AGENDA

VALLEJO PLANNING COMMISSION
REGULAR MEETING – 7:00 P.M.
COUNCIL CHAMBERS

Jamar Stamps, Chair
Eric Blind, Vice Chair
Peggy Cohen-Thompson,
Donald Douglass
Wanda Madeiros
Anthony Taylor
Tara Beasley-Stansberry

555 Santa Clara Street, Vallejo, California

December 4, 2023

NOTICE: Members of the public will be able to participate in-person or remotely via Zoom. City Hall and the Council Chambers will be open to members of the public 30 minutes prior to the start of the meeting.

VIEW THE MEETING:

There are four different ways you can view this public meeting:

- In Person
- Watch Vallejo local channel 28
- Stream from the City website: www.cityofvallejo.net/Streaming
- Join the Zoom webinar:https://ZoomRegular.Cityofvallejo.net

IMPORTANT NOTICE

This AGENDA contains a brief general description of each item to be considered. The posting of the recommended actions does not indicate what action may be taken. If comments come to the Planning Commission without prior notice for an item not listed on the AGENDA, no specific answers or responses should be expected at this meeting per State law.

Pursuant to Government Code Section 54954.3 of the Brown Act, members of the public shall be afforded the opportunity to speak on any agenda item of interest to them after being recognized by the presiding officer. Members of the public wishing to be so recognized are requested to submit a completed speaker card to the Secretary of the Planning Commission prior to the consideration of the item or raise their hand via ZOOM:(https://ZoomRegular.Cityofvallejo.net) or by phone: Dial (669) 900-6833. Enter Meeting ID: 914 0075 0676#. Press * 9 to digitally raise your hand from the phone. For additional instructions on how to speak remotely during public comment, please visit www.cityofvallejo.net/publiccomment. In person speakers will be recognized first.

This AGENDA contains a brief general description of each item to be considered. The posting of the recommended actions does not indicate what action may be taken. If comments come to the Planning Commission without prior notice and are not listed on the AGENDA, no specific answers or response should be expected at this meeting per State law.

Notice of Availability of Public Records: All public records relating to an open session item, which are not exempt from disclosure pursuant to the Public Records Act, that are distributed to a majority of the Planning Commission will be available on the City of Vallejo website at www.cityofvallejo.net subject to staff's ability to post the documents prior to the meeting.

Disclosure Requirements: Government Code Section 84308 (d) sets forth disclosure requirements which apply to persons who actively support or oppose projects in which they have a "financial interest", as that term is defined by the Political Reform Act of 1974. If you fall within that category, and if you (or your agent) have made a contribution of $250 or more to any commissioner within the last twelve months to be used in a federal, state or local election, you must disclose the fact of that contribution in a statement to the Commission.

Appeal Rights: The applicant or any party adversely affected by the decision of the Planning Commission may, within ten days after the rendition of the decision of the Planning Commission, appeal the decision by filing a written appeal with the Director of Planning and Development Services. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by Director of Planning and Development Services or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or City holiday, then the deadline shall be extended until the next regular business day.

The Council Chambers in City Hall is ADA compliant. Devices for the hearing impaired are available from the City Clerk. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.

If you have any questions regarding any of the following agenda items, please call the assigned planner or project manager at (707) 648-4326.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. CONSENT CALENDAR AND APPROVAL OF AGENDA

Upon motion of any Commissioner, all items placed upon the consent calendar may be acted upon collectively, and each shall be deemed to have received the action recommended by the Secretary or City Attorney; except that if any Commissioner objects to the placement of an item on the consent calendar, or if any member of the public wishes to address the Commission on any such item, the item shall be removed from the consent calendar and shall be heard and acted upon in its proper place on the agenda as designated by the Presiding Officer.

After making changes in the agenda, if any, as permitted under these rules of order and procedure, the Commission shall approve the agenda which shall constitute the agenda of business to be considered at the meeting. The motion offered to approve the agenda shall include the adoption of the consent calendar.

A. APPROVAL OF AGENDA

B. APPROVAL OF MINUTES

- **a. February 6, 2023**
- **b. March 6, 2023**

C. OTHER CONSENT ITEMS -None.

5. REPORT OF THE CITY COUNCIL LIASION

The City Council Liaison may, from time to time, wish to make announcements and report on items of activity that may be of interest to the Commission and the general public.

6. COMMUNITY FORUM

The Presiding Officer shall announce that members of the public have the opportunity to directly address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission and not on the current agenda. Up to fifteen (15) minutes shall be set aside for the community forum and each speaker shall be allocated up to three (3) minutes, unless time is extended by the Presiding Officer with the Commission's consent. Items of business listed on the agenda shall not be further discussed under the community forum. Anyone desiring to address the Commission may indicate such interest in one of the two ways listed below:

1. Any interested members of the public desiring to communicate with the Planning Commission for this item may approach the podium to speak when the Presiding Officer opens the Community Forum and indicate that they would like to do so.
*2. Any interested members of the public desiring to communicate with the Planning Commission for this item may do so via ZOOM:(https://ZoomRegular.Cityofvallejo.net), or by phone: Dial (669) 900-6833. Enter Meeting ID: 914 0075 0676#. Press * 9 to digitally raise your hand from the phone. For additional instructions on how to speak remotely during public comment, please visit, www.cityofvallejo.net/publiccomment. Please know that in-person speakers will be recognized first.*

7. PUBLIC HEARINGS

A. PROJECT NUMBER(S):

Major Use Permit (MJP23-0001)
Public Convenience or Necessity (PCN23-0003)

PREPARED BY: Kristin Pollot, AICP, Interim Planning Manager

PROJECT LOCATION: 4301 Sonoma Blvd / APN: 0051-250-700

PROJECT SUMMARY: The project consists of a Major Use Permit to secure a Type 20 Alcoholic Beverage Control (ABC) license for "off-sale beer and wine" within an existing 1,725 square foot Arco AM/PM convenience store with associated fuel sales, at 4301 Sonoma Boulevard. A Determination of Public Convenience or Necessity is also required because the proposed beer and wine sales would be located within Census Tract 2518.02, which has an existing over-concentration of off-sale alcohol licenses.

CEQA DETEMINATION: The project is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15301 Class 1: "Existing Facilities" of the CEQA Guidelines.

RECOMMENDATION: Staff recommends the Planning Commission open the public hearing, accept comments, and then continue to the regular meeting of January 17, 2024.

9. WRITTEN COMMUNICATIONS

Written communications from the public will be received and filed. Written communications regarding items on the agenda will be noted at the time the item is considered.

10. REGULAR REPORTS

A. SECRETARY'S REPORT

The Secretary may, from time to time, report on items that may be of interest to the Commission and general public.

B. CITY ATTORNEY'S REPORT

The City Attorney may, from time to time, report on items that may be of interest to the Commission and general public.

C. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION

The Presiding Officer and any Commissioner may, from time to time, wish to make certain announcements, request information from staff, and to report on items of activity that may be of interest to the Commission and the general public.

D. REPORT OF THE SUBCOMMITTEES

11. OTHER AGENDA ITEMS

A. INFORMATIONAL ITEM

This is an informational item only; no action will be taken.

a. The Mare Island Company – Annual Update – 2022 Development Agreement Annual Review (DA23-0001)

B. **Discussion of Future Agenda Items**

a. Phase 2 Zoning Code Updates
b. Housing, Safety and Environmental Justice Elements
c. Overview of new State housing laws

12. ADJOURNMENT

I, Jasmine Thibeaux, do hereby certify that I have caused a true copy of the above notice and agenda to be delivered to each of the members of the Vallejo Planning Commission, at the time and in the manner prescribed by law and that this agenda was posted at City Hall, 555 Santa Clara Street, CA at 5:00 p.m. on Friday, December 1, 2023.

Dated: December 1, 2023

Jasmine Thibeaux .
Jasmine Thibeaux

CITY OF VALLEJO PLANNING COMMISSION
REGULAR MEETING MINUTES
COUNCIL CHAMBERS
February 6, 2023

1. CALL TO ORDER
The meeting was called to order by Chairman Cohen-Thompson at 7:05 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Chair Cohen-Thompson, Vice-Chair Stamps, Commissioners Blind, Bowman, Douglass

Absent:

Staff present: Planning Manager Kavanaugh-Lynch, Principal Planner Cesar Orozco, City Attorney Laura Zagaroli

4. CONSENT CALENDAR AND APPROVAL OF AGENDA

Action: Moved by Commissioner Bowman, second by Commissioner Stamps, the Commission approved the consent calendar and agenda with the following vote:

VOTE:

AYES:	Chair Cohen-Thompson, Vice-Chair Stamps, Commissioners Blind, Bowman, Douglass
NOES:	None
ABSENT:	None
ABSTAIN:	None

A. APPROVAL OF MINUTES – December 5, 2022 Regular Meeting Minutes

B. OTHER CONSENT ITEMS - None

Action: Moved by Commissioner Bowman, second by Commissioner Stamps, the Commission approved the minutes with the following vote:

VOTE:

AYES:	Chair Cohen-Thompson, Vice-Chair Stamps, Commissioners Blind, Bowman, Douglass
NOES:	None
ABSENT:	None
ABSTAIN:	None

C. OTHER CONSENT ITEMS - None

5. REPORT OF THE CITY COUNCIL LIASION - None

6. COMMUNITY FORUM – No Speakers

7. PUBLIC HEARING

A. PROJECT ADDRESS/APN: 1598 Fairgrounds Drive / APN: 0068-171-160

Staff recommends that the Planning Commission Adopt Resolution No. PC 23-01 to Approve UP22-0006, DVR22-0016, DR22-0016, LR22-0005, and ZC22-0035.

Commissioners asked questions and staff responded.

Action: Moved by Commissioner Stamps, second by Commissioner Blind, to Adopt Resolution 23-01 to Approve UP22-0006, DVR22-0016, DR22-0016, LR22-0005, and ZC22-0035:

VOTE:

AYES:	Chair Cohen-Thompson, Vice-Chair Stamps, Commissioners Blind, Bowman, Douglass
NOES:	None
ABSENT:	None
ABSTAIN:	None

8. ACTION ITEMS – None

9. WRITTEN COMMUNICATIONS – None

10. REGULAR REPORTS

A. SECRETARY'S REPORT – Planning Manager Kavanaugh-Lynch acknowledged Principal Planner, Cesar Orozco, who began as a Planning Intern and rose to Assistant, then Associate, and then Principal Planner. His dedication is commended as he also presented to the Commission this evening while expecting a baby at any moment.

B. CITY ATTORNEY'S REPORT - None

C. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION

i. Vice Chair Stamps congratulated Commissioner Bowman on her appointment to the Vallejo Naval and Historical Naval Board.

D. REPORT OF THE SUBCOMMITTEES – None

11. OTHER AGENDA ITEMS – None

12. ADJOURNMENT

Chair Cohen-Thompson adjourned the meeting at 7:39 p.m.

Peggy Cohen-Thompson, CHAIRPERSON

ATTEST:

Manager Kavanaugh-Lynch
SECRETARY

CITY OF VALLEJO PLANNING COMMISSION
REGULAR MEETING MINUTES
COUNCIL CHAMBERS
March 6, 2023

1. CALL TO ORDER

The meeting was called to order by Chairman Cohen-Thompson at 7:07 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Chair Cohen-Thompson, Vice-Chair Stamps, Commissioners Bowman, Douglass, Blind, Madeiros, Taylor

Absent: None

Staff present: Planning Manager Margaret Kavanaugh-Lynch, Director Christina Ratcliffe, City Attorney Laura Zagaroli

4. OATH OF OFFICE OF NEWLY APPOINTED COMMISSIONERS

City Clerk, Dawn Abrahamson, administered the oath of office to newly appointed Commissioners Madeiros and Taylor.

5. CONSENT CALENDAR AND APPROVAL OF AGENDA

Action: Moved by Commissioner Blind, second by Vice-Chair Stamps, the Commission approved the consent calendar and agenda with the following vote:

VOTE:

AYES:	Chair Cohen-Thompson, Vice-Chair Stamps, Commissioners Bowman, Douglass, Blind, Madeiros, Taylor
NOES:	None
ABSENT:	None
ABSTAIN:	None

A. APPROVAL OF AGENDA

B. OTHER CONSENT ITEMS - None

6. REPORT OF THE CITY COUNCIL LIASION - None

7. COMMUNITY FORUM – No Speakers

8. PUBLIC HEARING

9. ACTION ITEMS - The Annual Progress Report of the General Plan and the Annual Housing Element Progress Report (APR) for Calendar Year 2022

1. Resolution Recommending City Council Acceptance of APR

Action: Moved by Vice-Chair Stamps, second by Commissioner Bowman, the Commission

Approved the Resolution Recommending City Council Acceptance of the APR.

VOTE:

AYES:	Chair Cohen-Thompson, Vice-Chair Stamps, Commissioners Bowman, Douglass, Blind, Madeiros, Taylor
NOES:	None
ABSENT:	None
ABSTAIN:	None

10. **WRITTEN COMMUNICATIONS** – A reference document was provided to each of the Commissioners.

11. **REGULAR REPORTS**

A. **SECRETARY'S REPORT** – The Planning Staff has lost valued members through resignation, Associate Planner Elena Barragan and Associate Planner Mark Brown.

B. **CITY ATTORNEY'S REPORT** - None

C. **REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION** - None

D. **REPORT OF THE SUBCOMMITTEES** – None

12. **OTHER AGENDA ITEMS** – None

A. Discussion of Future Agenda Items

i. Phase 2 Zoning Code Updates
ii. Housing, Safety and Environmental Justice Elements
iii. Overview of new State housing laws

13. **ADJOURNMENT**

Action: Moved by Commissioner Blind, second by Commissioner Bowman, the Commission adjourned the meeting.

Chair Cohen-Thompson adjourned the meeting at 8:46 p.m.

____
Peggy Cohen-Thompson, CHAIRPERSON

ATTEST:

____
Manager Kavanaugh-Lynch
SECRETARY

City of VALLEJO California

STAFF REPORT
CITY OF VALLEJO
PLANNING COMMISSION

I. PROJECT INFORMATION

Item No. 7A

DATE OF MEETING:	December 4, 2023
PROJECT NUMBER:	Major Use Permit (UP23-0001) Public Convenience or Necessity (PCN23-0003)
PREPARED BY:	Kristin Pollot, AICP, Interim Planning Manager
PROJECT LOCATION:	4301 Sonoma Boulevard / APN: 0051-250-700
APPLICABLE ZONING CODE SECTION(S):	Major Use Permit (Vallejo Municipal Code (VMC) Section 16.606) Alcoholic Beverage Sales (VMC Section 16.305)
PROJECT SUMMARY:	The project consists of a Major Use Permit to secure a Type 20 Alcoholic Beverage Control (ABC) license for "off-sale beer and wine" within an existing 1,725 square foot Arco AM/PM convenience store with associated fuel sales, at 4301 Sonoma Boulevard. A Determination of Public Convenience or Necessity is also required because the proposed beer and wine sales would be located within Census Tract 2518.02, which has an existing over-concentration of off-sale alcohol licenses.
CEQA DETEMINATION:	The project is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15301 Class 1: "Existing Facilities" of the CEQA Guidelines.
RECOMMENDATION:	Staff recommends the Planning Commission open the public hearing, accept comments, and then continue to the regular meeting of January 17, 2024.

II. PROJECT DATA SUMMARY

APPLICANT:	BP North America c/o Rawlings Consulting Attn: Steve Rawling 26023 Jefferson Ave. Ste D Murrieta, CA 94562

PROPERTY OWNER:	4301 Sonoma LLC 17343 Signature Drive Granada Hills, CA 91344
GENERAL PLAN DESIGNATION:	Business/Limited Residential
ZONING DISTRICT:	Central Corridor Commercial (CC)
EXISTING LAND USE:	Convenience Store with Associated Fuel Sales (Gas Station)
SURROUNDING LAND USE:	<u>North</u> – Commercial and Light Industrial (fast-food restaurant with self-storage beyond) <u>South</u> – Commercial (auto parts store) <u>East</u> – Commercial (Park Place Shopping Center; hardware store) and Residential (mobile home park) across Sonoma Boulevard (Hwy 29) <u>West</u> – Light Industrial (commercial transportation services)
LOT AREA:	One-acre, existing parcel
TOTAL FLOOR AREA:	1,725 square feet for existing convenience store, with 36 square feet dedicated to alcohol sales
PARKING REQUIREMENTS/ PROVIDED:	4 Required / 21 Existing

III. BACKGROUND

Planning staff is requesting additional time to gather background information (including historical alcohol related crime statistics for the immediate area and additional background details from the applicant regarding the need for the project), in order to formulate a recommendation as to whether or not the required findings can be made to support the project.

IV. NOTICING AND PUBLIC COMMENTS

On November 17, 2023, pursuant to VMC Section 16.602.08 – Noticing. A notice of this hearing was published in the Times Herald, mailed to all active neighborhood groups, all property owners within 500 feet of the subject property, all members of the Planning Commission, the applicant and property owner.

Staff has not received any comments or questions from the public on the application as of writing this staff report.

V. STAFF RECOMMENDATION

Based on the need for additional background information to determine compliance with required findings, staff recommends that the Planning Commission open the public hearing and then continue the project to January 17, 2024.

