, PAGE 54 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN 414-110-003 (A Portion)

PARCEL 3

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, ALL IN FRACTIONAL SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

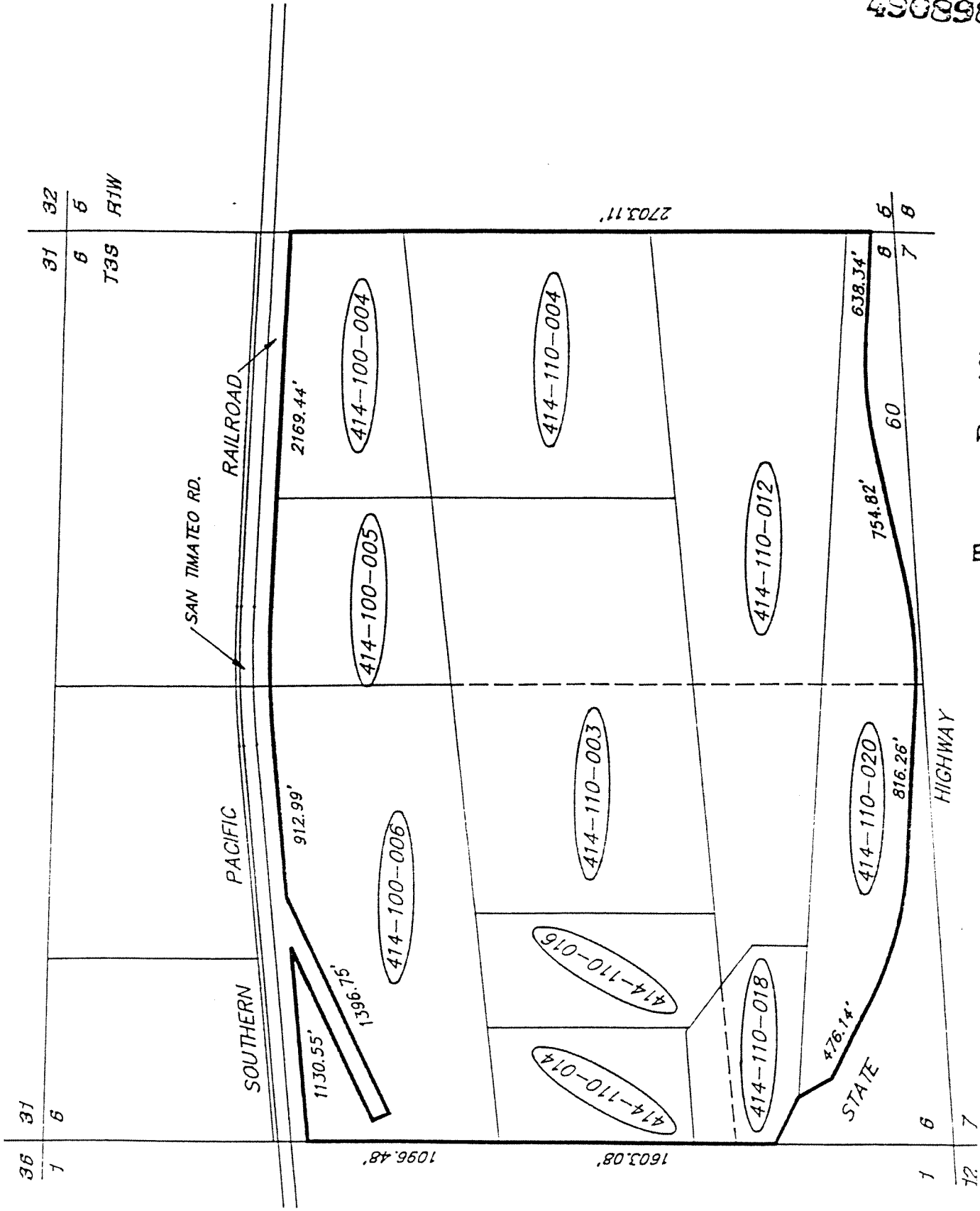
EXHIBIT "B"

Map Showing Property and Its Location

HEADLAND CFD 93-1 IMPROVEMENT AREA NO. 5



SCALE: 1" = 800'



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Heartland California Beaumont L.P.
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APN 414-100-005 AND 414-110-003 (A Portion)

PARCEL 4

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER AND THE NORTH HALF OF THE SOUTHEAST QUARTER LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY AND WESTERLY OF THE LINE DESCRIBED BELOW, ALL IN FRACTIONAL SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6, WHICH SAID POINT IS 1,545.56 FEET WESTERLY, MEASURED ON SAID SOUTHERLY LINE FROM THE EAST LINE OF SAID SECTION;

THENCE NORTHERLY, TO A POINT ON THE SOUTHERLY LINE OF SAID RAILROAD RIGHT OF WAY REFERRED TO ABOVE, WHICH POINT IS 1,539.60 FEET WESTERLY, MEASURED ON SAID RIGHT OF WAY, FROM THE EASTERLY LINE OF SAID SECTION.

APN 414-100-004 and 414-110-004

PARCEL 5

THAT PORTION OF THE NORTH HALF OF THE SOUTHEAST QUARTER AND THE SOUTH HALF OF THE NORTHEAST QUARTER LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY AND EASTERLY OF THE LINE DESCRIBED BELOW, IN FRACTIONAL SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6, WHICH SAID POINT IS 1,545./56 FEET WESTERLY, MEASURED ON SAID SOUTHERLY LINE, FROM THE EAST LINE OF SAID SECTION;

THENCE NORTHERLY TO A POINT ON THE SOUTHERLY LINE OF SAID RAILROAD RIGHT OF WAY REFERRED TO ABOVE, WHICH SAID POINT IS 1,539.60 FEET WESTERLY, MEASURED ON SAID RIGHT OF WAY FROM THE EASTERLY LINE OF SAID SECTION.

Section 14. This Resolution shall take effect immediately upon its adoption.

MOVED, PASSED AND ADOPTED this 29th day of June, 1993 by the following vote:

- AYES: Council Member Brey, McLaughlin, Parrott, Russo and Mayor Leja.
- NOES: None.
- ABSTAIN: None.
- ABSENT: None.

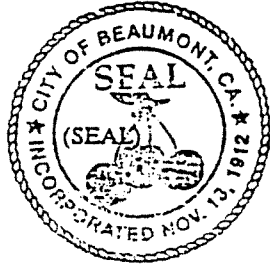
Jan Leja
 Mayor of the City of Beaumont

ATTEST:

Julia White
 CITY CLERK (Deputy)

CERTIFICATION

The foregoing is certified to be a true copy of Resolution No. 1993- 14 duly adopted by the said City Council of the City of Beaumont on the date herein set forth.



Julia White (Deputy)
 CITY CLERK, CITY OF BEAUMONT

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Page 5

APN 414-110-012

PARCEL 6

THAT PORTION OF THE SOUTH HALF OF THE SOUTH HALF OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER ACCORDING TO THE OFFICIAL PLAT THEREOF, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING ON THE WEST LINE OF SAID SECTION 6, DISTANT ON SAID WEST LINE NORTH $00^{\circ} 13' 14''$ WEST, 1,035.04 FEET FROM A 3 INCH IRON PIPE AND BRASS CAP MARKING THE SOUTHWEST CORNER OF SAID SECTION 6;

THENCE SOUTH $64^{\circ} 05' 00''$ EAST, 299.00 FEET;

THENCE SOUTH $88^{\circ} 39' 33''$ EAST, 5,012.15 FEET TO THE EAST LINE OF SAID SECTION 6, DISTANT ON SAID EAST LINE NORTH $00^{\circ} 14' 42''$ WEST, 280.03 FEET FROM A THREE QUARTER INCH IRON PIPE, AS SHOWN BY MAP ON FILE IN BOOK 17, PAGE 21 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, MARKING THE SOUTHEAST CORNER OF SAID SECTION 6;

EXCEPT THAT PORTION DESCRIBED IN DEED TO THE CITY OF BEAUMONT, A MUNICIPAL CORPORATION, DATED MARCH 7, 1984 AS INSTRUMENT NO. 116462 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

CONTAINS 420.39 ACRES, MORE OR LESS.

EXHIBIT "C"

Existing Development Approvals

Exhibit "C"

Existing Development Approvals

- ▶ General Plan Designation of Specific Plan as part of Beaumont General Plan Update, February 1993

EXHIBIT "D"

Existing Land Use Regulations

Exhibit "D"

Existing Land Use Regulations

- ▶ Beaumont General Plan
- ▶ Beaumont Municipal Code
- ▶ Heartland Beaumont Specific Plan (Subsequent to approval by the City Council)

EXHIBIT "E"

CFD Resolutions of Formation

RESOLUTION NO. 1993-13

RESOLUTION OF THE CITY OF BEAUMONT ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 93-1, CREATING SEPARATE IMPROVEMENT AREAS THEREIN (INCLUDING CERTAIN TERRITORY REFERENCED IN RESOLUTION NO. 1993-24 WHICH WAS TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 93-1), PROVIDING FOR A SPECIAL TAX WITHIN EACH IMPROVEMENT AREA TO PAY FOR CERTAIN PUBLIC FACILITIES AND CALLING A SPECIAL ELECTION WITHIN EACH IMPROVEMENT AREA TO SUBMIT TO THE QUALIFIED ELECTORS OF EACH IMPROVEMENT AREA THE QUESTION OF LEVYING SUCH SPECIAL TAX AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT, DESIGNATING THE CITY CLERK OF THE CITY AS THE ELECTION OFFICIAL.

WHEREAS, the City Council (the "City Council") of the City of Beaumont, California ("the City") on February 22, 1993, duly adopted Resolution No. 1993-06 declaring its intention to establish "City of Beaumont Community Facilities District No. 93-1" (the "Community Facilities District"), including twelve separate improvement areas therein (each an "Improvement Area," and collectively, the "Improvement Areas") and to levy special taxes to pay for certain public facilities and services in and for the Community Facilities District under and pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, and calling a public hearing on the question of the establishment of such Community Facilities District and the Improvement Areas therein; and

WHEREAS, the City Council has heretofore on February 22, 1993, duly adopted Resolution No. 1993-07 declaring its intention to incur a bonded indebtedness with respect to each Improvement Area in the amounts set forth in Exhibit A to Resolution No. 1993-07 to finance certain public facilities as set forth in Exhibit B to Resolution No. 1993-06 (as more specifically enumerated herein, the "Facilities") which bonded indebtedness shall be secured by the levy of a special tax within the applicable Improvement Area; and

WHEREAS, prior to the time for such hearing, in accordance with said Resolution No. 1993-06, a report on such proposal entitled "Public Report for Community Facilities District No. 93-1" and dated April 12, 1993 was filed with the City Council and subsequent to April 12, 1993, said report has been revised to incorporate comments received in connection with the proceedings and a second report entitled "Public Report for Community Facilities District No. 93-1" and dated June 14, 1993 (said June 14, 1993 report being referred to herein as the "Public Report"), and such Public Report was filed with the City Clerk of the City and is incorporated herein and made a part of the record of the hearing on said Resolution No. 1993-06 and Resolution No. 1993-07; and

WHEREAS, pursuant to Resolution No. 1993-06 and Resolution No. 1993-07, a public hearing was held by the City Council on April 12, 1993, at the hour of 6:00 P.M. or as soon thereafter as the matter could be heard, at the regular meeting place of the City Council, 550 East Sixth Street, Beaumont, California 92223, at which hearing the City Council considered the establishment of the Community Facilities District, the establishment of the Improvement Areas, the type and extent of the proposed Facilities and services (as enumerated in Resolution No. 1993-06, the "Services"), the proposed rate and method of apportionment of special tax in each Improvement Area therein, the proposed appropriations limit therefor, the necessity for incurring bonded indebtedness to finance Facilities and all other matters as set forth in Resolution No. 1993-06 and Resolution No. 1993-07, and at the above-mentioned time and place for such public hearing, all persons interested, including all taxpayers, property owners and registered voters within each Improvement Area within the Community Facilities District were given an opportunity to appear and be heard, and the testimony of all interested persons for or against the establishment of the Community Facilities District, the establishment of the Improvement Areas therein, the acquisition and construction of the Facilities, the provision of Services, the levy of the special tax within each respective Improvement Area, the extent of the Community Facilities District, the establishment of an appropriations limit for the Community Facilities District, the necessity for incurring bonded indebtedness to finance the Facilities, and any other matters set forth in said Resolution No. 1993-06 and Resolution No. 1993-07, were heard; and

WHEREAS, said public hearing was continued to May 17, 1993, and subsequently thereafter, the May 17, 1993 meeting was not held and the public hearing was reconvened on June 14, 1993 at which time all of the foregoing matters were considered and the City Council at the conclusion of said hearing was fully advised in the premises, and was authorized to proceed as hereinafter provided; and