City of VALLEJO California

MEMORANDUM
PLANNING DIVISION

DATE: December 4, 2023 **Item No.:** 11A
TO: City of Vallejo Planning Commission
FROM: Christina Ratcliffe, Planning & Development Services Director
Kristin Pollot, Interim Planning Manager

SUBJECT: Mare Island Development Agreement Annual Review for 2022 (DA #23-0001) – Informational Item

BACKGROUND

In September 2001, the City entered into a Development Agreement (DA) with Lennar Mare Island, LLC (LMI) for the development of approximately 670 acres on Mare Island. The City determined that entering into the DA would promote orderly growth and quality development on Mare Island in accordance with the goals and policies set forth in the Mare Island Reuse Plan and Specific Plan. The City would also benefit from increased employment, commerce, housing and recreational opportunities created by the Lennar Mare Island Development Project for Vallejo residents.

On November 14, 2019, The Nimitz Group, LLC (doing business as and referred to hereinafter as the "Mare Island Company") took ownership of the property and assumed responsibility as the successor entity under the September 12, 2001, Development Agreement for Mare Island.

Pursuant to Vallejo Municipal Code (VMC) Chapter 17.20 and Article V (Annual Review) of the DA, the Mare Island Company is required to prepare and submit an Annual Review of its development activity under the DA to the Development Services Director. Such review is to be initiated during the month of March each year, commencing in March 2002. The Development Services Director is required to determine if the DA is being performed in accordance with its terms and conditions, and to notify the Mare Island Company and the Planning Commission in writing of such determination. If the Director is satisfied with the Annual Review and determines that the Mare Island Company is in compliance, the review for that period is concluded. However, if the Director is not satisfied that the Mare Island Company is being performed in accordance with the terms and conditions of the DA, the matter is referred to the Planning Commission for action pursuant to VMC Section 17.20.030(B).

2022 ANNUAL REVIEW

Staff received a letter from the Mare Island Company addressed to Christina Ratcliffe, Planning & Development Services Director, dated July 2023, providing the Annual Review for 2022. Based on staff's assessment of the Annual Review letter, the Director is satisfied that the DA is being performed in accordance with its terms and conditions, with the exception that the Mare Island Company's continuing obligation to pay to the City a portion of its rent revenues as required by the Acquisition Agreement (AA), has yet to be resolved to the City's satisfaction.

Under the terms of Section 2.2 of the DA, Compliance with the AA, the developer is to faithfully comply with the terms of the AA. Per Section 7.3.4 of the AA, "Sublease Revenue Allocation after the Preliminary Feasibility Period," the developer is required to pay to the City five percent (5%) of the Gross Lease Revenues from subleases of the Sub-LIFOC (Lease in Furtherance of Conveyance) Parcels and the Reuse Area Subleases. Annualized payments to the City under this section typically would exceed $400,000. In December 2017, LMI ceased making payments to the City. The City raised this issue but with the transition from LMI to Mare Island Company, the issue has yet to reach final resolution.

This memo serves as notification to the Planning Commission of the determination of "substantial" compliance pursuant to VMC Section 17.20.030(A). Therefore, the 2023 Annual Review for the year 2022 is considered to be concluded.

The Annual Review letter (attached) includes the following highlights for 2022:

- In 2022, Mare Island Company ("MIC") continued refining development plans, adding additional members to the project team, and expanding the long-term plan to support the future vision for Mare Island.

- The North Mare Island Development and Disposition Agreement (DDA) was approved by the City in March 2022. The purchase of North Mare Island by MIC closed in October 2022.

- The MIC Team successfully began the abatement and demolition of derelict structures on North Mare Island in Nov/Dec 2022.

- MIC invested in multiple buildings which helped maintain historic resources and expand the positive economic impact of the Mare Island business community. Throughout the year dozens of trees received heavy maintenance and weed abatement was performed by both our goats and landscaping crew.

- Employment data collection was revised in 2020 such that reported numbers now include only those businesses that lease space from MIC. The net effect dropped gross year over year job numbers. Overall employment figures for MIC leased space increased from 2,667 in June 2022 to 2,706 in December 2022 a net increase of 39 jobs.

RECOMMENDATION

This item is informational only; no Planning Commission action is required.

ATTACHMENTS

1. Annual Review Letter, dated July 2023
2. 2001 Development Agreement between Lennar Mare Island, LLC and City of Vallejo

Mare
Island
Co.

July 2023
Ms. Christina Ratcliffe
Planning & Development Services Director
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Re: 2022 Annual Review
Development Agreement for Mare Island

Dear Ms. Ratcliffe:

On November 14, 2019, The Nimitz Group, LLC took ownership of the property which is the subject of the Development Agreement for Mare Island dated September 12, 2001.

The 2022 highlights include the following:

- In November 2019 Lennar Mare Island, LLC sold a majority of their interest in Mare Island to The Nimitz Group, LLC.
- In 2022 The Nimitz Group, LLC began doing business as (dba) Mare Island Company and therefore Mare Island Company (MIC) will also be referenced within this review.
- Throughout 2022, Mare Island Company ("MIC") continued refining development plans, adding additional members to the project team, and expanding the long-term plan to support the future vision for Mare Island.
- The North Mare Island Development and Disposition Agreement (DDA) was approved by the City in March 2022. The purchase of North Mare Island by MIC closed in October 2022.
- The MIC Team successfully began the abatement and demolition of derelict structures on North Mare Island in Nov/Dec 2022.
- MIC invested in multiple buildings which helped maintain historic resources and expand the positive economic impact of the Mare Island business community. Throughout the year dozens of trees received heavy maintenance and weed abatement was performed by both our goats and landscaping crew.
- Employment data collection was revised in 2020 such that reported numbers now include only those businesses that lease space from MIC. The net effect dropped gross year over

year job numbers. Overall employment figures for MIC leased space increased from 2,667 in June 2022 to 2,706 in December 2022 a net increase of 39 jobs.

In accordance with Section 5.2 of the Development Agreement by and between the City of Vallejo ("City") and The Nimitz Group, LLC ("Developer" or "TNG"), as amended and assigned, (the "Development Agreement"), and Chapter 17.20 of the Vallejo Municipal Code (the "Municipal Code"), Developer hereby initiates the annual review of the Development Agreement.
The Nimitz Group, LLC has paid the $1,000 processing fee to initiate the review. As set forth in the detail below on a section-by-section basis, Developer demonstrated good faith compliance with the terms and conditions of the Development Agreement in 2022.

Please note that certain sections of the Development Agreement provide factual statements or define terms and requirements and do not require detailed information. Many sections of the Development Agreement (including 1.1, 1.2, 1.3, 2.1.1, 2.1.3, 2.3, 2.3.1, 2.3.2, 2.3.3, 2.3.4, 2.3.5, 2.3.6, 2.3.7, 2.3.8, 2.3.10, 2.3.11, 2.10., 2.12, 2.14, 3.1.2, 3.1.5, 3.1.6, and 3.1.14) are informational only.

Section 1.4 provides that Developer shall at the time of each annual review submit to the City any proposed changes to the Projected Entitlements, the Schedule of Performance, and the intended build-out schedule of the portions of the Project that have not yet been completed.

General Overview:
MIC did not submit any proposed changes to the current entitlements during the annual review period (2022); however, MIC is working with city staff to develop a new Mare Island Specific Plan (MISP) which would likely include changes to the projected entitlements, as well as the schedule for performance/build out (as applicable).

Environmental Cleanup:

For informational purposes only, a general summary of island environmental clean-up is included as Exhibit A to this document.

Section 2.1.2 requires Developer to (a) construct infrastructure in accordance with the "Infrastructure Master Plan," (b) submit a Demolition Phasing Plan within 120 days of the date of execution of the Development Agreement for approval by the City, and (c) seek to comply diligently and in good faith with the "cumulative job projection" set forth in Exhibit D.

Developer is in compliance with Section 2.1.2 of the Development Agreement.

Section 2.1.2(a): In 2022 Developer focused on maintenance and improvement of existing infrastructure. Some of the improvements include the following:

- Ongoing landscaping, water, sewer, storm drain, gas and electrical maintenance and upgrades within existing buildings as follows:
  - Coal Sheds Men and women's restrooms- Install baby changing stations.
  - B545 Southwest - Install new 20' metal security gate.
  - B545 Northeast - Install new 20' metal security gate.
  - B117 East parking lot – New skateboard prevention clips at monument installed in September.
  - B483 South parking lot - Increase entrance width from 8' to 18'
  - B483 South parking lot - Create a new 2nd. entrance from Railroad Ave.
  - 8B Lot West- Install new metal 20' security gate.
  - 8B Lot East- Install new metal 20' security gate.
  - B483 Freight elevator west- Install new protection blankets.
  - Qtrs. F- roof maintenance (tri-annual)
  - Qtrs. S- roof maintenance (tri-annual)
  - Qtrs. 133- roof maintenance (tri-annual)
  - B605- Roof maintenance
  - B680 East - Roof maintenance
  - 10th St. Lot- Remove dilapidated rental fence and replace with permanent post and chain design.
  - Installed new exhaust fan at b149 (coal shed) and airflow (intake and exhaust for the restrooms, suites A, B, C, and D
  - Install 2 new HVAC units at B112 suites 200 and 220.
  - B944 - Demo and remove 5 dilapidated mechanical units off rooftop.
  - B112 Suite 180/190- Install new ductwork at HVAC dampers.
  - Windows – Replaced nine (9) broken windows at Building 221 and reinforced all loose window frames.
  - B944 East lot - Install repeater module for building security sensor.
  - B944 East yard - Install solar powered exterior safety lamp.
  - B746 - exteriors, southeast- Install 3 solar powered safety lamps.
  - B487 Southwest lot- Install LED safety light.
  - 13th. St- Remove large tree/bush encroaching into traffic lane.
  - Nimitz Ave Restroom Trailer Lot- Install new solar safety lamp.
  - Historic Core Southwest - Install new LED safety light.

- Qtrs.17,19, 21, 29 exteriors at rear garages- Install new LED solar powered security lighting
- B77 Exterior- Install 2 new LED High Bay safety lamp fixtures.
- North Island- Flock Camera System- Fully operational
- 8b North and South, Wildfire mitigation within surrounding area. (1 acre approx.)
- Sundance St.- prepare for future sidewalk. Spread 50 cubic yards of drain rock.
- Landscaping – Installed new irrigation sprinkler system along the mow strip at G St. North of Rodman Center, between Walnut Ave and Azuar Drive.
- 8C lots - Wildfire mitigation; approx. 23 acres
- 7th.St. between Walnut Ave/ Oak St. - Tree maintenance large Date palm tree.
- Qtrs. D - North yard. Remove large palm tree stump.
- Qtrs. 133 North yard - Tree maintenance, large palm tree.
- Club Drive Park - Tree maintenance -Prune 9 Mex. Fan Palms, 60 ft. in height.
- Club Drive Park - Safety prune large Eucalyptus branch hanging over street below
- B523 West Yard - Tree maintenance at 70' Pine Tree
- B84 North lot - Remove large fallen Eucalyptus tree branches.
- 8C lot, Southwest – 1 Palm tree, heavy maintenance
- North Island - Plant Health Care from G St. to O St., 32 Pine trees
- M1- Safety prune 2 large Date Palm trees
- G St./ Nimitz Ave- Remove dead vegetation and spread 100 cu. yards wood bark
- G St./ Railroad Ave- Remove dead vegetation and spread 50 cu. yards of wood bark
- B605 North- Remove dead vegetation and spread 50 cu. yards of wood bark
- Qtrs. G west yard- Heavy maintenance at 3 large Eucalyptus trees
- B507- Remove unstable tree.
- Azuar and G St.- Remove 2 dead pine trees
- Flagship Dr. at 8b north- Heavy maintenance at 4 Eucalyptus trees and one (1) Chinese Elm
- Island Wide- Implementation of tree "Deep Root Watering Program" (during drought season only)
- Mansion C- Safety pruning at 3 large Canary Palm Trees
- B521 Courtyard- Safety prune at 2 Cedar trees
- B545 East yard- Safety prune at common type trees
- B605a North- Heavy tree maintenance at 4 Pine trees
- Annual tree pruning- 15th. St. at Nimitz Ave- 15 Palm Trees
- Annual tree pruning- Azuar Dr at 15th St- 19 Fan Palms.

Section 2.1.2(b): Prior to any building demolition, the building must be abated and cleared of any hazardous materials. Developer received approval of Certificate of Appropriateness for the demolition of Buildings 409, 489, and 720 from the Architectural Heritage and Landmarks Commission (AHLC) and intends to demolish these buildings in 2023. Developer received demolition permits from the City of Vallejo Building Department for the abatement and above-grade demolition of Buildings 499, 503, 517, 589, 593, 601, 653, 673, and 993 on North Mare Island. The abatement and demolition of the North Mare Island buildings commenced in 2022 and will be complete in 2023.

Section 2.1.2(c): Mare Island job growth (as tracked by Developer via biannual surveys) is submitted to the City twice each year. The June 2022 job count, conducted by MIC, identified 2,667 permanent jobs on Mare Island. The December 2022 job count, conducted by MIC, identified 2,706 permanent jobs on Mare Island. These numbers do not include construction jobs, consultants, contract employees, volunteers or Touro students. Please note that this job survey methodology is a change to past procedures.

Section 2.2 requires the Developer to comply with the Acquisition Agreement.

- Developer is in compliance with Section 2.2 of the Development Agreement. There have been eleven (11) amendments to the Acquisition Agreement. The first nine (9) amendments were short time extensions enacted between 1999 and 2002. The tenth amendment (2002) focused on conformance with the Eastern Early Transfer Agreement (EETP) requirements between the Navy and the regulatory community. The eleventh amendment (2019) was executed to clarify the current status of the former Badge & Pass Office site and the off-island railroad.

Section 2.3.3 requires the Developer to comply with all lawful requirement of, and obtain all permits and approvals required by, regional, state and federal agencies having jurisdiction over Developer's activities in furtherance of the Development Agreement.

- Developer is in compliance with Section 2.3.3 of the Development Agreement. Developer works closely with all federal, state and local agencies involved in development and environmental activities on Mare Island. Agencies involved in this process include but are not limited to US Environmental Protection Agency (USEPA), California Environmental Protection Agency (CALEPA), Department of Toxic Substance Controls (DTSC), Reginal Water Quality Control Board, Bay Conservation and Development Commission (BCDC), Army Corp of Engineers, State Land Commissions, Solano County and City of Vallejo.
- A portion of the permits pulled in 2022 are shown below.

Location	Description	Permit #	
685 Walnut Ave (B527)	Repair and maintenance to the shell permit	BP-2022-0548	
685 Walnut Ave (B527)	New wet utilities and paving around Bldg 527.	BP22-00300	3/21/2022
1080 Nimitz Ave	Anchor Display	BP-2022-0614	4/14/2022
105 E Street (B461)	New HVAC for temp use	ME-2022-0172	4/27/2022
685 Walnut Ave (B527)	Kindred Tenant Improvements	BP22-0228	7/7/2022
975 Nimitz Ave (B483)	Tenant Improvement - new restroom and storage area	BP22-0236	7/11/2022
Bldg 517	Abatement & Demolition	DM22-00005	9/18/2022
Bldg 499	Abatement & Demolition	DM22-00006	9/18/2022
Bldg 503	Abatement & Demolition	DM22-00007	9/18/2022
Bldg 589	Abatement & Demolition	DM22-00008	9/18/2022
Bldg 593	Abatement & Demolition	DM22-00009	9/18/2022
Bldg 601	Abatement & Demolition	DM22-00010	9/18/2022
Bldg 653	Abatement & Demolition	DM22-00011	9/18/2022
Bldg 673	Abatement & Demolition	DM22-00012	9/18/2022
Bldg 993	Abatement & Demolition	DM22-00013	9/18/2022

Section 2.3.4 provides that Developer and the City will cooperate in good faith to establish an equitable and mutually satisfactory funding mechanism for the construction of certain transportation infrastructure improvements.

- Developer is in compliance with Section 2.3.4. No new transportation infrastructure improvements were constructed or approved in 2022.

Section 2.3.9 requires the Developer to design and construct streets, roads, utilities, drainage systems, traffic control signs, markings, and signal systems, streetscape and street lighting according to engineering, design and construction standards as set forth in the Applicable Approvals, Future Approvals and Specific Plan.

Developer is in compliance with Section 2.3.9 of the Development Agreement. No new street systems were constructed or approved in 2022. However, further design details and construction standards regarding the streets, roads, utilities, drainage systems, traffic control signs, and lighting will be included as part of the new Specific Plan

Section 2.4 addresses residential density by limiting the number of residential units (as defined in Section 2.4) to 1,400 units unless subsequently approved by the City.

- Developer is in compliance with Section 2.4. At the end of the 2021 there were approximately 320 homes built and/or sold on the island by Lennar Homes and John Lang Homes. In addition, 40 for rent housing units (Q Quarters) are available on the island as of December 2021. To date, no application has been made to increase the residential density limit.

Section 2.5 requires the Developer to use its best efforts, in accordance with its own business judgement and taking into consideration market conditions and other economic factors influencing Developer's business decision, to commence or to continue development in a timely manner.

- Developer is in compliance with Section 2.5.

Section 2.6 requires that all existing and new utilities on the Property be placed underground.

- Developer is in compliance with Section 2.6 of the Development Agreement. All wiring will be underground where technically feasible. Although all future wiring will be below ground, there may be areas of the island where underground conditions may require some equipment (transformers, switchgear, etc.…) be located above ground.

Section 2.7 requires Developer to comply with the requirements of the Americans with Disabilities Act and all other requirements of applicable federal and state laws with respect to the development of the Project.

- Developer is in compliance with Section 2.7 of the Development Agreement. New development and building rehabilitations on Mare Island address ADA requirements. In 2022, the Developer continued working with the Building and Planning Divisions to address ADA access for all stakeholders on Mare Island. Improvements are implemented as occupancy occurs.

Section 2.8 provides that Developer will pay prevailing wages if and as required by applicable federal and state laws.

- Developer is in compliance with Section 2.8, as applicable. Developer is complying, and will comply, with all applicable federal, state and local laws regarding prevailing wages.

Section 2.9 requires Developer to use good faith efforts to hire qualified Vallejo residents or former Mare Island Naval Shipyard employees for new positions created by Developer in its hiring of employees related to the development and management of the Project. To the

extent feasible, Developer shall also require its independent third-party contractors to do the same.

- Developer is in compliance with Section 2.9. Developer includes language in leases that requests businesses use best efforts to hire qualified Vallejo residents or former Mare Island Naval Shipyard employees. At the end of 2022 MIC had 20 employees, 3 of which lived in Vallejo and 5 lived in Solano County.

Section 2.11 provides that the City and Developer will cooperate to ensure that the requirements of the Homeless Assistance Act of 1994 with respect to the Property are complied with in the development of the Project.

- Developer is in compliance with Section 2.11 of the Development Agreement. The Base Realignment and Closure (BRAC) program established a Homeless Assistance program pursuant to the McKinney Act. The rules and regulation under the McKinney Act, as set forth with the City of Vallejo and the US Navy, established the Global Center for Success (GCS) on Mare Island (Buildings 733 and 737). A lease with GCS has been in place since 2000.

Section 2.12.3 requires the Developer to submit a park improvement plan prior to the commencement of improvements for each park listed in the previous section.

- Developer is in compliance with Section 2.12.3 of the Development Agreement. No park improvements were done in 2022.

Section 2.12.4 states that at the time of the filing by Developer of a final subdivision map on the parcel(s) immediately adjacent to each park listed in Section 2.12.1, the City and Developer shall enter into a mutually satisfactory improvement agreement for such park consistent with the standards set forth in the Development Agreement.

- Developer is in compliance with Section 2.12.4 of the Development Agreement. No new final subdivision maps (adjacent to a park or otherwise) were submitted to the City in 2022. Nevertheless, for convenience, below is the current status of each of some of the park areas on the island.
    - Morton Field: Morton Field is currently being used on a temporary basis to qualified entities.
    - Crescent Park: This park was approved and completed as part of a prior residential subdivision. In 2021 Lennar transferred the park to the City and in 2017 GVRD added a tot-lot.
    - Reuse Area 7 Community Park: Development of this park is pending transfer of the area by the US Navy.

- Chapel Park: The Architectural Heritage and Landmarks Commission (AHLC) approved the improvements in 2005 which were completed in 2008 and transferred back to the City in 2010. The Cultural Landscape Report (CLR) was approved in 2013.
- Alden Park: The AHLC approved the CLR in 2007, improvements were completed in 2008 and it was transferred to the City in 2010.
- Officer's Row: The CLR was submitted in 2013 and approved by the City in 2014.
- Farragut Plaza: The CLR was submitted in 2013 and approved by the City in 2014.
- Club Drive Park: The improvement plans were submitted to the City in 2017 and approved in 2018. The parks completion is pending future development plans.
- Parade Grounds Park: The CLR was approved by the City in 2015. Development of this area of the island is to be determined.
- Residential Area 8C Pocket Parks: The 8C Residential neighborhood was completed and placed on hold pending future, updated development plans.

Section 2.13 contemplates that the City and Developer have regular meetings during the term of the Development Agreement to discuss the progress of the development and construction of the Project.

- Developer is in compliance with Section 2.13 of the Development Agreement. MIC currently has approximately one meeting a week to discuss the progress of development and construction of Mare Island projects.

Section 3.1.1 requires Developer to pay applicable fees when due.

- Developer is in compliance with Section 3.1.1.

Section 3.1.3 states that the Developer may request the City establish a Community Facilities District or other public financing mechanism.

- Developer is in compliance with Section 3.1.3. CFDs 2002-1 & 2005 A&B are all in place. No additional CFDs were requested in 2022.

Section 3.1.4 requires Developer to be responsible for the formation of neighborhood associations if such formation is required by Applicable Law or mutually determined by the City and Developer to be needed.

- Developer is in compliance with Section 3.1.4 of the Development Agreement. CC&Rs and neighborhood associations are formed where applicable. The City and residence work collaboratively to enforce CC&R's as applicable. No new neighborhood associations were formed in 2022. Developer continued to participate in the Mare Island Community Association (MICA) and block captain meetings throughout 2022.

Section 3.1.7 requires Developer to deliver to the City a financial summary and development status report for the Project on or before the fifteenth day of each month.

- Developer is in compliance with Section 3.1.7 of the Development Agreement. Reports were submitted to the Economic Development Department each month in 2022.

Section 3.1.8 requires Developer to construct and install certain infrastructure in accordance with the Master Infrastructure Plan contained in the Specific Plan.

- Developer is in compliance with Section 3.1.8 of the Development Agreement. No infrastructure was installed by the Developer in 2022 associated with the Master Infrastructure Plan with the exception of infrastructure serving Building 527. Developer intends to include an updated Master Infrastructure Plan as part of the new Specific Plan.

Section 3.1.9 contemplates construction by Developer of certain tenant improvements that are reasonably determined by Developer to be necessary for the successful development of Mare Island.

- Developer is in compliance with Section 3.1.9 of the Development Agreement. Developer performed multiple rehabilitation and tenant improvements on Mare Island which lead to businesses locating to or expanding at Mare Island. These improvements included office and industrial buildings. Work included asbestos and lead based paint removal, structural upgrades, fire and life safety improvements, building signage, lighting retrofits (to energy efficient LED), mechanical systems (HVAC, Boilers, etc.), general maintenance and repairs as reflected in Section 2.1.2(a) of this report.

- Some of the projects conducted during the year include but are not limited to the following:
    - Building 527
        - Structural retrofit
        - New Electrical and Gas Services
        - New roof
        - Installation of new concrete slab
    - Quarters D
        - New roof
        - Interior and exterior paint
        - Dry rot repair to porch
        - Floor repair
        - Plumbing repairs
    - Quarters J

        - New roof
    - Quarters N
        - New roof
        - Installation of new boiler
        - Flooring repair
    - Quarters H
        - New roof
        - Interior and exterior paint
        - Dry rot repair to porch
        - Installation of new boiler pump
    - Quarters 19
        - Paint
    - Building 112
        - New roof
    - Building 390
        - New roof
    - Building 535
        - Paint
    - Building 670
        - Paint
    - Building 672
        - New roof
    - Building 497
        - Paint
    - Building 117
        - Paint

Section 3.1.10 contemplates demolition by Developer of certain improvements that is reasonably determined by Developer to be necessary for the successful development of Mare Island.

- Developer is in compliance with Section 3.1.10 of the Development Agreement. Developer received approval of Certificate of Appropriateness for the demolition of Buildings 409, 489, and 720 from the Architectural Heritage and Landmarks Commission (AHLC) and intends to demolish these buildings in 2023. Developer received demolition permits from the City of Vallejo Building Department for the abatement and above-grade demolition of Buildings 499, 503, 517, 589, 593, 601, 653, 673, and 993 on North Mare Island. The abatement and demolition of the North Mare Island buildings commenced in 2022 and will be complete in 2023.

Section 3.1.11 requires Developer to manage the Project in accordance with the Approved Participation Model.

- Developer is in compliance with Section 3.1.11 of the Development Agreement. Developer continues to manage the Project in accordance with the Approved Participation Model (See Section 5.1 of the Acquisition Agreement). As of December 31, 2022, Developer had yet to achieve a profit and therefore any profit participation is moot.

Section 3.1.12 requires Developer to work cooperatively with the City and ensure, at no cost to City, the grant of easements to the City or other third parties that are necessary for the development of Mare Island and consistent with Developer's development of the Project.

- Developer is in compliance with Section 3.1.12 of the Development Agreement. Developer worked cooperatively with the City of Vallejo, Smart Fiber, AT&T, Island Energy and others throughout 2022.

Section 3.1.13 contemplates the creation of a municipal services district and collection and payment by Developer of any special tax levied on the Property by such district until such time as such tax is placed upon the county tax roll for collection by the Solano County Tax Collector.

- Developer is in compliance with Section 3.1.13 of the Development Agreement. The City approved the Community Facilities District (CFD 2002-1), which levies a special tax to cover unfunded municipal services on the island. Developer is current on all required property and special taxes.

As demonstrated above, Developer is in good faith compliance with the terms and conditions of the Development Agreement. Accordingly, we respectfully request a written finding of such compliance be delivered by the City to Developer and the Planning Commission, thereby concluding the Annual Review process.

Should you have any questions, please do not hesitate to contact us.

Sincerely,

Brian Nagy
Senior Vice President, West Coast Operations
Mare Island Company,
on behalf of The Nimitz Group, LLC

cc: Gillian Hayes, Assistant City Manager

Michael Nimon, Economic Development Director
Erin Hanford, Economic Development Program Manager

EXHIBIT A

In addition to the original $78.4M Environmental Services Cooperative Agreement (ESCA) grant in April 2001, several amendments have been executed between the Navy, the City, the Previous Owner Lennar Mare Island (LMI), the fiscal agent, and others to complete environmental cleanup of the Early Eastern Transfer Parcel (EETP), including:

- The First Amendment in April 2012 provided an additional $8M from the Navy for cleanup of Remaining Known Environmental Conditions.
- The Second Amendment in August 2014 provided an additional $349K from the Navy to continue the groundwater monitoring program.
- The Third Amendment in June 2016 provided an additional $955K from the Navy to continue cleanup work of Remaining Known Environmental Conditions.
- The Fourth Amendment in October 2017, for $31M, was executed for continuing environmental cleanup work on the Settlement Funded Conditions, formerly the Unknown Conditions.
- The Fifth Amendment in September 2018 provided an additional $2.4M from the Navy for continuing work on the Remaining Known Conditions, specifically managing and documenting the environmental cleanup efforts and conducting the long-term groundwater monitoring program through December 2020.
- The Sixth Amendment in September 2020 provided an additional $963K from the Navy for continuing work on the Remaining Known Conditions, specifically managing and documenting the environmental cleanup efforts and conducting the long-term groundwater monitoring program through December 2021.
- The Seventh Amendment in September 2021 provided an additional $1.9M to fund continuing work on remaining unknown conditions, specifically managing and documenting the environmental cleanup efforts and conducting the long-term groundwater monitoring program through December 2023.
- An Eighth Amendment in September 2022 provided an additional $1.29M to fund continuing work on remaining unknown conditions, specifically managing and documenting the environmental cleanup efforts and conducting the long-term groundwater monitoring program through December 2024.

LMI continued to make progress with environmental cleanup activities at Mare Island during 2022, including regulatory agency concurrence on completion of cleanup actions within the EETP for polychlorinated biphenyl (PCB) sites at Building 121 and submission of numerous Sampling and Analysis Plans, Cleanup Plans, Work Plans, Groundwater Monitoring Reports, Implementation Reports and Land Use Covenant (LUC) documents; and continued investigations and remedial actions at numerous sites.

MIC assumed monitoring and reporting for seven recorded area-wide LUCs, two recorded engineered cap LUCs, and 18 recorded PCB-Specific LUCs, in accordance with the Amended Land Use Covenant Operations and Maintenance Plan for the EETP, Former Mare Island Naval Shipyard. Annual LUC inspections were conducted and Annual Inspection Reports (AIRs) were submitted to DTSC in March of 2022 for Investigation Area (IA) A3 South; the engineered cap in

IA B.1 (Crane Test Area); the commercial areas of IA B.2-1 and B.2-2; the IA C3 Area-Wide and BGM Triangle and 11 PCB-Specific Sites within IA C3; the commercial areas and 7 PCB-Specific Sites within IA D1.2; and the IR10/IR13 commercial portion of IA H2. In addition to annual LUC inspections, Five-Year Reviews (FYR)s reviews were performed and submitted to DTSC in March of 2022 for IA B.2-2 and 2 PCB-Specific Sites within IA C3.

Major document submissions to DTSC and Water Board in 2022 included, but were not limited to the following:

Investigation Area A3 South (See attached map for IA locations)

1. Remedial work complete; LUC monitoring and reporting only.
2. 2022 AIR for Property and/or Facilities Covered by a LUC, IA A3 South.
3. Next AIR for IA A3 South due March 31, 2023.
4. First FYR for IA A3 South due December 31, 2023.

Investigation Area B.1 (Crane Test Area)

1. Remedial work complete; LUC monitoring and reporting only.
2. 2022 AIR for Property and/or Facilities Covered by a LUC, IA B.1.
3. Next AIR for IA B.1 due March 31, 2023.
4. Third FYR for IA B.1 due March 31, 2026.

Investigation Area B.2-1

1. Remedial work complete; LUC monitoring and reporting only.
2. 2022 AIR for Property and/or Facilities Covered by a LUC, IA B.2-1.
3. Next AIR for IA B.2-1 due March 31, 2023.
4. Third FYR for IA B.2-1 due March 31, 2026.

Investigation Area B.2-2

1. Remedial work complete; LUC monitoring and reporting only.
2. 2022 AIR for Property and/or Facilities Covered by a LUC, IA B.2-2.
3. First FYR for Property and/or Facilities Covered by a LUC, IA B.2-2.
4. Next AIR for IA B.2-2 due March 31, 2023.
5. Second FYR for IA B.2-2 due March 31, 2027.

Investigation Area C1 (LMI)

1. Revised Remedial Action Plan (RAP) for Public Review and Responses to Regulatory Agency Comments
2. Revised CEQA Initial Study (IS) for RAP for Public Review and Response to Regulatory Agency Comments
3. IR03 and IWPS 4/OWS T-2 Soil Gas Investigation Work Plan and Well Redevelopment Summary Report
4. Final IR15 Soil Gas and Groundwater Investigation Work Plan and Response to Comments Document
5. Semi-Annual Groundwater Monitoring Reports for IR03, IR15 and IWPS4/OWS T-2
6. Building 85/87 Additional Site Characterization Report and Second Response to Regulatory Agency Comments Document
7. Building 91 UL#01 Mercury Additional Characterization Work Plan
8. Building 121 PCB Sites AL#01, AL#02 and AL#02 Beneath Former Equipment Sampling and Analysis Plan
9. Draft Final Building 541 PCB Site AL#01 Land Use Covenant Operations and Maintenance Plan
10. Second FYR for IR15 due by September 2026.

Investigation Area C2 (LMI)

1. Final IA C2 RAP IS and Fact Sheet
2. Building 116 PCB Site UL#01 Additional Storm Drain Investigation Work Plan
3. Revised Soil-Gas Sampling Report for Buildings 386 and 388 (Responding to Water Board Comments)
4. Revised Final Oil Houses 434 and 862 and Cistern 36 Soil Removal Summary Report
5. Revised Building 206/208 Remedial Action Implementation Report and Response to Regulatory Agency Comments Document
6. Building 680 PCB Site AL#01 Land Use Covenant Operations and Maintenance Plan (DTSC Approval, Conditional Pending USEPA Concurrence)
7. Building 678 Floor Cap & PCB Site AL#04 Operations and Maintenance Plan
8. Building 680 PCB Sites Operations and Maintenance Plan
9. Building 690 PCB Site AL#01 Operations and Maintenance Plan
10. Building 1310 PCB Site AL#01 Operations and Maintenance Plan
11. Third FYR for IA C2 PCB Sites and IR21 due by June 2026.

Investigation Area C3

1. Remedial work complete; LUC monitoring and reporting only.
2. 2022 AIRs for Property and/or Facilities Covered by LUCs, IA C3 Area-Wide, BGM Triangle, and 11 PCB-Specific LUCs.
3. First FYRs for Property and/or Facilities Covered by a LUC, Buildings 516/516A and 1342.
4. Next AIRs for all 13 IA C3 LUCs due March 31, 2023.
5. First FYR for IA C3 Area-Wide LUC due March 31, 2023.
6. Third FYRs for BGM Triangle 9 of 11 PCB-LUCs due March 31, 2026.
7. Second FYRs for 2 of 11 PCB-LUCs due March 31, 2027.

Investigation Area D1.2

1. Remedial work complete; LUC monitoring and reporting only.
2. 2022 AIRs for Property and/or Facilities Covered by LUCs, IA D1.2 Commercial Area and 7 PCB-Specific LUCs.
3. Next AIRs for IA D1.2 Commercial Area and 7 PCB-LUCs due March 31, 2023.
4. Fourth FYRs for IA D1.2 Commercial Area and 7 PCB-LUCs due March 31, 2026.

Investigation Area D1.3 Central (LMI)

1. Draft Cleanup Plan and Notification for Self-implementing Cleanup of PCBs at Building 84/84A submitted in Early 2022.
2. Self-implementing Cleanup of PCBs at Building 84/84A is anticipated in 2023 pending final regulatory approvals and funding from Navy.

Investigation Area H2 (IR10/IR13)

1. Remedial work complete; LUC monitoring and reporting only.
2. 2022 AIR for Property and/or Facilities Covered by a LUC, IA H2 (IR10/IR13).
3. Next AIR for IA H2 (IR10/IR13) due by March 31, 2023.
4. Second FYR for IA H2 (IR10/IR13) due by March 31, 2026.