WHEREAS, on April 26, 1993, the City Council by Resolution No. 1993-24 declared its intention to annex certain territory to the Community Facilities District, to levy a special tax to pay for certain public facilities and services in and for such Community Facilities District and declaring its intention to issue bonds secured by the special tax to finance certain facilities of such District and set June 14, 1993 at the regular meeting place of the City Council as the date, time and place for the public hearing relating to the annexation; and

WHEREAS, the City Council has received an amended map of the Community Facilities District and the Improvement Areas therein (the "Amended Map") in the form attached hereto as Exhibit B, which incorporates the territory to be included in the Community Facilities District, including the area encompassed by Improvement Area No. 6A and Improvement Area No. 6B as set forth in Resolution No. 1993-24, and does not increase the special tax to any remaining parcel within any Improvement Area; and

WHEREAS, the City Council has received an amended Rate and Method of Apportionment of Special Tax for each Improvement Area of the Community Facilities District (the "Amended Rate and Method of Apportionment of Special Taxes") in the form attached as Exhibit C to the revised Public Report presented on the date hereof, which reduces the special tax to be levied in certain categories and may result in some increases to the probable special tax to be paid by the owners of lots or parcels in Improvement Area Nos. 9, 10 and 11; and

WHEREAS, pursuant to Resolution No. 1993-24, a public hearing was held by the City Council on June 14, 1993, at the hour of 6:00 P.M. or as soon thereafter as the matter could be heard, at the regular meeting place of the City Council, 550 East Sixth Street, Beaumont, California 92223, at which hearing the City Council considered the inclusion of the parcels referenced in Resolution No. 1993-24 within the Community Facilities District, the necessity for incurring bonded indebtedness to finance Facilities and all other matters as set forth in Resolution No. 1993-24, and at the above-mentioned time and place for such public hearing, all persons interested, including all taxpayers, property owners and registered voters within each Improvement Area within the Community Facilities District and within the parcels to be included within the Community Facilities District were given an opportunity to appear and be heard, and the testimony of all interested persons for or against the inclusion of the parcels to Improvement Area No. 6B, the levy of the special tax in the parcels, the necessity to incur bonded indebtedness to finance the Facilities, and any other matters set forth in said Resolution No. 1993-24 were heard; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the establishment of the Community Facilities District and the Improvement Areas therein as provided by said Resolution No. 1993-06 and as provided by Resolution No. 1993-24 encompassing the land area shown on the Amended Map and to submit to the qualified electors of each Improvement Area the proposition in substantially the form attached hereto as Exhibit A, with appropriate changes to reflect the respective Improvement Areas therein, to authorize the levy of a special tax pursuant to the Amended Rate and Method of Apportionment of Special Tax for the respective Improvement Area and to pay for the Facilities proposed to be provided for the Community Facilities District as initially described in Exhibit B to Resolution No. 1993-06 and as further described in Exhibit D hereto to eliminate Services therefrom and to further clarify the Facilities which may be provided; and

WHEREAS, the City Council has determined, based on a Certificate of the Riverside County Registrar of Voters dated March 2, 1993, that there are two registered voters residing in the Community Facilities District and that the qualified electors in each respective Improvement Area are the owners of land within such Improvement Area; and

WHEREAS, the City Council has received the "Petition (including Consent and Waiver)" or a Consent and Waiver of the owners of land within certain Improvement Areas waiving certain election requirements; and

WHEREAS, the City Council is fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAUMONT AS FOLLOWS:

Section 1. All of the above recitals are true and correct.

Section 2. The City Council, acting as the legislative body of the Community Facilities District, hereby approves and adopts said Resolution No. 1993-06, notice of which was published and mailed prior to the public hearing as required by law, and, except as otherwise provided herein, reconfirms all of its findings and determinations contained in said Resolution No. 1993-06, Resolution No. 1993-07 and Resolution No. 1993-24. The City Council hereby approves and adopts the respective Amended Rate and Method of Apportionment of Special Tax for each Improvement Area and the manner of collection of the special tax as set forth in Exhibit C to the Public Report. To the extent required by Section 53325.1(a) of the Act, all of the information contained in Resolution No. 1993-06 is incorporated herein and made a part hereof.

Section 3. The City Council hereby approves and ratifies the Map filed by the City Clerk in the Office of the County Recorder of the County of Riverside as the boundaries of each Improvement Area and the Community Facilities District, subject to modifications made at the time of adoption of this Resolution. In accordance with Section 3111 and 3113 of the California Streets and Highways Code, said map was recorded on March 9, 1993, in book 36, page 82 in the Book of Maps of Assessments and Community Facilities Districts in the County Recorder's Office of the County of Riverside and an amended map was recorded on May 6, 1993, in book 36, page 87 in the Book of Maps of Assessments and Community Facilities Districts in the County Recorder's Office of the County of Riverside. In accordance with Section 53325.5 of the Act, the City Council hereby approves the boundaries of the Community Facilities District as revised to incorporate parcel numbers 418-240-008, 418-250-005, and 419-260-004 as referenced in Resolution No. 1993-24 and as more particularly described in the Amended Map attached hereto as Exhibit B. The special tax in and for each Improvement Area shall be as set forth in the Amended Rate and Method of Apportionment of Special Tax and the boundaries of the Community Facilities District and each Improvement Area shall be as set forth in the Amended Map, both in the form incorporated herein and made a part hereof.

Section 4. The City Council finds and determines that written protests to the establishment of the Community Facilities District, each Improvement Area thereof (including the establishment of Improvement Area No. 6A and Improvement Area No. 6B as referenced in Resolution No. 1993-24), or the extent thereof, or to the acquisition, construction and installation of the Facilities, the type or extent of the Facilities or the Services, the levy of the special tax proposed to be levied in each Improvement Area are insufficient in number and in amount under the Act to require abandonment of these proceedings, and the City Council hereby further orders and determines that all protests to the establishment of the Community Facilities District, the Improvement Areas thereof, or the extent thereof, or the type and extent of the Facilities, or the establishment of the appropriations limit, and the levy of the special tax proposed to be levied within each Improvement Area are hereby overruled and denied. The proposed special tax to be levied in each Improvement Area has not been precluded by majority protest pursuant to Section 53324 of the Act.

Section 5. Consistent with Section 53325 of the Act, the City Council hereby finds that the complexity of the proposed District and the need for public participation required additional time necessitating the continuation of the public hearing from April 12, 1993 to the date hereof. Furthermore, the exhibits to the Public Report contain reports that include brief analyses of the impact of modifications to the Rate and Method of Apportionment of Special Tax for Improvement Area Nos. 9, 10 and 11 and the special tax to be paid by the owners of lots or parcels in such Improvement Areas, and the City Council has received and considered such reports before adopting this Resolution.

Section 6. Consistent with Section 53325.6 of the Act, the City Council finds and determines that the land within each Improvement Area, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products will be benefitted by the Facilities proposed to be provided within the respective Improvement Areas.

Section 7. The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the formation of the Community Facilities District, including the designation of the Improvement Areas therein, are valid and in conformity with the requirements of the Act, and the City Council determines to proceed to establish the Community Facilities District and the respective Improvement Areas. Accordingly, the City Council finds,

determines and orders that, consistent with Resolution No. 1993-06, the Community Facilities District and the Improvement Areas therein are hereby formed under and pursuant to the terms and provisions of the Act, the boundaries of which are as set forth on the Amended Map, filed with the City Clerk and to be filed in the Office of the County Recorder of the County of Riverside pursuant to Section 13 hereof.

Section 8. A general description of the Facilities which the City Council is authorized by law to provide within each respective Improvement Area is set forth in Exhibit D hereto, and the City Council hereby finds and determines that such Facilities are necessary to meet present or increased demand placed upon the City as a result of existing or projected development within each Improvement Area. The City Council further finds and determines based on comments received in connection with the public hearing not to include Services within the authorization of these proceedings.

Section 9. Except where funds are otherwise available, a special tax sufficient to pay for all the Facilities, including the payment of interest on and principal of bonds proposed to be issued to finance the Facilities and including the repayment of funds advanced to or on behalf of an Improvement Area or the Community Facilities District, annual administration expenses of the City and the Community Facilities District in determining, apportioning, levying and collecting such taxes, secured by recordation of a continuing lien against all non-exempt real property in each respective Improvement Area, will be levied annually within the boundaries each respective Improvement Area. For particulars as to the Amended Rate and Method of Apportionment of the Special Tax and the manner of collection of the Special tax for each Improvement Area, reference is made to Exhibit C of the Public Report which sets forth the rate and method of apportionment and the manner of collection of such special tax in sufficient detail to allow each landowner or resident within each respective Improvement Area to estimate the maximum amount that such person will have to pay for the Facilities.

Section 10. The City Council hereby declares that the question of levying a special tax within each Improvement Area shall be submitted to the qualified electors within each such Improvement Area, in accordance with and subject to the Act and the waivers of the landowners, all the terms of which shall be applicable to such election; provided, however, that no election shall be called for any Improvement Area for which the City Clerk has not received waivers of certain election requirements as required by the Act.

Section 11. The office which will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and which will be responsible for estimating future special tax levies pursuant to Section 53340.1 of the Act is the Office of the City Manager, 550 East Sixth Street, Beaumont, California 92223, 909/845-4321. The City Manager is further directed to establish procedures to promptly respond to inquires concerning current and future tax liability. The Office of the City Manager shall also prepare a form of Notice of Special Tax as set forth in Section 53340.2 of the Act and to prepare information required to be filed with the California Debt Advisory Commission by October 30 of each year as required by Section 53359.5 of the Act, and to notify the Commission within 10 days of the failure to pay principal and interest due on any scheduled payment date of any bonds if funds are withdrawn from a reserve fund to pay principal and interest on such bonds.

Section 12. Upon recordation of a notice of special tax lien in connection with each Improvement Area pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax within such Improvement Area shall attach to all non-exempt real property in each such Improvement Area, and this lien shall continue in force and effect until the special tax obligation is paid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City Council ceases in accordance with the rate and method of apportionment of special tax within the Community Facilities District.

Section 13. Pursuant to Section 53325.5 of the California Streets and Highways Code and Section 3111 of the Streets and Highways Code, the revised boundary map of the Community Facilities District has been recorded in the Book of Maps of Assessment and Community Facilities Districts in the County Recorder's Office of the County of Riverside as referenced in Section 3 hereof. Pursuant to Section 53325.5 of the Act and Section 3113 of the California Streets and Highways Code, to the extent the map attached as Exhibit B hereto differs from said amended map, the City Clerk is hereby authorized and directed to endorse the Certificate on the Amended Map evidencing the date and adoption of this Resolution and is further authorized and directed to file said map in accordance with the provisions of Section

3313.5 of the California Streets and Highways Code within 10 days after the approval of the Amended Map which shall be within 10 days of the adoption hereof.

Section 14. As the Registrar of Voters of the County of Riverside has notified the City Council that there are fewer than 12 registered voters within the Community Facilities District, the levy of the special tax and the establishment of the appropriations limitation shall be submitted to the owners of land within each respective Improvement Area as the qualified electors of each respective Improvement Area, with each acre or portion thereof within an ownership representing one (1) vote; provided, however, that such election shall not be called at this time for any Improvement Area for which the City Clerk has not received waivers of certain election requirements as provided by the Act. The requirements of Section 53326 of the Act pertaining to the shortening of time and the requirement for notice having been waived by each landowner in such Improvement Areas, upon the concurrence with such waiver by the election official as designated by the City Council in this Resolution, a special election shall be and is hereby called and ordered to be held on July 20, 1993, at which election there shall be submitted to the qualified electors within each such Improvement Area, the ballot proposition of levying a special tax which shall read as set forth in Exhibit A hereto, with appropriate changes with respect to each Improvement Area. The ballots for each special election shall be distributed by personal or mailed delivery to each of the landowners within each such Improvement Area. Pursuant to Section 53326(b) of the Act, with respect to elections by landowners, the City Council has determined that the Facilities to be financed by each respective Improvement Area within the Community Facilities District are necessary to meet increased demands placed upon local agencies as a result of development in each Improvement Area. The ballots for the special election shall be distributed by mail or personal delivery to each of the owners of land within each respective Improvement Area. Each landowner shall have one vote for each acre or portion thereof that he, she or it owns within the applicable Improvement Area, as provided in Section 53326 and Section 53351 of the Act.

Section 15. If the proposition for the levying of such special tax within an Improvement Area, receives the approval of more than two-thirds (2/3) of the votes cast on the proposition, the City Council, as legislative body for the District, may levy the special tax within the applicable Improvement Area.