DTSC and LMI continued to make progress on completion of O&M Plans, Agreements and Financial Assurances for several PCB-Specific and IR sites within IA C1 and C2 in 2022.
LMI initiated and performed ongoing remedial investigations and/or activities during 2022 at:

A. IR15 SG/VI and Source Area/Areas of Interest GW Investigation, IA C1
B. IR03 Phase III Injection Pilot Test IWPS4 and OWS T-2, IA C1

C. Building 87 PCB Site UL01, IA C1 (Continuation of Investigation and Remediation).
D. Building 91 Mercury Remediation, IA C1 (Continuation of Remediation)
E. DOM-6/CWL Corrective Action Plan (CAP) Implementation, IA C1 (Continuation of Remediation)
F. Buildings 85/87/271 Additional Soil Vapor/Indoor-Air Investigation Work Plan Implementation, IA C1

LMI is planning on finalizing LUCs and completing remedial investigations and/or actions at numerous "unknown" environmental condition sites in 2023, including Soil Gas in IWPS4/OWS T-2/IR03, IRI5, and the Building 85/89/271 Area. In addition, LMI plans to finalize the IA C1 RAP for Public Review and make significant progress in obtaining a No Further Action (NFA) certification for IA C2.

Several issues have delayed and may continue to delay progress of the EETP environmental cleanup, primarily the multiagency review process and changes to cleanup standards. MIC and LMI continue to work cooperatively with the City and the Navy on island-wide remedial issues.

(Attachment 2)

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DEVELOPMENT AGREEMENT

By and Between

THE CITY OF VALLEJO

and

LENNAR MARE ISLAND, LLC

for

MARE ISLAND

____

EFFECTIVE DATE

City of Vallejo, California

wc-44554

DEVELOPMENT AGREEMENT

for Mare Island

TABLE OF CONTENTS

Page

EXHIBITS

DEVELOPMENT AGREEMENT

CITY OF VALLEJO

FOR MARE ISLAND

THIS DEVELOPMENT AGREEMENT ("Development Agreement") is made and entered in the City of Vallejo on the 12th day of September, 2001 by and between the CITY OF VALLEJO, a Municipal Corporation ("CITY"), and LENNAR MARE ISLAND, LLC, a California limited liability company, ("DEVELOPER"), pursuant to the authority of Sections 65864 et seq. of the Government Code and Chapter 17.10 of the Vallejo Municipal Code.

DEFINITIONS

The following capitalized terms are used in this Development Agreement:

"Acquisition Agreement" is defined in Recital E.

"Affiliate" means any entity controlling, controlled by or under common control with Developer, or any entity in which Developer, directly or indirectly, through one or more intermediaries, is a partner, shareholder, member, beneficiary or otherwise an owner.

"Applicable Law" is defined in Section 2.3 hereof.

"Approved Participation Model" means the financial model for the Project, as set forth in the Acquisition Agreement and as may be amended from time to time as set forth in the Acquisition Agreement.

"Asset Management Agreement" means that certain Asset Management Agreement, dated as of January 7, 1998, between City and Developer's Affiliate.

"Backbone Infrastructure" means all roadways, dry utilities, storm water and sewer systems, and water storage and delivery systems, parking and parking structures and landscaping required to serve the Project.

"Causeway Bridge" means the bridge facility between the City and Mare Island over the Mare Island Strait.

"City" means the City of Vallejo.

"City Future Approvals" is defined in Recital Q.

"City Related Parties" means the City and its council members, officers, agents and employees.

"Cooperative Agreement" means that certain Cooperative Agreement, dated as of July 23, 1996, between Navy and City, as amended from time to time.

"Developer" means the entity more fully described in Section 1.1.2 hereof, and includes permitted and approved transferees and assignees who qualify as such under this Development Agreement.

"Development Agreement" means this Development Agreement, as may be amended from time to time.

"Development Agreement Statutes" means California Government Code Section 65864 et seq. relating to development agreements.

"District" is defined in Section 3.1.13.

"DTSC" means the California Department of Toxic Substances Control.

"Early Transfer" is defined in Recital G.

"Early Transfer Documents" is defined in Recital G.

"EDC" means the EDC as defined in Recital B and as may be amended from time to time, or superseded with any subsequent No-Cost Economic Development Agreement pursuant to authority within the National Defense Authorization Act for Fiscal Year 2000.

"EDC Parcels" is defined in Recital B.

"Effective Date" of this Development Agreement is defined in Section 1.3.1.

"Environmental Laws" means all federal, state and local laws, ordinances, rules and regulations now or hereafter in force, as amended from time to time, in any way relating to or regulating human health or safety, or industrial hygiene or environmental conditions, or protection of the environment, or pollution or contamination of the air, soil, surface water or groundwater, and includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.*, the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*, the Hazardous Substance Account Act, California Health and Safety Code, § 25300 *et seq.*, the Hazardous Waste Control Law, California Health and Safety Code, § 25100 *et seq.*, and the Porter-Cologne Water Quality Control Act, California Water Code, § 13000 *et seq.*

"ESCA" is defined in Recital G.

"Existing Approvals" is defined in Recital P.

"Extension" is defined in Section 1.3.2.

"Ferry Service Facilities" means the facilities to be leased to the City for use as a service center for the City's ferry boats consisting of a portion of berths 3 and 4 of approximately 500 linear feet, a land area of approximately 25,000 square feet and office and shop space of approximately 6,000 square feet, which will be at a location on Mare Island mutually approved by Developer and City.

"First Extension" of the term of this Development Agreement is defined in Section 1.3.2.

"Future Approvals" is defined in Recital Q.

"Initial Term" of this Development Agreement is defined in Section 1.3.2.

"LIFOC" means the LIFOC defined in Recital C and as may be amended from time to time.

"Mare Island Public Water and Sewer System" means the water supply system, storm water drainage system and sewer system used by City or City's contractor to provide public utility services to Mare Island as of the date of the Acquisition Agreement.

"Memorandum of Acquisition Agreement and City Participation Payment" means that memorandum of the Acquisition Agreement and the City's rights with respect to the City Participation Payment, recorded against the Property in the Official Records of Solano County, California.

"Mortgage" is defined in Section 10.1.

"Mortgagee" is defined in Section 10.1.

"Navy" is defined in Recital B and means the United States of America, acting by and through the Department of the Navy.

"Permitted Assignee" is defined in Section 9.1

"Permitted Delay" is defined in Section 4.3.

"Project" is defined in Recital J.

"Project Costs" means any and all of Developer's costs, including interest on debt, incurred for or in connection with the acquisition, ownership, development (including but not limited to any and all net, unreimbursed costs related to Early Transfer and the Sub-ESCA), management, construction, operation, marketing and disposition of the Project, and shall include Project Costs incurred by Developer prior to the date of the Acquisition Agreement, and all fees paid to Developer under the Acquisition Agreement. Project Costs are subject to change as to categories and amounts to accommodate the needs of the Project.

"Projected Entitlements Process" means the schedule for processing entitlements from the City for the development of the Property, attached hereto as Exhibit E.

"Property" is defined in Section 1.2, and described in Exhibit A and shown on the map set forth in Exhibit B.

"Public Works Facility" means the approximately 68,203 square foot office/shop/storage area and approximately 71,980 square foot yard and yard storage area leased to the City on Mare Island pursuant to the Acquisition Agreement.

"Reuse Plan" is defined in Recital A.

"RWQCB" means the California Regional Water Quality Control Board with jurisdiction over the Property.

"Schedule of Fees" are those fees defined in Section 2.3.4 and set forth in Exhibit F.

"Schedule of Performance" means the table containing certain projections and targets concerning jobs, investments and revenues attached as Exhibit D.

"Second Extension" of the term of this Development Agreement is defined in Section 1.3.2.

"SPA" means Developer's contemplated application and processing of a subsequent Mare Island Specific Plan Amendment, as referenced in Exhibit E.

"Specific Plan" means the Specific Plan defined in Recital D and as may be amended from time to time.

"Sub-ESCA" is defined in Recital G.

"Sub-LIFOC" is defined in Recital F.

"Third Extension" of the term of this Development Agreement is defined in Section 1.3.2.

"Vesting Date" is defined in Section 1.3.1.

If any capitalized terms contained in this Development Agreement are not defined above, then any such terms shall have the meaning otherwise ascribed to them in this Development Agreement.

RECITALS

A. In accordance with procedures established under Federal Law and California Law governing the planning, disposition and reuse of closed military bases, the City of Vallejo accepted on July 26, 1994 a Final Reuse Plan (the "Reuse Plan") for the Mare Island Naval Shipyard ("Mare Island"), which Reuse Plan established goals for the reuse of Mare Island, including the creation of jobs and other economic development opportunities in the City, the creation of a self-sustaining and multi-use community and the use of a variety of innovative economic development tools for the marketing, financing and acquisition of Mare Island following its closure by the Federal Government. The Reuse Plan divided Mare Island into thirteen (13) Reuse Areas, as described in the Reuse Plan. The Reuse Areas consist of certain real property owned by the United States of America (the "U.S. Lands").

B. Pursuant to an Economic Development Conveyance Memorandum of Agreement (the "EDC") between the City and the United States of America, acting by and through the Secretary of the Navy ("Navy") dated as of September 30, 1999, the City has the right to acquire, among other things, certain real property and the improvements located thereon as described in the EDC (the "EDC Parcels").

C. Pursuant to Findings of Suitability to Lease to permit the development of portions of the EDC Parcels prior to the completion of the environmental remediation work required to be performed by the Navy, City and the United States of America entered into a Lease in Furtherance of Conveyance, dated as of September 30, 1999 (the "LIFOC") for portions of the EDC Parcels.

D. City has adopted the Mare Island Specific Plan, dated as of March 30, 1999, (the "Specific Plan") to govern the land use policy and development process for Mare Island, and the Mare Island Amendment of the Architectural Heritage and Historic Preservation Ordinance (Part II of Ch. 16.38 of the Vallejo Municipal Code (the "Historic Resources Ordinance") to govern historic resources on Mare Island.

E. The City and Developer have entered into an Acquisition Agreement (the "Acquisition Agreement") dated December 21, 1999, which describes the terms and conditions for Developer's acquisition of the Property from City and further provides, among other things, that Developer will make, upon certain conditions being satisfied with respect to the development of the Project, payments to the City (the "City Participation Payments"). A Memorandum of Acquisition Agreement and City Participation Payment has been recorded against the Property.

F. Pursuant to the Acquisition Agreement, the City and Developer are negotiating the terms of a sublease of a portion of the property that is leased to City under the LIFOC (the "Sub-LIFOC). Upon conveyance by the Navy to the City of the Property or any portion thereof and in accordance with the terms of the Acquisition Agreement, City shall then convey fee title to the Property or such portion thereof to Developer, and the Sub-LIFOC shall no longer apply to such Property or portion thereof.

G. The City and Developer are currently negotiating with the Navy the terms of an early transfer of title to the Property to the City from the Navy and to the Developer from City, subject to the assumption by City and Developer of responsibility for certain environmental remediation required to obtain environmental regulatory closure with respect to the Property following its transfer from the Navy (the "Early Transfer"). If the terms of the Early Transfer are mutually approved, the Navy and City will enter into an Environmental Services Cooperative Agreement ("ESCA") setting forth the City's responsibilities and payments to be received from the Navy for the environmental remediation of the Property, and the City and Developer will enter into a Subsequent Environmental Services Cooperative Agreement ("Sub-ESCA") setting forth Developer's responsibilities and payments to be received from City (as received from the Navy by the City under the ESCA) for the environmental remediation of the Property. The ESCA and Sub-ESCA are herein referred to as "Early Transfer Documents."

H. The City Council has found that Development Agreements will strengthen the public planning process, encourage private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and assure that appropriate measures to enhance and protect the environment are achieved.

I. California Government Code Section 65864 et seq. and Title 17, Part II of the City of Vallejo Municipal Code authorize the City to enter into an agreement for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property. City has acknowledged in the Acquisition Agreement that Developer's interest in the Property pursuant to the Acquisition Agreement constitutes a legal or equitable interest in real property.

J. Developer proposes the development of the Property for a mix of residential, industrial, office and other uses on the Property in accordance with the Specific Plan, entailing front-end investment in the maintenance, planning and development of the Property to achieve the goals of the Specific Plan, as further described and conditioned in this Development Agreement ("Project"),

K. City desires the timely, efficient, orderly and proper development of the Project in furtherance of the goals of the Specific Plan for the Property.

L. The City Council has found that this Development Agreement is consistent with the City's General Plan and the Specific Plan and it has been reviewed and evaluated in accordance with Title 17, Part II of the City of Vallejo Municipal Code.

M. It is the intent of City and Developer to establish certain conditions and requirements related to review and development of the Project which are or will be the subject of subsequent development applications and land use entitlements for the Project as well as this Development Agreement.

N. Because of the logistics, magnitude of the expenditure and considerable lead time prerequisite to planning and developing the Project, Developer requires assurances that the Project can proceed without disruption caused by a change in City's planning policies and requirements except as provided in this Development Agreement, which assurance will thereby reduce the actual or perceived risk of planning for and proceeding with development of the Project.

O. City has determined that by entering into this Development Agreement (1) City will promote orderly growth and quality development on Mare Island in accordance with the goals and policies set forth in the Reuse Plan and Specific Plan, and (2) City will benefit from increased employment, commercial, housing and recreational opportunities created by the Project for residents of City.

P. The following development approvals, entitlements, policies and findings have been adopted by City and applied to the Project:

(1) The final Environmental Impact Statement/Environmental Impact Report ("EIS/EIR") for the disposal and reuse of Mare Island as described in the Reuse Plan was prepared (SCH #940930029) and a Record of Decision was issued by the Navy on October 23, 1998.

(2) The City certified the EIS/EIR on November 17, 1998.

(3) The City amended the General Plan Land Use and Circulation map for Mare Island on March 30, 1999 after consideration of the Addendum to the EIS/EIR.

(4) The Mare Island Specific Plan/Master Plan was approved by the City on March 30, 1999.

(5) The City amended the Zoning Ordinance to zone Mare Island on March 30, 1999.

(6) The Mare Island Amendment of the Architectural Heritage and Historic Preservation Ordinance (Part II of Chapter 16.38 of the Vallejo Municipal Code was adopted on March 9, 1999 and amended on April 11, 2000.

(7) This Development Agreement.

The approvals and development policies described in this Recital P (including but not limited to all conditions of approval and the EIR Mitigation Monitoring and Reporting Program) are collectively referred to herein as the "Existing Approvals".

All References herein to Existing Approvals shall also include Future Approvals (defined in Recital Q, below) upon approval or adoption, unless otherwise noted.

Q. In addition to the Existing Approvals, certain future approvals (the "Future Approvals") will be required from City and other agencies in order to facilitate the development of the Project. The Future Approvals may include, without limitation, amendments of the Existing Approvals, unit plans, design review approvals, subdivision maps, parcel maps, building permits, improvement agreements, use permits, grading permits, lot line adjustments, sewer and water connection permits, certificates of occupancy, rezonings, , certificates of appropriateness, permits, any other discretionary or ministerial approvals, and any amendments to, or actions repealing of, any of the foregoing and any environmental review required under CEQA and NEPA for such approvals. Future Approvals required from other agencies may include, without limitation, Army Corps of Engineers permits for flood plain protection, wetlands and management and drainage improvements, amendment of the Specific Plan, orders, permits, requirements and approvals of the San Francisco Bay Conservation and Development Commission ("BCDC"), California Environmental Protection Agency, Department of Toxic Substances Control ("DTSC") and the San Francisco Regional Water Quality Control Board, and agreements or approvals from the State Lands Commission or the Navy, or any amendments to any of the foregoing. The Future Approvals from the City are referred to collectively as the "City Future Approvals". The Future Approvals from other agencies are referred to collectively as "Other Agency Future Approvals." The term "Future Approvals" refers to both the City Future Approvals and the Other Agency Future Approvals. Future Approvals shall also include any subsequent or supplemental environmental impact report required by Public Resources Code Section 21166 or other environmental review required under any applicable provision of the California Environmental Quality Act or any environmental review required under the provisions of the National Environmental Protection Act or any similar Federal requirement, including all mitigation measures, monitoring programs and conditions adopted as a result of any such environmental review.

R. Subject to the conditions and requirements of this Development Agreement, Developer may convey fee title interest in portions of the Property to third parties who will complete development of those portions of the Property. Developer may also convey portions of the Property to users who will apply to City, as needed, for required City Future Approvals to complete development of their portions of the Property.

S. The terms and conditions of this Development Agreement have undergone review by City staff, its Planning Commission and its City Council at publicly noticed meetings and have been found to be fair, just and reasonable and in conformance with the Vallejo General Plan and Specific Plan and, further, the City Council finds that the economic interests of City's citizens and the public health, safety and welfare will be best served by entering into this Development Agreement.

T. City and Developer have reached mutual agreement and desire to voluntarily enter into this Development Agreement to facilitate development of the Project subject to conditions and requirements set forth herein.

U. On March 20, 2001 the City Council of the City of Vallejo adopted Ordinance No. 1457N.C.(2d) ______approving this Development Agreement. The Ordinance took effect on April 20, 2001.

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants herein contained, City and Developer agree as follows:

ARTICLE I

GENERAL PROVISIONS

1.1 Parties.

1.1.1 The City.

The City is a municipal corporation. The office of the City is located at 555 Santa Clara Street, Vallejo, California 94590. "City" as used in this Development Agreement, includes the City of Vallejo and any assignee of or successor to its rights, powers and responsibilities.