Section 16. The City Clerk of the City of Beaumont is hereby designated as the election official for the purposes of conducting the election in each Improvement Area and is hereby requested to take all steps necessary to hold the election in accordance with the Act and these specifications; provided, however, that such specifications may be waived by the landowners if such waiver is concurred with by the election official.

Section 17. The City Council hereby further directs that the election at which the question of levying such special tax and the establishment of an appropriations limit is submitted to the qualified electors within each Improvement Area shall be consolidated with the election at which the question of incurring a bonded indebtedness in an amount as set forth in Exhibit A to Resolution No. 1993-07 for each such Improvement Area, as modified by Resolution No. 1993-24, is submitted to the qualified electors within each Improvement Area, and the question of levying such special tax shall be combined in one ballot proposition with the question of incurring such bonded indebtedness and the question of establishing an appropriations limit for the Community Facilities District, all as provided by the Act; and the City Council further directs that Resolution No. 1993-14 adopted declaring the necessity to incur such bonded indebtedness shall constitute the notice of the consolidated election on the combined proposition of authorizing the levy of such special tax, of establishing the appropriations limit and of incurring such bonded indebtedness.

Section 18. The City Clerk as the election official is authorized to canvass the returns of the election pursuant to Section 23306 of the Elections Code, and the City Council is thereafter authorized to certify the results of the election.

(a) Said special election shall be held and conducted, and the votes canvassed and the returns made, and the results thereof ascertained and determined, as herein and in Resolution No. 1993-14 provided; provided, however, that such specification may be waived by the landowners if such waiver is concurred with by the election official.

(b) The requirements of Section 53326 of the Act have been waived by each landowner within each Improvement Area; the ballots for each respective special election (which shall be separately prepared for each Improvement Area) shall be distributed by personal or mailed delivery to each of the landowners within the applicable Improvement

Area. Each landowner shall have one vote for each acre or portion thereof that he, she or it owns within the applicable Improvement Area, which number of votes to be voted shall be specified on the ballot provided to such landowner, as provided in Section 53326 of the Act.

(c) On the ballots to be used at said special elections, in addition to all other matters required by law to be printed thereon, shall appear the appropriate proposition described in Section 14 hereof for the related Improvement Area. Each voter to vote for said proposition and for levying said special tax, establishing such appropriations limit and incurring said bonded indebtedness shall mark the ballot card in the space opposite the word "YES" or to vote against said proposition and against levying said special tax, establishing such appropriations limit and incurring said bonded indebtedness shall mark the ballot card in the space opposite the word "NO."

(d) The ballots to be used at each respective special election must be received in the office of the City Clerk by 4:30 p.m. the date of the election at which time the election shall be closed.

(e) The City Clerk shall commence the canvass of the returns of each special election at 9:00 A.M. on the day following the date of such special election and at the conclusion thereof shall determine the results of the special election and shall certify said results to the City Council.

(f) The City Council shall declare the results of said special elections at the next regular meeting following the date of the elections, and shall cause to be spread upon its minutes a statement of the results of said special elections as ascertained by said canvass.

Section 19. The City Clerk as the election official is hereby directed to distribute to the owners of land within each Improvement Area copies of this Resolution, together with a description and map of the Community Facilities District in sufficient scale and clarity to show the boundaries thereof and the Assessor's parcel numbers for the land therein.

Section 20. If two-thirds (2/3) of the votes cast upon the question of levying such special tax within an Improvement Area are cast in favor of levying that tax, as determined by the City Council after the canvass of the returns of such election, the City Council may levy such special taxes within the territory of the applicable Improvement Area under the Act in the amounts and for the purposes as specified in this Resolution. Such special tax may be levied only at the respective rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that such special tax may be levied at a rate lower than that specified herein. Such special tax may be levied only so long as it is needed to pay for the funding, financing, acquisition, construction and installation of the Facilities, or so long as it is needed to pay the principal of and interest on the bonded indebtedness, together with administrative expenses and other expenses of the Community Facilities District with respect to the applicable Improvement Area incurred by the City and the Community Facilities District.

Section 21. The officers of the City and their authorized representatives, are, and each of them acting alone is, hereby authorized to execute any and all documents and agreements and do and perform any and all acts and things, from time to time, consistent with this Resolution and necessary or appropriate to carry the same into effect and to carry out its purpose.

Section 22. This Resolution shall take effect immediately upon its adoption.

MOVED, PASSED AND ADOPTED this 29th day of June, 1993 by the following vote:

- AYES: Council Member Brey, McLaughlin, Parrott, Russo and Mayor Leja.
- NOES: None.
- ABSTAIN: None.
- ABSENT: None.

Jan Leja
 Mayor of the City of Beaumont

ATTEST:

Julia White
 CITY CLERK (Deputy)

CERTIFICATION

The foregoing is certified to be a true copy of Resolution No. 1993- 13 duly adopted by the said City Council of the City of Beaumont on the date herein set forth.

Julia White (Deputy)
 CITY CLERK, CITY OF BEAUMONT

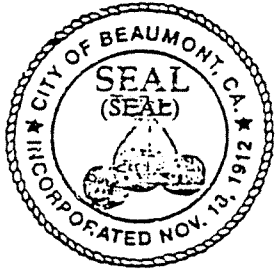


EXHIBIT A

Improvement District No. ___
PROPOSITION XXX:

Shall City of Beaumont Community Facilities District No. 93-1 be authorized to finance all or a portion of the design, acquisition, construction and equipping of certain real and other tangible property with an estimated useful life of five years

or longer, which is to be acquired or constructed for Community Facilities District No. 1993-1, including all facilities authorized by the Act, including sewage facilities, water facilities, school facilities, transportation facilities, flood control and drainage facilities, public utility facilities, parks and open space, civic facilities, other landscaping and erosion control facilities and financing costs and incidentals, all as more particularly described in Exhibit D to Resolution No. 1993-13 adopted by the City Council of the City of Beaumont on _____, 1993 by incurring a bonded indebtedness in the principal amount of \$[insert applicable amount for the Improvement Area] and shall an appropriations limit in the amount of \$10,000,000 per fiscal year in connection therewith be established for the Community Facilities District, and shall a special tax with a maximum rate and method of apportionment as provided with respect to such Improvement Area in Exhibit C to the Public Report presented in connection with the adoption of Resolution No. 1993-13 adopted by the City Council of the City of Beaumont on _____, 1993, which is incorporated by reference herein, be levied to pay for such facilities, including the payment of current and future principal of and interest on such bonds and the annual administration expenses of the City and the Community Facilities District in determining, apportioning, levying and collecting the special tax, and including the repayment of funds advance to or on behalf of the Community Facilities District?