1.1.2 The Developer.

Developer is Lennar Mare Island, LLC, a California limited liability company. The principal office of Developer is 24800 Chrisanta Road, Mission Viejo, California 92691. The qualifications and identity of the Developer are of particular concern to the City and it is because of such qualifications and identity that the City has entered into this Development Agreement with Developer. Therefore, no voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Development Agreement, except as permitted under Article IX hereof.

The parties hereby agree that, as of the Effective Date of this Development Agreement, the Developer has an equitable interest in the Property as follows: Developer has entered into the Acquisition Agreement providing for the Developer to acquire the Property from the City concurrently with the City's acquisition of fee title to the Property from the Navy. The parties also agree that nothing in the Acquisition Agreement or in any related agreements, including but not limited to any agreements relating to the formation and management of Developer, will interfere with or prevent the Developer from entering into this Development

Agreement or from fully complying with the terms and conditions of this Development Agreement.

Developer represents and warrants:

(a) that as of the Effective Date of this Development Agreement Developer is: (i) duly organized and validly existing under the laws of the State of California; (ii) qualified and authorized to do business in the State of California and has duly complied with all requirements pertaining thereto; and (iii) in good standing and has all necessary powers under the laws of the State of California to own property and in all other respects enter into and perform the undertakings and obligations of this Development Agreement;

(b) that no approvals or consents of any persons are necessary for the execution, delivery or performance of this Development Agreement by Developer, except as have been obtained;

(c) that the execution and delivery of this Development Agreement and the performance of the obligations of Developer hereunder have been duly authorized by all necessary actions and approvals required under any management and operating agreement for the limited liability company constituting Developer hereunder; and

(d) that this Development Agreement is a valid obligation of Developer enforceable in accordance with its terms.

1.1.3 <u>Relationship of City and Developer</u>.

It is understood that this Development Agreement is a contract that has been negotiated and voluntarily entered into by City and Developer and that the Developer is an independent contractor and not an agent of City.

The City and Developer hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection therewith shall be construed as making the City and Developer joint venturers or partners.

1.2 <u>Description of Property</u>.

The property which is the subject of this Development Agreement (the "Property") is described in Exhibit A attached hereto and shown on the map attached hereto as Exhibit B.

1.3 <u>Effective Date and Term of Agreement</u>.

1.3.1 <u>Effective Date</u>.

This Development Agreement shall be effective after its execution by the parties and its recordation pursuant to Government Code Section 65868.5 (the recordation date being the "Effective Date"), which date in no event shall be earlier than the effective date of Ordinance No. 1457N.C.(2d) approving this Development Agreement. However, the parties specifically agree that the vesting of any and all rights under this Development Agreement, including, but not limited to the Applicable Law, shall be deemed to occur on the date that the Sub-LIFOC is executed by the parties and that such rights shall be vested as to the entire Property (the "Vesting Date").

Section 65868.5 of the Government Code requires that this Development Agreement be recorded with the County Recorder no later than 10 days after City enters into this Development Agreement, and that the burdens of this Development Agreement shall be binding upon, and the benefits of this Development Agreement shall inure to, all successors in interest to the parties to this Development Agreement. Recordation of this Development Agreement is therefore required before the Property will be acquired by the Developer. City and Developer expressly acknowledge and agree that the United State of America (acting through the Navy or other agency of the United States government) by reason of its ownership of the Property is not subject to the provisions of this Development Agreement without its express written consent, notwithstanding the recordation of this Development Agreement. For the foregoing reasons, it is further acknowledged and agreed by City that the United States of America is not required to be a party to this Development Agreement nor is its consent required for the Developer to enter into this Development Agreement.

1.3.2 Term.

The term of this Development Agreement shall commence upon the later of the Effective Date or the Vesting Date and shall extend for a period of fifteen (15) years (the "Initial Term") unless said Initial Term is terminated, modified or extended by circumstances set forth in this Development Agreement, including without limitation any Permitted Delay provided for under Section 4.3 hereof. Within thirty (30) days of the commencement of the Initial Term, City shall record an instrument giving notice of such date in order to clearly set forth the commencement date of the Initial Term.

The term has been established by the parties as a reasonable estimate of the time required to plan and carry out the Project, develop the Project and obtain the public benefits of the Project. City has determined that the Existing Approvals and this Development Agreement incorporate sufficient provisions to permit City to monitor adequately and respond to changing circumstances and conditions in granting permits and approvals and undertaking actions to carry out the Project. Consistent with the foregoing objectives, City and Developer contemplate it may be deemed mutually desirable to consider an extension of the Initial Term for up to three (3) additional five (5) year periods, (referred to respectively as the "First Extension", "Second Extension" and "Third Extension", and each individually as an "Extension") as follows:

(a) If Developer's rights under this Development Agreement have not been otherwise terminated, Developer may request the First Extension by delivering to City not earlier than 270 days nor later than 120 days prior to the expiration of the Initial Term a written request for the First Extension, which request shall be acted on by City pursuant to Section 1.3.2(d), below.

(b) If the First Extension of this Development Agreement has been approved or deemed approved by City and Developer's rights under this Development Agreement have not otherwise been terminated, Developer may request the Second Extension by delivering to City not earlier than 270 days nor later than 120 days prior to the expiration of the First Extension a written request for the Second Extension, which request shall be acted on by City pursuant to Section 1.3.2(d), below.

(c) If the Second Extension of this Development Agreement has been approved or deemed approved by City and Developer's rights under this Development Agreement have not otherwise been terminated, Developer may request the Third Extension by delivering to City not earlier than 270 days nor later than 120 days prior to the expiration of the Second Extension a written request for the Third Extension, which request shall be acted on by City pursuant to Section 1.3.2(d), below.

(d) Upon receipt of a request from Developer for an Extension, City shall undertake a review of Developer's good faith compliance with the terms of this Development Agreement in the same manner as set forth in Article V for an annual review, unless the annual review for the prior year has been concluded within 90 days of the request (in which case the City may elect to use the findings of such recent annual review), and both Developer and City shall comply with the provisions of Article V with respect to such review so that it can be completed prior to the termination date of the Initial Term or previously granted Extension, if applicable. City may deny, condition or shorten the time of Developer's request for an Extension only if, following the review, the City Council of City finds, based on substantial evidence, that Developer is in uncured material default under this Development Agreement. "Uncured material default" shall include, but shall not be limited to, failure by Developer to be in material compliance with the development of infrastructure in accordance with the Specific Plan, as it may be amended, or failure by Developer to satisfy other material requirements and conditions of this Agreement. If at the end of the Initial Term (as such may have been previously extended), City has not denied the request for an Extension, such Extension shall be deemed to be approved. If the term of this Development Agreement is extended, City shall promptly record an instrument giving notice of such Extension and setting forth the dates of the Extension.

Following the expiration of the term of this Development Agreement (including any extensions), or the earlier completion of development of the Project and all of the Developer's obligations in connection therewith (except for continuing payments and obligations under any financing mechanisms established or created for all or any portion of the Project), this Development Agreement shall be deemed terminated and of no further force and effect, subject, however, to the provisions of Section 4.8 hereof.

1.4 Revisions to Schedule of Performance; Entitlement Schedule.

The proposed date of completion of development of the Project is contemplated to be on or before the expiration of the term of this Development Agreement. At the time of entering into this Development Agreement and at the time of each annual review thereafter pursuant to Article V, and from time to time, as reasonably requested by City, Developer shall submit to City any proposed changes to the Projected Entitlements Process (attached hereto as Exhibit E) or the Schedule of Performance (attached hereto as Exhibit D) and any proposed changes to the intended build-out schedule of the portions of the Project which have not yet been completed, together with any other information pertaining to the timing and scheduling of the Project reasonably requested by City.

ARTICLE II

DEVELOPMENT OF THE PROPERTY

2.1. Use of the Property and Applicable Law.

2.1.1 Permitted Uses.

The permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, design criteria, open space requirements, provisions for reservation or dedication of land for public purposes, and requirements for infrastructure and public improvements shall be governed by the Existing Approvals and the Applicable Law, defined in Section 2.3 below.

2.1.2 Mandatory Requirements.

As a condition to the development and use of the Property, Developer shall:

(a) Construct infrastructure in accordance with the "Infrastructure Master Plan" contained in the Specific Plan, as may be amended, provided that Developer consents to such amendment;

(b) Submit a Demolition Phasing Plan within 120 days of the date of execution of this Development Agreement for approval by the City, which approval shall not be unreasonably withheld; and

(c) Seek to comply diligently and in good faith with the "cumulative job projection" set forth in Column 2 of Exhibit D, provided however, that failure to meet the job projections or revenue targets set forth in Exhibit D shall not constitute a default under this Development Agreement.

2.1.3 Project Development.

The parties agree that development of the Project shall be in accordance with the Existing Approvals as may be amended from time to time and the terms and conditions of this Development Agreement. In the event of an express conflict between this Development Agreement and the Existing Approvals (other than this Development Agreement), this Development Agreement shall control. Except as expressly provided in Section 6.1 hereof, Developer shall have no liability under this Development Agreement (other than the potential termination of this Development Agreement or Developer's rights hereunder as provided herein) if the contemplated development of the Project fails to occur.

2.2 Compliance with Acquisition Agreement.

In the planning and development of the Property, the Developer shall faithfully comply with and shall not cause or permit a violation of the Acquisition Agreement. Under certain conditions, after notice and expiration of the applicable cure periods as set forth in the Acquisition Agreement, a default as described in the Acquisition Agreement may constitute a default under this Development Agreement.

2.3 Applicable Rules, Regulations and Policies.

Entitlement and development applications for each phase of the Project will be evaluated by City based upon the contents of such applications submitted by Developer and their consistency with this Development Agreement and the Existing Approvals.

In recognition of the extraordinary, long-term investment in planning and architectural and engineering resources necessary to further the reuse and development of Mare Island, the rules, regulations and official policies applicable to development of the Project shall be those in force and effect on the Vesting Date, as may be set forth in this Development Agreement and the Existing Approvals (the "Applicable Law"). With respect to matters not addressed by this Development Agreement or the Existing Approvals, the Applicable Law shall be those rules, regulations, and official policies in force and effect on the Vesting Date of this Development Agreement pertaining to land use, development, subdivisions and planning. Applicable law shall include but not be restricted to the City's General Plan, Mare Island Specific Plan, and City ordinances and resolutions pertaining to, for example, but not by way of limitation, permitted uses, building locations, timing of construction, densities, design, heights, infrastructure, affordable housing, parks and recreation. City shall not amend or repeal the Applicable Law except as provided in this Development Agreement, and Developer is hereby vested with the right to develop the Property as set forth in the Applicable Law, subject to the following and all other provisions of this Development Agreement including the Existing Approvals:

2.3.1 Consistency of Future Approvals With the Applicable Law.

To the extent it has authority to do so, City agrees to grant and implement the Future Approvals necessary to accomplish development of the Project for the uses and to the density or intensity of development described and shown (i) in the Existing Approvals, and (ii) the Applicable Law in effect on the Vesting Date. If any existing provision of the Applicable Law is in conflict with the provisions of this Development Agreement including the Existing Approvals, the provisions of this Development Agreement including the Existing Approvals shall prevail. (Notwithstanding the above, Developer, in its sole discretion and upon prior written notice to the City, may elect to apply to the Project those future City laws, rules, regulations and policies that would otherwise apply to the Project in the absence of this Development Agreement.) For purposes of this provision, and similar provisions, of this Development Agreement, and subject to the provisions of Section 2.10, below, a conflict must be material and shall not be deemed to exist with respect to rules, ordinances, regulations or official policies which are of a kind or application similar to those which are permitted to be made applicable to the Project by the provisions of this Development Agreement, including but not limited to the provisions of Sections 2.1.2, 2.2 and this Section 2.3. (By way of illustrating the application of the foregoing, the Specific Plan is by its nature general and diagrammatic in many respects. At a more specific level of detail of development, it may be found to inadvertently conflict with existing codes and specifications of City applicable to that level of detail. It is not the intent of this Section 2.3.1 or similar provisions of this Development Agreement to preclude City's application of existing codes and specifications under such circumstances where the conflict, to the extent it exists, results from refinement of the Project to a more specific level of detail from a more general level previously approved. Examples: (i) Infrastructure locations may require change at the engineering design level to comply with site conditions or City specifications. (ii) A City code provision imposing a greater park dedication requirement or an overall lesser density for a parcel than that specified in the Specific Plan or this Development Agreement would not apply.)

2.3.2 <u>Applicable Building and Construction Standards</u>.

All building and construction standards, including but not limited to the Uniform Building Code, Uniform Plumbing Code, Uniform Swimming Pool Code, Uniform Electrical Code and Uniform Mechanical Code, Uniform Fire Code, State Historic Building Code, Uniform Abatement of Dangerous Buildings Code, Uniform Housing Code, Chapter 12.07 of the Vallejo Municipal Code, Seismic Hazard Identification and Mitigation Program(Chapter 12.50 of the Vallejo Municipal Code), and the Mare Island Building and Fire Code, applicable to the Property, whether as to existing or future structures, are not subject to this Development Agreement, and Developer shall develop the Project in accordance with such codes as and when adopted by the City. Notwithstanding the above and only to the extent such "grandfathering" is permitted by law, City shall apply the uniform codes listed above from a previous year notwithstanding subsequently adopted code updates to the Project.

2.3.3 <u>Compliance With Federal and State Requirements</u>.

Developer, as a Project Cost and at no cost to City, unless otherwise expressly provided, shall comply with lawful requirements of, and obtain all permits and approvals required by, regional, State and Federal agencies having jurisdiction over Developer's activities in furtherance of this Agreement, including but not limited to Other Agency Future Approvals. By way of example, Developer shall comply with the conditions of DTSC and RWQCB permits and approvals and the Other Agency Future Approvals associated with environmental remediation activities on the Property, including those activities that may be contemplated by the Early Transfer Documents provided, however, that the failure of Developer to comply with any provision or provisions of the Early Transfer Documents, while such failure may affect the timing and phasing of the development of the Project, shall not constitute default of this Development Agreement.

2.3.4 Fees.

Except as otherwise provided in this Development Agreement, only those fees and dedications and exactions set forth in Exhibit F (the "Schedule of Fees"), and any cost of living increases thereto as authorized by the City's development fee ordinances as of the Vesting Date, may be applicable to the development, buildout, occupancy, and use of the Property for the purposes of mitigating environmental and other impacts, providing infrastructure, and funding required service connections, provided however, that this provision shall not limit the right of any other local, regional, state or federal agency or district to directly impose otherwise lawful fees on the Project, including non-City fees imposed by such agencies or districts and collected by City solely for the benefit of such agencies or districts. Notwithstanding the above, this Development Agreement shall not limit the authority of City to charge any and all reasonable processing fees, including those identified as processing fees on the Schedule of Fees, and including application and inspection and monitoring fees, for land use approvals, grading and building permits and other permits and entitlements, which are in force and effect on a City-wide basis (except as limited by other development agreements or other vesting mechanisms) at the time those permits, approvals or entitlements are applied for on any or all portions of the Project. All such processing fees shall be limited as set forth in California Government Code Section 66014. In addition, City and Developer agree to cooperate in good faith to establish an equitable and mutually satisfactory funding mechanism for the construction of certain transportation infrastructure improvements, including Developer's fair share of improvements benefiting the Project which are (i) specifically identified in a subsequently adopted Mare Island Infrastructure Master Plan, as referenced in Exhibit E attached hereto, and (ii) the Highway 37 North Gate and Causeway Bridge infrastructure improvements (the "Gateway Improvements") as set forth in the January 2001 Vallejo Transportation and Mare Island Access Study - Multimodal Facility Location and Design study prepared by Korve Engineering. The parties contemplate that the Infrastructure Master Plan will be incorporated as part of the SPA. The parties' cooperation obligations with respect to establishment of a funding mechanism for construction of such transportation infrastructure shall automatically terminate on the expiration of Three Hundred Sixty-Five (365) days following the City's adoption of the SPA.

2.3.5 Changes in City Laws.

This Development Agreement shall not preclude the application to the development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations as provided in Government Code Section 65869.5. In the event State or Federal laws or regulations enacted after the Vesting Date of this Development Agreement or action by any other governmental agency other than City prevent or preclude compliance with one or more provisions of the Applicable Law or this Development Agreement, or require changes in plans, maps or permits approved by City, this Development Agreement shall be modified, extended or suspended as may be necessary to comply with such State or Federal laws or regulations or the regulations of such other governmental agency. Immediately after enactment of any such new law or regulation, the parties shall meet and confer in good faith to determine the necessity of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Development Agreement. It is the intent of the parties that any such modification or suspension be limited to that which is necessary, and to preserve to the extent possible the original intent of the parties in entering into this Development Agreement. If the parties have met and conferred and failed to agree on City's proposed modification or suspension, and City acts to approve such modification or suspension, and Developer continues to believe, in its reasonable business judgment, that such modification or suspension will significantly affect the economic assumptions underlying the Approved Participation Model, the Project or any portion thereof, then Developer shall have the right, at its sole election, to require a recalculation of the "Economic Parameters" of the Acquisition Agreement, as set forth in Section 5.2 of the Acquisition Agreement. Thereafter, if the results of such recalculation are such that Developer, in its reasonable business judgment, still believes that such modification or suspension will significantly affect the economic assumptions underlying the Approved Participation Model, the Project or any portion thereof, Developer may submit the matter to arbitration pursuant to Section 6.3, the sole issue of which shall be whether City's approval of such modification or suspension under this Section 2.3.5 was arbitrary or capricious. In the event that, following the conclusion of such arbitration, it is determined that City's approval of such modification or suspension of the Development Agreement was not arbitrary or capricious, and Developer continues to believe, in its reasonable business judgment, that such modification or suspension will significantly affect the economic assumptions underlying the Approved Participation Model, the Project or any portion thereof, Developer shall have the right, at its sole election, to terminate this Development Agreement by written notice to City, subject to the provisions of Section 4.8 hereof.