EXHIBIT C

REFERENCE IS HEREBY MADE TO EXHIBIT C OF THE PUBLIC REPORT DATED JUNE 14, 1993 PRESENTED IN CONNECTION WITH RESOLUTION NO. 1993-13 FOR THE AMENDED RATE AND METHOD OF APPORTIONMENT FOR EACH IMPROVEMENT AREA

EXHIBIT DDESCRIPTION OF FACILITIES

The proposed project involves creation of a Mello-Roos Community Facilities District to finance the design, acquisition and construction of public facilities relating thereto to benefit the areas of land proposed for development within the boundaries of the City, and include all facilities authorized by the Act. All facilities shall have a useful life in excess of five years. The improvements which can be acquired and constructed which may be provided include, but are not limited to, the following:

Sewage Facilities:

City treatment plant or plants designed to serve the needs of the City with an ultimate capacity up to approximately 6-8 million gallons per day, sewer improvements, industrial sewer improvements, trunk sewers, local sewage collection systems, sewer lift systems, sewer force mains, appurtenant bedding material, backfill, encasement, anchors, joint seals/bands, easements, rights-of-way, and sewer capacity and connection charges paid in connection with any of the foregoing facilities.

Water Facilities:

Water improvements for domestic, imported and reclaimed facilities, including water storage reservoirs and systems, reclamation systems, treatment systems, water mains, booster systems valves, fire hydrants, air vacuum release valves, blow-offs, pressure reducing facilities and appurtenant hardware, bedding material, backfill, encasement, thrust blocks, irrigation systems, water well rehabilitation, easements, rights-of-way, and applicable capital facilities fees or charges for imported water supplies, imported facilities, domestic facilities and Agency facilities paid in connection with facilities with a useful life in excess of five years.

School Facilities:

Elementary and secondary school sites and structures which meet the building area and cost standards established by the State Allocation Board and appurtenances.

Transportation Facilities:

Road improvements, access ramps, overcrossings, underpasses, bridges, traffic signal and control facilities, rail crossings, sidewalks, freeway interchanges, grading, paving, and base material, full or partial width paving, curb, gutter, sidewalk, landscape and irrigation in parkways, street signs, street lights, striping, easements and rights-of-way.

Flood Control and Drainage:

Storm drains, canal improvements, retention and detention basins or enhancement areas, easements, rights-of-way, inlet structures, outlet structures, junctions and reinforced concrete box structures in various streets.

Public Utilities:

Backbone power and natural gas lines, public utility facilities, pipelines, relocations, conversions, extensions, easements and rights-of-way.

Parks and Open Space:

49089

RESOLUTION NO. 1993-14

RESOLUTION OF THE CITY OF BEAUMONT DECLARING THE NECESSITY TO INCUR BONDED INDEBTEDNESS WITH RESPECT TO IMPROVEMENT AREAS TO PAY FOR CERTAIN PUBLIC FACILITIES WITHIN COMMUNITY FACILITIES DISTRICT NO. 93-1, CALLING SPECIAL ELECTIONS WITHIN EACH SUCH IMPROVEMENT AREAS TO SUBMIT TO THE QUALIFIED ELECTORS OF SUCH IMPROVEMENT AREAS THE PROPOSITION OF INCURRING SUCH BONDED INDEBTEDNESS AND DESIGNATING THE CITY CLERK OF THE CITY AS THE ELECTION OFFICIAL

WHEREAS, the City Council (the "City Council") of the City of Beaumont, California ("the City") on February 22, 1993, duly adopted Resolution No. 1993-06 declaring its intention to establish "City of Beaumont Community Facilities District No. 93-1" (the "Community Facilities District"), including twelve separate improvement areas therein (each an "Improvement Area," and collectively, the "Improvement Areas") and to levy special taxes to pay for certain public facilities and services in and for the Community Facilities District under and pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 25, Part 1, Division 2, Title 5 of the Government Code of the State of California, and calling a public hearing on the question of the establishment of such Community Facilities District and the Improvement Areas therein; and

WHEREAS, the City Council has heretofore on February 22, 1993, duly adopted Resolution No. 1993-07 declaring its intention to incur a bonded indebtedness with respect to each Improvement Area in the amounts set forth in Exhibit A to Resolution No. 1993-07 to finance certain public facilities and services as set forth in Exhibit B to Resolution No. 1993-06 (as such facilities are more specifically enumerated in Resolution No. 1993-13, the "Facilities") which bonded indebtedness shall be secured by the levy of a special tax within the applicable Improvement Area; and

WHEREAS, on April 26, 1993, the City Council by Resolution No. 1993-24 declared its intention to annex certain territory to the Community Facilities District, to levy a special tax to pay for certain public facilities and services in and for such Community Facilities District and declaring its intention to issue bonds secured by the special tax to finance certain facilities of such District and set June 14, 1993 at the regular meeting place of the City Council as the date, time and place for the public hearing relating to the annexation; and

WHEREAS, as described in Resolution No. 1993-13, prior to the time for the April 12, 1993 hearing, in accordance with said Resolution No. 1993-06, a report on such proposal entitled "Public Report for Community Facilities District No. 93-1" and dated April 12, 1993 was filed with the City Council and subsequent to April 12, 1993, said report has been revised to incorporate comments received in connection with the proceedings and a second report entitled "Public Report for Community Facilities District No. 93-1" and dated June 14, 1993 (said June 14, 1993 report being referred to herein as the "Public Report"), and such Public Report was filed with the City Clerk of the City and is incorporated herein and made a part of the record of the hearing on said Resolution No. 1993-06 and Resolution No. 1993-07; and

WHEREAS, as described in Resolution No. 1993-13 pursuant to Resolution No. 1993-06, Resolution No. 1993-07 and Resolution No. 1993-24, public hearings have been held in connection with the formation of Community Facilities District and the incorporation of the territory referenced in Resolution No. 1993-24 within the Community Facilities District, at which hearings the City Council considered the establishment of the Community Facilities District, the establishment of the Improvement Areas, the type and extent of the proposed Facilities and Services (as defined in Resolution No. 1993-06), the proposed rate and method of apportionment of special tax in each Improvement Area therein, the proposed appropriations limit therefor, the necessity for incurring bonded indebtedness to finance Facilities and all other matters as set forth in Resolution No. 1993-06, Resolution No. 1993-07 and Resolution No. 1993-24, and at the above-mentioned time and place for such public hearings, all persons interested, including all taxpayers, property owners and registered voters within each Improvement Area within the Community Facilities District were given an opportunity to appear and be heard, and the testimony of all interested persons for or against the establishment of the Community Facilities District, the establishment of the Improvement Areas therein, the acquisition and construction of the Facilities, the provision of the Services, the levy of the special tax within each respective Improvement Area, the extent of the Community Facilities District, the establishment of an appropriations limit for the Community Facilities District, the necessity for incurring bonded indebtedness to finance the Facilities, and any other matters set forth in said Resolution No.