In addition, Developer shall have the right, as a Project Cost and at no cost to City, to challenge the new law or regulation preventing compliance with the terms of this Development Agreement, and in the event such challenge is successful, this Development Agreement shall remain unmodified and in full force and effect. In the event that Developer so challenges the new laws or regulations, City reserves the right to take any position in such Developer challenge, even if contrary to Developer, in order to protect City's lawful authority or jurisdiction or financial interests.

2.3.6 <u>Federal or State Actions</u>.

To the extent that any actions of Federal or State agencies (or actions of other governmental agencies, including City, required by Federal or State agencies or actions of City taken in good faith in order to prevent adverse impacts upon City by actions of Federal, State or other governmental agencies) have the effect of preventing, delaying or modifying development of the Project or any portion thereof, City shall not in any manner be liable for any such prevention, delay or modification of said development. Such actions include, but are not limited to, flood plain or wetlands designations and actions of City or other governmental agencies as a result thereof and the imposition of air quality or transportation measures or sanctions and actions of City or other governmental agencies as a result thereof. As a condition to being able to proceed with development, Developer may be required, at its cost, which cost shall be a Project Cost, subject to the rights of Developer in Section 2.3.5, without cost to or obligation on the part of City, to participate in such regional or local programs and to be subject to such development restrictions as may be necessary or appropriate by reason of such actions of Federal, State or other governmental agencies (or action of City taken in order to prevent adverse impacts upon City by actions of Federal, State or other governmental agencies). Any such actions described in this paragraph which prevent or delay development of the Project shall constitute a permitted delay as defined in Section 4.3 hereof. The imposition of taxes, fees or other charges or costs mandated by such Federal or State actions, which do not materially add to the cost of developing the Project but which do not otherwise prevent, delay or modify the Project shall not be deemed actions which prevent, delay or modify development of the Project for purposes of the foregoing provisions of this paragraph.

2.3.7 City's Police Power.

Nothing in this Development Agreement shall be construed to limit the authority of City in the exercise of its police power or pursuant to Federal or State mandate to adopt and apply to Developer and the development of the Project codes, ordinances, policies, rules and regulations which have the legal effect of protecting persons or property from conditions which create a substantial threat to health, safety or physical risk.

2.3.8 Project Standards.

The rules, regulations and official policies governing design, improvement and construction standards and specifications applicable to the Project shall be those set forth in the Applicable Law. Rules, regulations, policies, standards and specifications applicable to the Project and not addressed in the Applicable Law shall be those in force and effect on a City-wide basis at the time of the applicable permit approval, provided such standards are not arbitrarily imposed on the Property. For purposes of this Section 2.3.8, the determination of a conflict shall be governed by the same principles set forth in Section 2.3.1.

2.3.9 Infrastructure Standards.

All streets, roads, utilities, drainage systems, traffic control signs, markings and signal systems, streetscape and street lighting, shall be designed and constructed to the engineering, design and construction standards as set forth in the Applicable Law and the Future Approvals, including but not limited to the provisions of the Specific Plan addressing the special constraints and unique characteristics presented by the reuse and development of Mare Island. Standards not addressed in the Applicable Law shall be those existing on a City-wide basis at the time of the applicable permit approval, provided such standards are not arbitrarily imposed on the Property. Such standards shall include those construction standards contained in applicable sections of the City of Vallejo Municipal Code, the Standard Specifications and Standard Details referenced therein, the Uniform Building Code adopted by the City, and to the extent applicable for use by the City in connection with the approval of drainage facilities, standard specifications formally adopted by the Vallejo Sanitation and Flood Control District as of the Effective Date. As used in this Section 2.3.9, "streetscape" shall include landscaping irrigation systems, plantings, special paving materials, walls, fences and other features intended to enhance the aesthetic quality of the public streets, grounds and access-ways.

2.3.10 City's Future Discretionary Authority.

By approving the Existing Approvals, Acquisition Agreement and this Development Agreement, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, to the extent that any application for a Future Approval is consistent with the policy decisions reflected by the Existing Approvals, the Applicable Law and this Development Agreement, City shall not use its discretionary authority to change such policy decision or otherwise to prevent or delay development of the Project as set forth in the Existing Approvals.

City may deny an application for a City Future Approval only if such application does not substantially comply with this Development Agreement or the Applicable Law, or does not substantially comply with the Existing Approvals. City may approve an application for such a Future Approval subject only to those conditions necessary to bring the Future Approval into compliance with this Development Agreement or the Applicable Law, or necessary to make the Future Approval consistent with the Existing Approvals. If City denies any application for a Future Approval, City must specify in writing the reasons for such denial and may, but is not required to, suggest a modification which could be approved. Any such specified modifications must be consistent with this Development Agreement, the Applicable Law and the Existing Approvals.

2.3.11 Future Use of EIS/EIR.

The parties understand that the EIS/EIR, including any subsequent or supplemental EIS/EIR, is intended to be used in connection with each of the Existing Approvals and Future Approvals needed for the Project. Consistent with both NEPA and CEQA policies and requirements applicable to the EIS/EIR, City agrees to use the EIS/EIR in connection with the processing of any Future Approval to the extent allowed by law and not to impose on the

Project any mitigation measures or other conditions of approval other than those specifically imposed by the Existing Approvals and the Mitigation Monitoring Program or specifically required by the Applicable Law.

2.4 Density.

Developer does not currently intend to apply for residential density increases or bonuses on the real property, and City does not intend to revise the maximum density and dwelling unit totals established by the Specific Plan, thus insuring that appropriate facilities and services are planned and implemented. Specifically, Developer agrees that the total number of residential units to be developed pursuant to the Specific Plan, including residential units restricted for low- and moderate- income persons and families, shall not exceed 1,400 residential units, as permitted under the Specific Plan and vested by this Development Agreement, unless upon subsequent application by Developer, City subsequently approves a greater number by amendment to the Specific Plan, which subsequent approval and amendment shall be in the sole and absolute discretion of City. As used herein, "residential units" shall not include dormitory or other student housing, congregate care facilities, hotels, bed-and-breakfast establishments or units associated with governmental facilities. Nothing herein shall preclude Developer or City from proposing an amendment to the Specific Plan to increase densities or make other revisions, in accordance with all applicable City requirements.

2.5 Development Timing and Restrictions.

The parties acknowledge that Developer cannot at this time predict with certainty when or the rate at which phases of the Property would be developed. Such decisions depend upon numerous factors which are not all within the control of Developer, such as market orientation and demand, interest rates, competition, completion of remediation by the U.S. Government and other factors. The Phasing Plan attached as Exhibit C reflects City's and Developer's best efforts to anticipate the likely phasing of the Project, based upon the parties' information as of the date of execution of this Development Agreement. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development controlling the parties' agreement, it is the intent of City and Developer to hereby acknowledge and provide for the right of Developer to develop the Project at such rate and times as Developer deems appropriate within the exercise of its sole and subjective business judgment, subject to the terms, requirements and conditions of the Existing Approvals and this Development Agreement (including without limitation infrastructure phasing applicable to the Project, and the provisions of Sections 2.1, 2.2 and 2.3, above). City acknowledges that such a right is consistent with the intent, purpose and understanding of the parties to this Development Agreement, and that without such a right, Developer's development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Statutes (California Government Code Section 65864, et seq.) and Title 17, Part II of the City of Vallejo Municipal Code and this Development

Agreement, Developer will use its best efforts, in accordance with its own business judgment and taking into consideration market conditions and other economic factors influencing Developer's business decision, to commence or to continue development, and to develop the Project in a regular, progressive and timely manner in accordance with the provisions and conditions of this Development Agreement and with the Existing Approvals.

Off-site improvements required may be specifically tied to certain phases of the Project. The schedule for provisions of these off-site improvements, as they relate to a particular phase, shall be governed by the Existing Approvals or Future Approvals, as applicable.

2.6 Undergrounding of Utilities.

All existing above-ground utilities on the Property shall be placed underground, and all new utilities on the Property will be placed underground, in accordance with City development standards and the requirements of the applicable utility companies and to the extent feasible. The portion of the costs incurred by Developer for the undergrounding of utilities shall be a Project Cost.

2.7 ADA Compliance.

Developer shall comply with the requirements of the Americans with Disabilities Act (ADA) and all other requirements of applicable federal and state laws with respect to its development of the Project as applicable to Developer.

2.8 Prevailing Wages.

Developer shall pay prevailing wages if and as required by applicable federal and state laws.

2.9 Local Employment and Contracting.

Developer agrees that it will use good faith efforts to hire qualified Vallejo residents or former Mare Island Naval Shipyard employees for new positions created by Lennar Mare Island in its hiring of employees related to the development and management of the Project. To the extent reasonably feasible, Developer shall also require its independent third party contractors to use good faith efforts to hire qualified Vallejo residents or former Mare Island Naval Shipyard employees for new positions created by such contractors related to the development of the project, provided that any failure by Developer's contractors shall not constitute a default by Developer under this Agreement. Developer shall, by December 1 of each year, submit to the City a list of the names and city of residence of its employees and officers, and shall periodically provide information to the City regarding its work force. Developer agrees to use good faith efforts to contract with qualified Vallejo businesses for services and/or products, as appropriate, consistent with the goals of the Reuse Plan. The City acknowledges that Developer and its third party contractors have the ultimate right to choose their employees and contractors. For new positions, good faith efforts may include, but not be restricted to, providing job announcements to the City, Napa-Solano Building Trades Council and other such local organizations.

2.10 Subsequently Enacted Rules and Regulations; Initiatives.

The City may, hereafter, during the term of this Development Agreement apply such newer City enacted or modified ordinances, rules, regulations and official policies adopted on a City-wide basis (each individually, a "City Law") (except as limited by other development agreements or other vesting mechanisms) which are not in conflict with the terms of the Existing Approvals and Applicable Law. To the extent any changes in the General Plan, Specific Plan, the zoning codes or other rules, ordinances, regulations or official policies (whether adopted by means of an ordinance, initiative, resolution, policy, order or moratorium, initiated or instituted for any reason whatsoever and adopted by the City Council, Planning Commission or any other Board, Commission or Department of City or any designated officer or employee thereof, or by the electorate) are in conflict with the terms of the Existing Approvals and the Applicable Law, the Existing Approvals and the Applicable Law, shall prevail. If any City Law is enacted or imposed by initiative, referendum or moratorium, or by the City Council directly or indirectly in connection with any proposed initiative, referendum or moratorium, which City Law would conflict with Applicable Law or this Development Agreement or reduce the development rights provided by this Development Agreement, such City Law shall not apply to the Project. City shall cooperate with Developer pursuant to Section 6.4 and shall undertake such actions as may be necessary to ensure this Agreement remains in full force and effect. City shall not adopt or enact any City Law, or take any other action that would conflict with the express provisions of this Development Agreement, the Existing Approvals or the Future Approvals. Developer reserves the right to challenge in court any City Law that would conflict with the Existing Approvals and Applicable Law or reduce the development rights provided by this Development Agreement.

Without limiting the generality of the foregoing, any City Law shall be deemed to conflict with the Existing Approvals and the Applicable Law, or reduce the development rights provided thereby if it would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which applies to or affects the Project: (a) reduce the total number of residential units permitted to be developed on the Property to fewer than 1,400 units, or reduce the residential densities or intensity permitted by the Applicable Law; (b) limit or reduce the total amount of non-residential density or intensity of use of the Project, or any part thereof, otherwise require any reduction in the total amount of non-residential square footage or number of proposed buildings or other improvements or revise the densities permitted by the Applicable Law; (c) except as provided in the Applicable Law, change any land use designation or permitted use of the Project set forth in the Applicable Law; (d) except as provided in the Applicable Law, limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations included in the Applicable Law; (e) except as provided in the Existing Approvals or Applicable Law, limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project; (f) apply to the Project any City Law otherwise allowed by this Development Agreement that is not uniformly applied on a City-wide basis to all substantially similar types of uses; or (g) require the issuance of additional permits or approvals by City other than those required by the Applicable Law.

2.11 Homeless Assistance Act Compliance.

The parties acknowledge that compliance with the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103-421) (the "Homeless Assistance Act") has been substantially undertaken. City and Developer shall cooperate to ensure that the requirements of the Homeless Assistance Act with respect to the Property are complied with in the development of the Project; provided, however, that to the extent there are remaining mandatory federal obligations to be satisfied, Developer shall continue to cooperate in good faith with City to determine which portion or portions of the Property shall be used for such compliance or, if permitted by the Homeless Assistance Act, if there are alternative methods of complying with any such remaining obligations.

2.12 Credit for Park Dedications.

2.12.1 Satisfaction of City Park Requirements.

Chapter 3.18 of the Vallejo Municipal Code (the "Park Dedication and Fee Ordinance") sets forth City's fee schedule and alternative land dedication procedures for mitigation by residential subdividers of parks and recreation impacts. City and Developer desire to set forth the terms upon which the parties agree that the requirements of the City's Park Dedication and Fee Ordinance may be satisfied by Developer. Further, given the development constraints created by the unique historic nature of Mare Island, the parties realize that certain parcels intended to be dedicated by Developer for use as "Community Parks" and "Neighborhood Parks" (as those terms are defined in the Park Dedication and Fee Ordinance) may not meet certain standards of the Park Dedication and Fee Ordinance. Notwithstanding the foregoing, the parties desire to provide now for the proposed dedication and use of certain parcels as parks and the realization of credit for such dedication by Developer. Given these considerations, the parties hereby agree that Developer shall be deemed to have satisfied all City requirements related to the dedication, improvement and maintenance of parks and public recreation facilities, including without limitation the Park Dedication and Fee Ordinance, upon completion of the following:

(a) Specific Plan Areas 2, 6, 7 and 8.

i. Improvement and dedication to City, and acceptance by City, of a community park consisting of approximately 25 acres (the "Community Park"). The Community Park shall contain playing fields, hiking trails and scenic outlooks. It shall be linked to other public recreation facilities, nearby residential areas and the elementary school by a pedestrian pathway system.

ii. Improvement and dedication to City, and acceptance by City, of a neighborhood park consisting of approximately 6 acres ("Morton Field"). Morton Field shall be expanded for use as sports playing fields.

iii. Improvement and dedication to City, and acceptance by City, of a neighborhood park consisting of approximately 3 acres ("Marine Parade Grounds"). Consistent with the project guidelines for historic resources, the Marine Parade Grounds shall be upgraded with a sprinkler system for its continued use as a neighborhood turfed playing field.

iv. Improvement of certain private open space, including pocket parks, tot lots and neighborhood common areas (collectively, the "Pocket Parks"), consisting of approximately 12 acres and located within the future residential areas on Mare Island. The Pocket Parks shall be developed to specifications and standards determined by Developer, with consent of the City, which consent shall not be unreasonably withheld, at the time of submission of subdivision map applications for the adjacent residential development. Developer, in its sole and absolute discretion, may elect to convey the Pocket Parks to a homeowners' association.

(b) Specific Plan Area 3. Improvement of a waterfront promenade consisting of approximately 5 acres (the "Area 3 Promenade"), renovated consistent with standards and requirements of the Bay Conservation and Development Commission and those guidelines and policies set forth in the Specific Plan.

(c) Specific Plan Area 4.

i. Improvement and dedication to City, and acceptance by City, of a neighborhood park consisting of approximately 5 acres ("Alden Park"). Consistent with the project guidelines for historic resources, Alden Park shall be renovated by Developer to allow for its continued use for ceremonial, passive recreation and community event purposes.

ii. Improvement and dedication to City, and acceptance by City, of a neighborhood park consisting of approximately 3 acres ("Chapel Park"). Consistent with the project guidelines for historic resources, Chapel Park shall be renovated by Developer to allow for its continued use for ceremonial, passive recreation and community event purposes.

iii. Improvement of a waterfront promenade consisting of approximately 2 acres (the "Area 4 Promenade"), renovated consistent with standards and requirements of the Bay Conservation and Development Commission and those guidelines and policies set forth in the Specific Plan.

(d) Specific Plan Area 9. Improvement and dedication to City, and acceptance by City, of a neighborhood park consisting of approximately 5 acres ("Club Drive Park"). Consistent with the project guidelines for historic resources, Club Drive Park shall be renovated by Developer to allow for its continued use for ceremonial, passive recreation and community event purposes.

(e) Specific Plan Area 10. Improvement of a pedestrian link from Area 9 to the adjacent regional park (the "Pedestrian Link"), which Pedestrian Link may be primarily within the public right-of-way but which shall contain certain waterfront outlooks or other public access areas (the "Waterfront Outlooks"). The Waterfront Outlooks shall provide visual, and where feasible, physical public access to the waterfront, and shall be designed consistent with the standards and requirements of the Bay Conservation and Development Commission.

2.12.2 No Developer Obligations for Additional Park Dedication or Improvements.

Except as set forth in Section 2.12.1 above, Developer shall have no additional obligation to dedicate or improve portions of Mare Island for use as public parks. Developer's development and use of the Property shall be consistent with the land use designations set forth in the Existing Approvals.