Park and trail facilities, open space proposed for public dedication and public use, easements and rights-of-way.

Civic Facilities:

Civic facilities, police facilities, fire protection facilities, and other facilities for the purpose of providing administrative, justice, cultural, recreational and public safety services.

Other:

Landscaping, erosion control.

Financing Costs and Incidentals:

Costs and expenses necessary to form the district, authorized the special tax and the issuance of notes or bonds, including environmental proceedings, preliminary engineering, preliminary design, citywide planning, design surveys, soils engineering and testing, aerial photography, construction surveys, staking, insurance and bonding, city plan check and inspection fees, other public agency plan check or inspection fees, construction and project management, property owner and agency coordination, title reports, title insurance, appraisals, market absorption studies, special tax consultants, city administrative charges, legal costs, reserve funds, interest during construction, underwriter's discounts, underwriters counsel, rating agency, bond insurance, credit support, trustee fees and expenses, fiscal or paying agent fees and expenses, printing and mailing costs for disclosure statements, and note and bond printing.

1993-06, Resolution No. 1993-07 and Resolution No. 1993-24, were heard and considered and the City Council at the conclusion of said hearings was fully advised in the premises, and was authorized to proceed as hereinafter provided; and

WHEREAS, following such public hearings, the City Council duly adopted Resolution No. 1993-13 establishing the Community Facilities District, the Improvement Areas therein and the Rate and Method of Apportionment of Special Tax for each Improvement Area as set forth therein; and

WHEREAS, the City Council has determined, based on a Certificate of the Riverside County Registrar of Voters dated March 2, 1993, that there are two registered voters residing in the Community Facilities District and that the qualified electors in each respective Improvement Area are the owners of land within each such Improvement Area; and

WHEREAS, the City Council has received the "Petition (including Consent and Waiver)" or a "Consent and Waiver" of the owners of land within certain of the Improvement Areas waiving certain election requirements; and

WHEREAS, the City Council is fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAUMONT AS FOLLOWS:

Section 1. All of the above recitals are true and correct.

Section 2. The City Council, acting as the legislative body of the Community Facilities District, hereby declares and deems that the public convenience and necessity require and it is necessary that bonded indebtedness with respect to each Improvement Area be incurred to finance all or a portion of the Facilities.

Section 3. The purpose for the proposed bonded indebtedness with respect to each Improvement Area is to finance the Facilities, including any capacity or connection fees representing such public facilities, with an estimated useful life of five (5) years or longer, which are public facilities that the City or a public agency is authorized by law to construct, own or operate, together with incidental expenses consisting of the costs of planning and designing such facilities, including the costs of environmental evaluations thereof, all costs associated with the establishment of the Community Facilities District and the Improvement Areas therein, the issuance of bonds with respect to each Improvement Area, the determination of the amount of any special taxes to be levied, the cost of collecting any special taxes, and costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District, together with any other expenses incidental to the acquisition, construction, completion and inspection of the Facilities.

Section 4. Pursuant to Section 53351(c) of the Act, the City Council hereby determines that each Improvement Area will pay for the bonded indebtedness to finance Facilities relating to such Improvement Area.

Section 5. The whole of the territory within each Improvement Area of the Community Facilities District, as indicated on the Amended Map approved by the City Council on this date, will be benefitted by such bonded indebtedness and will be subject to a special tax to pay for such bonded indebtedness, as set forth in the Resolution establishing the Community Facilities District.

Section 6. The amount of the proposed bonded indebtedness to be incurred with respect to each Improvement Area to finance all or a portion of the Facilities (including incidental expenses as authorized by the Act) is the respective amount set forth in Exhibit A to Resolution No. 1993-07, as modified by Resolution No. 1993-24.

Section 7. The maximum term of the bonds with respect to an Improvement Area shall not exceed forty (40) years from the date of the bonds, or the date of any series thereof.

Section 8. The maximum annual rate or rates of interest to be paid on the bonds with respect to each Improvement Area shall not exceed the maximum annual rate permitted by law at the time of the sale of the bonds, as determined at that time, payable semiannually commencing the first March 1 or September 1 following their date, or to the extent permitted by law as set forth in the fiscal agent agreement pursuant to which such bonds are issued.

Section 9. The City Council hereby declares that the proposition of incurring such bonded indebtedness in the respective amounts set forth in Exhibit A to Resolution 1993-07, as modified by Resolution No. 1993-24, shall be submitted to the qualified electors within the applicable Improvement Area of the Community Facilities District which have submitted either the Petition (including Consent and Waiver) or the Consent and Waiver and shall be combined in one ballot proposition with the question of levying a special tax within each such Improvement Area and the establishment of an appropriations limit for the entire Community Facilities District in the amount of \$10,000,000 per fiscal year in connection therewith, all in accordance with and subject to the Act, all the terms of which shall be applicable to each such election, including terms permitting the waiver of certain election requirements by the landowners with the consent of the election official.

Section 10. A special election shall be and is hereby called and ordered to be held in each Improvement Area on Tuesday, July 20, 1993, at which elections there shall be submitted to the qualified electors within the applicable Improvement Area the combined ballot proposition of levying a special tax, of establishing an appropriations limit and of incurring such bonded indebtedness, such combined ballot proposition to read substantially as set forth in Exhibit A to Resolution No. 1993-13, with such changes therein as shall be appropriate to reflect the Improvement Area encompassed by such election and with such further changes therein as shall be requested by the City Clerk as the designated election official of the Community Facilities District.

Section 11. If the combined proposition for each Improvement Area receives the approval of more than two-thirds (2/3) of the votes cast on the proposition with respect to an Improvement Area, the bonds of such Improvement Area may be issued and sold for the purpose for which authorized, and such bonds (except where funds are otherwise available) shall be paid exclusively from the annual levy of such special tax within such Improvement Area and such bonds are not and shall not be secured by any other taxing power or funds of the City or other public agency or the Community Facilities District.

Section 12. The City Council does hereby submit to the qualified electors within each Improvement Area of the Community Facilities District at said special election the combined ballot proposition described in Section 10 of this Resolution, and designates and refers to said proposition in the form of ballot prescribed for use at said election.

Section 13. The officers of the City and their authorized representatives, are, and each of them acting alone is, hereby authorized to execute any and all documents and agreements and do and perform any and all acts and things, from time to time, consistent with this Resolution and necessary or appropriate to carry the same into effect and to carry out its purpose. The officers are directed to diligently pursue the issuance of the first series of bonds following a favorable election and to use their best efforts to issue such bonds subject to satisfaction of underwriting criteria and favorable market conditions.

EXHIBIT "F"

Sewer Service Facilities Construction Schedule

EXHIBIT "F"

Sewer Service Facilities Construction Schedule

Start of Construction Stage 1 Wastewater Treatment Plant	August 31, 1993
Sale of CFD 1993A Bonds	November 23, 1993
Completion of Stage 1 Wastewater Treatment Plant Capacity	June 1, 1995
Completion of any force mains, lift stations and gravity mains funded by Improvement Area which are necessary to serve the Development of the Property	June 1, 1995

ORDINANCE NO. 726

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF BEAUMONT, CALIFORNIA, ADOPTING THE DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF BEAUMONT AND
HEARTLAND BEAUMONT CALIFORNIA L.T.D. (PURSUANT TO
GOVERNMENT CODE SECTIONS 65864 - 65869.5)

WHEREAS, in order to strengthen the public planning process, to encourage private participation in comprehensive planning, and to reduce the economic risks of development, the Legislature of the State of California has adopted sections 65864 through 65869.5 of the Government Code which authorize the City of Beaumont (hereinafter referred to as the "City") to enter into a Development Agreement.

WHEREAS, the City, by adopting Resolution No. 1987-34, has adopted rules and regulations establishing procedures and requirements for the consideration of development agreements.

WHEREAS, on February 8, 1993, the City Council of the City, after duly complying with the California Environmental Quality Act and all statutes, ordinances and resolutions applicable to the adoption of the General Plan and General Plan Environmental Impact Report, adopted its Resolution No. 1993-04 certifying that the General Plan Environmental Impact Report had been completed in compliance with the California Environmental Quality Act and its Resolution No. 1993-05 approving the General Plan.

WHEREAS, the applicant proposed and submitted and City Staff has reviewed and negotiated the Development Agreement between the City and the Owner of Improvement Area No. 5 in the CFD to govern development of 420 acres, hereinafter referred to as the "Property".

WHEREAS, on June 29, 1993, the City Council approved the City of Beaumont Community Facilities District No. 93-1, hereinafter referred to as the "CFD", as part of the City Comprehensive Public Facilities Financing Program, hereinafter referred to as the "Program", pursuant to which the City determined that it was appropriate to provide for certain public facilities and services in order to implement the General Plan and, further, that such facilities and services could best be facilitated through the City issuing bonds secured by liens on the Property to be developed within the City.

WHEREAS, the Planning Commission of the City of Beaumont by its recommendation of approval of said Development Agreement adopted on August 17, 1993, has made the following findings relative to several proposed Development Agreements between the City and several Owners of Improvement Areas in the CFD:

1. The proposed agreements are consistent with the objectives, policies, general land uses and programs specified in the General Plan and the respective Specific Plans;
2. The proposed agreements facilitate land uses which are compatible with the uses authorized in, and the regulations prescribed for, the land use districts in which the real property is located;
3. The proposed agreements are in conformity with public convenience, general welfare and good land use practice;
4. The proposed agreements will not be detrimental to the health, safety and general welfare;
5. The proposed agreements will not adversely affect the orderly development of

property or the preservation of property values;

6. The proposed agreements will enhance the stability of CFD No. 93-1 and other City infrastructure financing programs;

7. The proposed agreements will facilitate quality master planned development which will aid in the economic development of the City; and

8. The proposed agreements will not have an adverse affect on the environment.

WHEREAS, the City Council of the City of Beaumont has reviewed the reasons for the recommendation of approval by the Planning Commission as included in the materials submitted by them to the City Council accompanying said recommendation; and

WHEREAS, a duly noticed public hearing as required by law was conducted by the Planning Commission of the City of Beaumont on September 21, 1993, and a duly noticed public hearing as required by law was conducted by the City Council of the City of Beaumont on September 27, 1993;

THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT DOES ORDAIN AS FOLLOWS:

SECTION 1: It has been determined that:

A. The provisions of the Development Agreement between the City of Beaumont and the applicant are consistent with the General Plan; and

B. The Development Agreement complies with all applicable zoning, subdivision and building regulations and with the General Plan of the City of Beaumont; and

C. The Development Agreement states the duration of the Agreement to be a period not to exceed twenty-five (25) years, sets forth the uses of the property, and the density and intensity of use, and sets forth the maximum height and size of proposed buildings and provides for the reservation, dedication and improvement of land for public facility uses.

SECTION 2: The Development Agreement between the City of Beaumont and the applicant attached hereto as Exhibit "A" is approved and the Mayor of the City of Beaumont is authorized and directed to execute said Development Agreement on behalf of the City of Beaumont on or after the date when by law this Ordinance shall take effect.

SECTION 3: This Ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage the City Clerk shall cause a summary to be published in the Community Advisor, a newspaper of general circulation printed and published in the City of Beaumont in the manner prescribed by law for publishing of ordinances of said City.

MOVED, PASSED AND ADOPTED on this 11th day of October, 1993 upon the following roll call vote.

AYES: Council Member Brey, McLaughlin, Parrott, Russo and Mayor Leja.

NOES: None.

ABSTAIN: None.

ABSENT: None.


MAYOR OF THE CITY OF BEAUMONT

ATTEST:

Julia White
DEPUTY CITY CLERK

CERTIFICATION

I, Julia White, Deputy City Clerk of the City of Beaumont DO
HEREBY CERTIFY that the foregoing Ordinance was introduced at a
regular meeting of the City Council of said City held on the
27th day of September, 1993, and was duly adopted upon
second reading on the 11th day of October, 1993, upon
the following roll call vote:

AYES: Council Member Brey, McLaughlin, Parrott, Russo and
Mayor Leja.

NOES: None.

ABSTAIN: None.

ABSENT: None.



Julia White
DEPUTY CITY CLERK
CITY OF BEAUMONT