2.12.3 Approval By City of Park Improvements and Acceptance of Offers of Dedication.

Prior to commencement of improvements for each park listed above and dedication of such park to the City, Developer shall submit a park improvement plan for such park to the Director of Development Services for evaluation and approval, which approval shall not be unreasonably withheld. The Director of Development Services may consult with the Greater Vallejo Recreation District during the approval process. The discretion of the Director of Development Services in approving each such park shall be limited to an evaluation of whether such plan substantially complies with (i) the criteria for each such park set forth in this Section 2.12, and (ii) the standards of the Greater Vallejo Recreation District as such standards exist on the Effective Date. This determination shall be made in light of the unique physical and historical characteristics and constraints of Mare Island. City shall accept each offer of dedication of the parks described in this Section 2.12 within 60 days of such offer by Developer, provided that the applicable park improvements are completed consistent with the approved park improvement plans.

2.12.4 Timing of Park Improvement and Dedication.

At the time of the filing by Developer of a final subdivision map on the parcel(s) immediately adjacent to each park listed in Section 2.12.1 above, City and Developer shall enter into a mutually satisfactory improvement agreement for such park consistent with the standards and criteria set forth herein. Promptly upon completion of the improvements for such park by Developer and receipt of written notice thereof by City, and in no event more than 30 days following receipt of such notice, City shall accept Developer's offer of dedication of such park. Notwithstanding the above, in light of the existing public use of certain historical parks on Mare Island and the City's desire to provide uninterrupted public access to such parks, Developer may at its option convey Alden Park, Chapel Park, Club Drive Park and Marine Parade Grounds to City promptly following conveyance of such parks to Developer, provided that prior to conveyance to City, Developer and City shall have entered into a mutually satisfactory improvement agreement providing for (i) the future improvement and timing of improvement of each such park consistent with the standards and criteria set forth herein, (ii) minor adjustments, if necessary, to the boundaries of such parks to accommodate development on adjacent parcels and roadways, and (iii) reasonable access by Developer to such parks to facilitate adjacent development.

2.12.5 Revisions to Park Dedications.

The City acknowledges that minor revisions to specific park locations, acreage and development criteria (the "Park Revisions") may be necessary to accommodate future changed circumstances related to the Project. Upon a finding by the Director of Development Services, after notice to and consultation with the Greater Vallejo Recreation District, that the Park Revisions substantially comply with the Specific Plan and do not substantially reduce Developer's obligations pursuant to this Section 2.12, such Park Revisions shall be approved administratively by the Director of Development Services and automatically incorporated into this Agreement without formal amendment.

2.13 Progress Meetings.

City and Developer shall have regular meetings during the term of this Development Agreement to discuss the progress of the development and construction of the Project. Such meetings shall be attended by representatives of the parties with experience and expertise in the relevant disciplines to the stage of the development and construction process.

2.14 Life of Project Approvals.

Unless otherwise expressly specified in any Existing Approval, the terms of:

(a) Any future tentative map (including vesting maps, map amendments and lot line adjustments) which may be approved for the Project (as provided for in the Subdivision Map Act, Government Code Sections 66410 et seq.); or

(b) Any other Existing Approval,

shall automatically be extended for the longer of the duration of this Development Agreement (including any Extensions) or the term otherwise applicable to such Existing Approval if this Development Agreement is no longer in effect.

The term of this Development Agreement and any subdivision map or other Existing Approval shall not include any period of Permitted Delay.

ARTICLE III

OBLIGATIONS OF THE PARTIES

3.1 Developer Obligations.

In addition to those obligations of Developer under the Existing Approvals described in Recital P, Developer shall have the following obligations:

3.1.1 Development of the Property.

In consideration of City entering into this Development Agreement, Developer has agreed that if Developer commences development of the Property (and proceeds to develop the Property), such development shall be in conformance with all of the terms, covenants and requirements of this Development Agreement and the Existing Approvals, and Developer shall perform those specific obligations and provide those specific contributions identified in the conditions of approval and exhibits to the Existing Approvals. Developer and its successors and assigns, as applicable, shall as a Project Cost, pay when due any and all fees, charges and other costs, including traffic impact fees, public facility fees and other mitigation impact fees and costs, which are imposed pursuant to this Development Agreement or are otherwise lawfully imposed on all or any portion of the Project, whether imposed by City or other agencies, which may include, but are not limited to, fees to help pay for off-site improvements of benefit to the Project or the Property.

3.1.2 Effects of Litigation.

In the event that litigation is timely instituted, and a final judgment is obtained, which invalidates in its entirety this Development Agreement or a substantial benefit to Developer under the Applicable Law, then Developer shall have no further obligations whatsoever under this Development Agreement except as set forth in Section 4.8 hereof. Subject to the provisions of Section 6.4.2, City may tender the defense of any such litigation to Developer and Developer's counsel, in which case Developer shall bear all costs of such litigation, including City's, legal and court costs in connection therewith; otherwise, each party shall bear their own respective costs, if any, arising from any such defense. All Developer's costs incurred under this Section 3.1.2 shall be Project Costs.

3.1.3 Financing Mechanisms.

Developer may request that City establish a Community Facilities District or other public financing mechanism, with City cooperation and at no cost to City, to finance a portion of the public infrastructure and services for the Project. Developer's costs associated with formation of a Community Facilities District or other public financing mechanism shall be a Project Cost.

3.1.4 Formation and Responsibility of Neighborhood Associations.

If City and Developer mutually determine that a neighborhood association should be formed for a portion of the Project or such association is required by Applicable Law, Developer shall be responsible for the formation of such association to maintain neighborhood facilities and private open space and to assure uniform exterior maintenance and appearance of the residential units.

3.1.5 Maintenance of Public Areas and Open Space.

City shall assume responsibility for the maintenance of all parks and open space after such areas have been dedicated by Developer. The parties anticipate that a landscape maintenance district or other funding mechanism may be formed for the maintenance of the waterfront promenade, historic plazas, open space, street landscaping and other such areas. City will accept offers of dedication of open space to be left in its natural condition, provided that City is reasonably satisfied as to the level of cost or potential liability, if any, associated with such dedication.

3.1.6 Historic Preservation.

Developer's obligations with respect to buildings or facilities of historic significance are set forth in the Existing Approvals. Provided Developer is in compliance with the Existing Approvals concerning historic preservation, City shall not impose any additional requirements for historic preservation of buildings or facilities in the Project. City agrees not to apply for, sponsor or endorse any application on the part of City or any other party for historic preservation other than as set forth in the Existing Approvals unless Developer expressly consents thereto.

3.1.7 Monthly Reports.

On or before the fifteenth (15th) day of each month, Developer shall deliver to City a financial summary and development status report in a form mutually approved by City and Developer.

3.1.8 Infrastructure Improvements.

Developer, as a Project Cost and subject to Permitted Delays and other approved extensions of the Schedule of Performance, will construct and install all infrastructure in accordance with the Master Infrastructure Plan contained in the Specific Plan, as may be amended, consistent with the Approved Participation Model.

3.1.9 Tenant Improvements.

Developer, as a Project Cost and subject to Permitted Delays and other approved extensions of the Schedule of Performance, will construct tenant improvements contemplated by the Approved Participation Model that are reasonably determined by Developer to be necessary for the successful development of Mare Island.

3.1.10 Demolition.

Developer, as a Project Cost, and subject to Permitted Delays and other approved extensions of the Schedule of Performance, and in accordance with the Schedule of Performance, will demolish improvements contemplated to be demolished under the Approved Participation Model that are reasonably determined by Developer to be necessary for the successful development of Mare Island.

3.1.11 Project Management.

Developer, as a Project Cost and subject to Permitted Delays and other approved extensions of the Schedule of Performance, will manage the Project in accordance with the Approved Participation Model.

3.1.12 Developer Commitment to Grant Easements to City or City's Designee.

Developer agrees to work cooperatively with City and use its best efforts to ensure, at no cost to Developer, that at all times during the term of this Development Agreement, City or its designee is granted all necessary easements for the development of Mare Island, whether such development is to be by City or a third party, consistent with Developer's development of the Project.

3.1.13 Municipal Services District.

The parties agree and intend that a Mare Island-wide Municipal Services District (the "District") shall be created, which will provide for the imposition of a special tax upon property within the District. Developer agrees that, until such time as such special tax levied against all of the Property is placed upon the county tax roll for collection by the Solano County Tax Collector, Developer shall be responsible for collecting and paying to the District when due the full amount of the special tax levied upon any portion of the Property not included upon the county tax roll and subject to such special tax. The special tax shall be levied in accordance with the rate and method of apportionment approved by Developer and adopted by the District. Developer agrees that so long as this Development Agreement is in effect, it shall not take any action, other than Developer's full participation in the regular budgetary process for the District, to (i) reduce or eliminate the amount of the special tax so approved; or (ii) reduce or eliminate the type or scope of the services to be provided by the District; or (iii) dissolve the District. Notwithstanding the foregoing, Developer's actions with respect to the District will not be so restricted if a mutually acceptable alternative funding mechanism is implemented. City's consent to such alternative funding mechanism shall not be unreasonably withheld.

3.2 City Obligations.

In addition to those obligations of City described herein, City shall have the following obligations:

3.2.1 City's Good Faith in Processing.

City and Developer have mutually agreed upon the target dates for planning approvals set forth in Exhibit E. The dates set forth in the Schedule of Performance set forth in Exhibit D are not binding on either party but express the desire of the parties to adhere to a timely schedule of development approvals. In consideration of Developer entering into this Development Agreement, and provided that Developer exercises due diligence and good faith, and files full, accurate and complete applications with timely payment of all fees therefore, City agrees that it will accept, process and review, in good faith and in a timely manner, all applications related to the Project filed by Developer or other owners of property within the Project or those with rights to acquire any such property consistent with the Existing Approvals, in accordance with the terms of this Development Agreement and the Applicable Law. City agrees that the scope of its review of requests for Future Approvals shall be exercised consistent with the terms of this Development Agreement and the Applicable Law.

3.2.2 Other Agency Future Approvals.

City shall cooperate with Developer, at Developer's cost which Costs shall be Project Costs, in Developer's endeavors to obtain Other Agency Future Approvals in connection with the development of, or the provision of services to, the Project, so long as such permits and approvals are not inconsistent with the Applicable Law.

3.2.3 Acceptance of Public Roads.

City shall accept ownership of the public roads identified in the Existing Approvals.

3.2.4 Reimbursements to Developer.

In the event that additional portions of Mare Island (the "Additional Properties") may be subsequently sold or released by the Federal Government for private development, Developer's costs for dedications, infrastructure and public facilities under the Existing Approvals may be determined by City to also directly benefit such Additional Properties, in whole or in part. In such instances, City shall use reasonable efforts, consistent with applicable law and procedures, to the effect that such benefited Additional Properties shall be identified and shall reimburse to Developer, through City, a portion of the costs incurred by Developer, based on a benefit formula approved by the City Council. Such benefit formula shall be based on ascertainable criteria, taking into account to the extent ascertainable, the proportionate benefit conferred on the Additional Properties. Consistent with applicable law and procedures, City shall use reasonable efforts to collect, and establish a mechanism for future collection (irrespective of the term of this Development Agreement), any amounts reimbursable to Developer hereunder upon application to City by owners or developers of the Additional Properties for land use and development entitlements or building permits. City also agrees to use its best efforts, to the extent legally permitted, to secure fair share contributions for infrastructure costs from Federal, State and local government entities on Mare Island. Except as otherwise set forth above, Developer agrees and acknowledges that City's obligation is limited to reasonable efforts and is subject to applicable laws and procedures as herein provided, and that Developer may not be reimbursed, in whole or in part, hereunder.

In the event the Acquisition Agreement is terminated for any reason and Developer surrenders to City all or a portion of the Property (the "Surrendered Property"), this Development Agreement shall terminate with respect to such Surrendered Property. City agrees that the conditions of approval for any subsequent development of the Surrendered Property shall include the requirement that any developer of such property shall reimburse Developer for a share of the cost of development of the offsite infrastructure serving that portion of the Surrendered Property. Such share shall be determined in accordance with a fair-share engineering analysis, obtained by City at Developer's expense, for the Surrendered Property. All such reimbursement shall be paid at the time a building permit is issued for the development of the applicable portion of the Surrendered Property and shall be paid to Developer promptly after being received by City. Such reimbursements shall be included as "Project Revenues" in the Approved Participation Model.

3.2.5 Community Facilities District.

City agrees to cooperate in the establishment of a Community Facilities District or other public financing mechanism as proposed in Section 3.1.3.

3.2.6 Maintenance of Public Roads and Public Water and Sewer Systems; Naming of Public Roads.

During the term of this Development Agreement, City shall be responsible for maintaining and operating, either directly or by contract, the Mare Island public roads and the Mare Island Public Water and Sewer Systems in the manner required to serve the Project. City shall cooperate with Developer, at no cost to City, to take all steps necessary to relocate or realign the public roads to conform to the locations approved by City in the course of the development of the Property in accordance with this Development Agreement. The cost of any relocation or realignment made at Developer's sole request shall be paid by Developer and shall be a Project Cost. City requests, if any, for relocation of the public roads or Mare Island Public Water and Sewer Systems shall be reasonably feasible from an engineering and economic standpoint and consistent with the Approved Participation Model.

Prior to the naming or renaming of any of the public roads on Mare Island, City shall submit to Developer each proposed street name. Within 20 days following the receipt of each name from the City, Developer shall review the name to determine whether it is consistent with the design and character of the surrounding neighborhood and the marketing of the Project, and may comment or propose alternative names to the City. City shall reasonably and in good faith consider such comments.

3.2.7 Causeway Bridge Maintenance and Operation.

During the term of this Development Agreement, City shall be responsible for the maintenance and operation of the Causeway Bridge in a manner that is substantially comparable with the standard of maintenance of the Property then developed in accordance with this Development Agreement. City agrees that, as the overall maintenance and aesthetic standards (including painting, color selection, lighting, landscaping and related improvements) for properties, improvements and structures on the Property become higher, City shall raise the standards for the Causeway Bridge. As part of City's consideration of such standards, City shall meet and confer with Developer regarding the standards and the manner in which City proposes to complete all maintenance and other improvements necessary to meet the elevated standards within a reasonable period of time thereafter. In the event Developer proposes that the standards for maintenance for the Causeway Bridge be at a higher level than that proposed by the City and City reasonably determines that it is economically infeasible for City to implement the maintenance and other improvements necessary to meet such higher standards, Developer, in its sole and absolute discretion, may participate in the funding of such additional maintenance and improvements, provided that such additional maintenance and improvements are approved by City. Except for the increased costs voluntarily assumed by Developer as set forth above, which costs shall be Project Costs, costs associated with the maintenance, operation and improvement of the Causeway Bridge will initially be borne by the District established pursuant to Section 3.1.13 of this Development Agreement and City's authority as a charter city. The Causeway Bridge shall remain open to vehicle traffic 24 hours per day, 7 days per week, subject to reasonable closures for maintenance and repair and waterway traffic.

3.2.8 Eminent Domain Powers.

City agrees to cooperate with Developer in implementing all of the conditions of the Existing Approvals, including, but not limited to, the consideration of the use of its eminent domain powers in connection with public rights-of-way and public improvements; provided, however, that the use of eminent domain shall be in the sole and absolute discretion of the City and subject to all applicable legal requirements.

3.2.9 City Commitment to Grant or Cooperate to Cause Others to Grant Easements to Developer.

City agrees to assist Developer and use its best efforts to ensure, at no cost to City, that Developer is granted all easements and rights of way required to develop the Project at all times during the term of this Development Agreement, including but not limited to ingress/egress, utilities, demolition/construction, flood control, support, slope, and rail easements and rights of way, whether from the City, the United States or other third parties.

ARTICLE IV

AMENDMENT OF DEVELOPMENT AGREEMENT AND EXISTING APPROVALS

4.1 Amendment of Development Agreement By Mutual Consent.

This Development Agreement may be amended in writing from time to time by mutual consent of the parties hereto or their successors-in-interest or assigns and in accordance with the provisions of City of Vallejo Municipal Code Chapter 17.10. Extension of the term of this Development Agreement pursuant to Section 1.3.2 or Section 4.3 shall not require an amendment to this Development Agreement. Limited time extensions (not including extensions to the term) not exceeding one hundred eighty (180) days in the aggregate for all such extensions, for compliance with the terms and conditions set forth herein, may be granted or denied by the City Manager (or his/her designee) in his or her sole discretion.

4.2 Insubstantial Amendments to Development Agreement.

In accordance with the provisions of Chapter 17 of the Vallejo Municipal Code, as may be amended from time to time, any amendment to this Agreement which, in the context of the overall Project contemplated by this Agreement, does not substantially affect (i) the term of this Agreement, (ii) permitted uses of the Property, (iii) provisions for the reservation or dedication of land, (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions, (v) the density or intensity of use of the Property or the maximum height or size of proposed buildings or (vi) monetary contributions by Developer, shall be deemed an "Insubstantial Amendment" and shall not, except to the extent otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. Such Insubstantial Amendment may be approved by City resolution.

4.3 Permitted Delays.

In the event of changed conditions, changes in local, state or federal laws or regulations (other than changes expressly permitted by this Development Agreement), , delays due to strikes, inability to obtain materials, delays caused by governmental agencies in issuing permits and approvals, any period of time during which a development moratorium (including, but not limited to, a water or sewer moratorium) or the actions of other public agencies that would prohibit development of the Property, delays caused by the federal government in meeting its proposed schedule for soil and/or water remediation for the Property, civil commotion, fire, acts of God, war, lockouts, riots, floods, earthquakes, epidemic, quarantine, freight embargoes, failure of contractors to perform, unforeseen contamination left by federal government (including explosives), the commencement of circulation of an initiative or referendum petition or the filing of any court action to set aside or modify this Development Agreement or the Existing Approvals, or other circumstances described in this Development Agreement as giving rise to a Permitted Delay and which cause substantially interferes with carrying out the Project, as the Project has been approved, or with the ability of either party to perform its obligations under this Development Agreement (each such cause individually a "Permitted Delay"), then, except as to acts or conditions to which this Section 4.3 is expressly not applicable under other provisions of this Development Agreement and except as to acts or conditions caused by Developer, if and to the extent that any such cause referred to above in this Section 4.3 has the effect of delaying Developer's completion of any act required hereunder beyond a date specified for such act or beyond the term of this Development Agreement, then the time for such act to be completed or the term of this Development Agreement, whichever is applicable, shall be extended for such period of time as the Permitted Delay shall exist but in any event not longer than for such period of time during which Developer is undertaking reasonable and diligent efforts to correct such Permitted Delay.

4.4 Requirement for Writing.

No modification, amendment or other change to this Development Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing which refers expressly to this Development Agreement and is signed by duly authorized representatives of both parties or successors.

4.5 Amendments to Development Agreement Legislation.

This Development Agreement has been entered into in reliance upon the provisions of the Development Agreement Statutes as those provisions existed at the date of execution of this Development Agreement. No amendment or addition to those provisions which would materially affect the interpretation or enforceability of this Development Agreement shall be applicable to this Development Agreement unless such amendment or addition is specifically required by the California State Legislature, or is mandated by a court of competent jurisdiction. If such amendment or change is permissive (as opposed to mandatory), this Development Agreement shall not be affected by same unless the parties mutually agree in writing to amend this Development Agreement to permit such applicability.

4.6 Amendment of Existing Approvals.

To the extent permitted by state and federal law, any Existing Approval may, from time to time, be amended or modified in the following manner:

4.6.1 Administrative Amendments.

Upon the written request of Developer for an amendment or modification to an Existing Approval, the Director of Development Services or his/her designee shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (ii) whether the requested amendment or modification is consistent with this Development Agreement and Applicable Law. If the Director of Development Services or his/her designee finds that the proposed amendment or modification is minor in light of the Project as a whole, consistent with this Development Agreement and Applicable Law, and will result in no new significant impacts not addressed and mitigated in the applicable environmental document (under CEQA or NEPA), the amendment shall be determined to be an "Administrative Amendment") and the Director of Development Services or his/her designee may, except to the extent otherwise required by law, approve the Administrative Amendment without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, minor reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location of structures of other improvements that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the legal description of a parcel shall be treated as Administrative Amendments.

4.6.2 Non-Administrative Amendments.

Any request of Developer for an amendment or modification to an Existing Approval (including an amendment to this Development Agreement) which is determined not be an Administrative Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Development Agreement.

4.7 Incorporation of Project Amendments into this Development Agreement.

Upon approval or adoption of a Future Approval, or an amendment of an Existing Approval or Future Approval, such action shall automatically be deemed to be incorporated into the Project and the Applicable Law and vested under this Development Agreement without any further procedure to amend this Development Agreement.

4.8 Effect of Termination on Developer's Obligations.

(a) Notwithstanding any other provision hereof to the contrary, termination of this Development Agreement or termination of the rights of Developer hereunder as to the Property, or any part thereof, shall not affect any requirement to comply with the Existing Approvals or any payments then due and owing to City, nor shall it affect the covenants of Developer specified in Section 4.8(b) below, to continue after the termination of this Development Agreement. Developer understands and agrees that the Existing Approvals may be substantially modified in light of the circumstances resulting from the termination of this Development

Agreement or Developer's rights hereunder and Developer shall have no rights to challenge said modification by reason of this Development Agreement other than the rights, if any, Developer would have in the absence of this Development Agreement.

(b) Notwithstanding anything in this Development Agreement to the contrary, the following provisions of this Development Agreement shall survive and remain in effect following termination or cancellation of this Development Agreement for so long as necessary to give them full force and effect with respect to claims or rights of City arising prior to termination or cancellation:

1. This Section 4.8 (Developer's obligations upon termination or cancellation);

2. Section 2.1.2 (Mandatory Requirements);

3. Section 6.1 (remedies; limitation on damages and exceptions thereto; accrued obligations); and

4. Section 11.1 (Indemnification).

ARTICLE V

ANNUAL REVIEW

5.1 Time of Review.

The annual review date for this Development Agreement shall be initiated during the month of March of each year of the term of this Development Agreement, commencing with March 2002. City shall make a good faith effort every year to notify Developer at least 10 days in advance of the date for Developer's request for annual review pursuant to Section 5.2 and any evidence required by City to demonstrate Developer's good faith compliance with the Development Agreement.

5.2 Developer to Initiate.

Developer shall initiate the annual review required by City of Vallejo Municipal Code Chapters 17.20 by submitting a written request at least sixty (60) days prior to the review date to the Director of Development Services. The Developer shall also provide evidence as determined necessary by the Director of Development Services to demonstrate good faith compliance with the provisions of this Development Agreement. However, failure to initiate the annual review within thirty (30) days of receipt of written notice to do so from City shall not constitute a default by Developer under this Development Agreement, unless City has provided actual notice and opportunity to cure and Developer has failed to so cure.

5.3 Good Faith Compliance.

The annual review required by California Government Code, Section 65865.1, shall be conducted as provided herein. The Director of Development Services shall review Developer's submission to ascertain whether Developer has complied in good faith with the terms of this Development Agreement. If the Director of Development Services finds good faith compliance by Developer with the terms of this Development Agreement, the Director of Development Services shall so notify Developer and the planning commission in writing and the review for that period shall be concluded. If the Director of Development Services is not satisfied that the Developer is performing in accordance with the material terms and conditions of this Development Agreement, the Director of Development Services shall refer the matter to the planning commission for a decision and notify Developer in writing at least ten (10) days in advance of the time at which the matter will be considered by the planning commission.

The planning commission shall conduct a hearing at which Developer must submit evidence that it has complied in good faith with the terms and conditions of this Development Agreement. The findings of the planning commission on whether Developer has complied with this Development Agreement for the period under review shall be based upon substantial evidence in the record. If the planning commission determines that, based upon substantial evidence, Developer has complied in good faith with the terms and conditions of this Development Agreement, the review for that period shall be concluded. If the planning commission determines that, based upon substantial evidence, Developer has not complied in good faith with the terms and conditions of this Development Agreement, the planning commission shall forward its report and recommendation to the City Council.

The City Council shall notify the Developer in writing of its intention to conduct a hearing on whether Developer has complied in good faith with the terms and conditions of this Development Agreement and whether the Development Agreement should be modified or terminated. The notice shall include the information specified in Chapter 17.20 et seq. of the Vallejo Municipal Code, including the time and place of the hearing, a copy of the planning commission's report and recommendation, and any other information the City Council considers necessary to inform Developer of the nature of the proceeding. Developer shall be given an opportunity to be heard at the hearing. If the City Council determines that Developer has complied in good faith with the terms and conditions of this Development Agreement, the review for that period shall be concluded. If, however, the City Council determines, based upon substantial evidence in the record, that there are significant questions as to whether Developer has complied in good faith with the terms and conditions of this Development Agreement, the City Council may continue the hearing and shall notify Developer of City's intent to meet and confer with Developer within thirty (30) days of such determination, prior to taking further action. Following such meeting, the City Council shall resume the hearing in order to further consider the matter and to make a determination regarding Developer's good faith compliance with the terms and conditions of the Development Agreement and to take those actions it deems appropriate, in accordance with California Government Code Section 65865.1.

5.4 No Waiver.

Failure of City to conduct an annual review shall not constitute a waiver by City of its rights to otherwise enforce the provisions of this Development Agreement nor shall Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

ARTICLE VI

DEFAULT, REMEDIES AND TERMINATION

6.1 Remedies for Breach.

City and Developer acknowledge that the purpose of this Development Agreement is to carry out the parties' objectives as set forth in the Recitals hereof. City and Developer agree that to determine a sum of money which would adequately compensate either party for choices they have made which would be foreclosed should the Project not be completed pursuant to and as contemplated by this Development Agreement is not possible and that damages would not be an adequate remedy. Therefore, City and Developer agree that in the event of a breach of this Development Agreement (following an arbitration determination if arbitration is expressly permitted by other provisions of this Development Agreement and is invoked pursuant to Section 6.3), the only remedies available to the non-breaching party shall be: (1) suits for specific performance to remedy a specific breach, (2) suits for declaratory or injunctive relief, (3) suits for mandamus under Code of Civil Procedure Section 1085, or special writs, (4) termination of this Development Agreement or, at the option of City in the event of breach by Developer, termination of the rights of Developer under this Development Agreement, or (5) limited actions as follows: Except for attorney's fees and associated costs as set forth herein, monetary damages shall not be awarded to either party. This exclusion on damages shall not preclude actions by a party to enforce payments of monies due, or the performance of obligations requiring the expenditures of money, under the terms of this Development Agreement as set forth in subsections (a) and (b), below, of this Section 6.1. All of these remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy. Monetary recovery may be had for failure to complete the following actions that are required upon completion of specified components of the Project:

(a) payments required to be made under the Existing Approvals, as applicable;

(b) any other payments of funds then due and owing by Developer to City.

6.2 Notice of Breach.

Prior to the initiation of any action for relief specified in Section 6.1 above because of an alleged breach of this Development Agreement, the party claiming breach shall deliver to the other party a written notice of breach (the "Notice of Breach"). The Notice of Breach shall specify the reasons for the allegation of breach with reasonable particularity. The so-called breaching party shall have thirty (30) days to either: (a) use good faith efforts to cure the breach or, if such cure is of the nature to take longer than 30 days, to take reasonable actions to commence curing the breach during such thirty (30) day period; or (b) if in the determination of the so-called breaching party, such event does not constitute a breach of this Development Agreement, the so-called breaching party, within thirty (30) days of receipt of the Notice of Breach, shall deliver to the party claiming the breach a "Notice of Non-Breach" which sets forth with reasonable particularity the reasons that a breach has not occurred. Failure to respond within the thirty (30) days shall not be deemed an admission of the breach, but the party alleging the breach may proceed to pursue its remedies hereunder.

City and Developer acknowledge and agree that, notwithstanding any provision to the contrary in the Acquisition Agreement or this Development Agreement, only a termination of the Development Agreement upheld by a final judgment of a court of competent jurisdiction and following the exhaustion of all appeals, if applicable, may constitute a default of this Development Agreement for the purposes of Section 21.1 of the Acquisition Agreement. Moreover, any such termination of this Development Agreement shall not be considered a default pursuant to Section 21.1 of the Acquisition Agreement once Developer has expended $12.5 Million in Project Costs.

6.3 Arbitration.

Upon agreement by both Parties, any legal action shall be submitted to nonbinding arbitration before a mutually acceptable retired Superior Court or Appellate Court judge. If the Parties cannot agree on the selection of a retired Superior Court or Appellate Court judge, then they shall each select a retired Superior Court or Appellate Court judge, and the two (2) selected judges will jointly select a third retired Superior Court or Appellate Court judge to serve as the arbitrator. The arbitrator shall issue such procedural and remedial orders as he or she may deem appropriate. The arbitrator's fees shall be shared equally between the City and Developer.

6.4 Cooperation in the Event of Initiative or Legal Challenge.

6.4.1. Initiative.

Should a non-City Council initiative measure or measures be enacted which could affect the Project:

(a) Developer and City shall meet and confer in good faith to mutually determine the proper course of action; and

(b) In the event City and Developer jointly determine to challenge such initiative measure, Developer shall provide for any challenge to such initiative measure at its sole cost and expense, which cost shall be a Project Cost, and any such court action shall constitute a Permitted Delay pursuant to this Development Agreement; and

(c) In the event that a court determination has the effect of preventing, delaying or modifying the development of the Project as set forth above, City and Developer shall meet and confer in good faith to determine if there are alternative means of achieving the mutual goals and objectives of this Development Agreement, in light of such court action.

6.4.2. Other Legal Challenge.

In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Development Agreement, the parties hereby agree to cooperate in defending said action with Developer's counsel acting as lead counsel. Developer shall bear all costs of such defense including City's, legal and court costs, provided that the parties meet and confer prior to Developer assuming such costs, and mutually agree upon a litigation strategy, including settlement and appeal. All such costs incurred by Developer shall be Project Costs.

6.5 Applicable Law/Venue/Attorneys' Fees and Costs.

This Development Agreement shall be construed and enforced in accordance with the laws of the State of California. Any legal actions under this Development Agreement shall be brought only in the Superior Court of the County of Solano, State of California. Should any legal action or arbitration be brought by either party because of breach of this Development Agreement or to enforce any provision of this Development Agreement, the prevailing party shall be entitled to reasonable attorney's fees or arbitration costs and such other costs as may be found by the court or arbitrator.

6.6 Termination by Mutual Consent.

This Development Agreement may be voluntarily terminated in whole or in part only by the mutual consent of the parties or their successors in interest, in the sole and absolute discretion of each as to its consent, in accordance with the provision of City of Vallejo Municipal Code Chapter 17.16 except as otherwise provided in this Development Agreement.

ARTICLE VII

ESTOPPEL CERTIFICATE

7.1 Estoppel Certificate.

Either party may, at any time, and from time to time, deliver written notice to the other party requesting such party to certify in writing that, to the knowledge of the certifying party, (a) this Development Agreement is in full force and effect and a binding obligation of the parties, (b) this Development Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications, and (iii) the requesting party is not in default in the performance of its obligations under this Development Agreement, or if in default, to describe therein the nature and amount of any such defaults. The party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within thirty (30) days following the receipt thereof. The City Manager shall be authorized to execute any certificate requested by Developer hereunder. Developer and City acknowledge that a certificate hereunder may be relied upon by tenants, transferees, investors, partners, bond counsel, underwriters, bond holders and "Mortgagees" (defined in Section 10.1). The request shall clearly indicate that failure of the receiving party to respond within the thirty (30) day period will lead to a second and final request and failure to respond to the second and final request within fifteen (15) days of receipt thereof shall be deemed approval of the estoppel certificate. Failure of Developer to execute an estoppel certificate shall not be deemed a default, provided that in the event that Developer does not respond within the required thirty (30) day period, City may send a second and final request to Developer and failure of Developer to respond within fifteen (15) days from receipt thereof (but only if City's request contains a clear statement that failure of Developer to respond within this fifteen (15) day period shall constitute an approval) shall be deemed approval by Developer of the estoppel certificate and may be relied upon as such by City, tenants, transferees, investors, bond counsel, underwriters and bond holders. Failure of City to execute an estoppel certificate shall not be deemed a default, provided that in the event that City fails to respond within the required thirty (30) day period, Developer may send a second and final request to City, with a copy to the City Manager and City Attorney, and failure of City to respond within fifteen (15) days from receipt thereof (but only if Developer's request contains a clear statement that failure of City to respond within this fifteen (15) day period shall constitute an approval) shall be deemed approval by City of the estoppel certificate and may be relied upon as such by Developer, tenants, transferees, investors, partners, bond counsel, underwriters, bond holders and Mortgagees.

ARTICLE VIII

COOPERATION AND IMPLEMENTATION

8.1 Processing.

Upon completion by Developer of all required preliminary actions (e.g., a completed application and submission of all required information) and payment of the applicable processing fees, as set forth herein, City shall commence and diligently process all required steps necessary for the implementation of this Development Agreement and development of the Project.

8.2 Other Governmental Permits.

Upon application by Developer for the Other Agency Future Approvals and without cost or financial obligation on the part of City, City shall cooperate with Developer as set forth in Section 3.2.2, and shall, from time to time, at the request of Developer, attempt with due diligence and in good faith, to enter into binding agreements with any such entity to ensure the availability of such permits and approvals, or services, at each stage of the development of the Project. These agreements may include, but are not limited to, joint powers agreements under the provisions of the Joint Exercise of Powers Act (Government Code Section 6500, et seq.) or the provisions of other laws to create legally binding, enforceable agreements between such parties. In addition, and by way of example only, City shall reasonably cooperate with Developer in seeking the provision of upgraded utilities and other related services to facilitate the generation of jobs in high technology; providing access to and appropriate security for the Main Gate area; providing alternative parking solutions to accommodate the unique development constraints on Mare Island; and the provision of commuter ferry, shuttle ferry and rail service operations to Mare Island. To the extent allowed by law and to the extent approved by the other party or parties to the Development Agreement, Developer shall be a party to any such agreement, or a third party beneficiary thereof, entitled to enforce for its benefit on behalf of City, or in its own name and at its sole cost, which costs shall be a Project Cost, the rights of City or Developer thereunder or the duties and obligations of the parties thereto.

8.3 Third Party Design Standards.

City acknowledges that the design and aesthetics of Mare Island, including those portions of Mare Island not included in the Property, are significant factors in the valuation and marketability of the Property. Therefore, City shall use its reasonable best efforts to: (a) ensure high quality design standards for the gateway areas and major thoroughfares of Mare Island consistent with the Specific Plan; (b) maximize opportunities for integration of the Ferry Service Facilities, Mare Island Public Roads, Public Works Facility, and other City improvements on Mare Island with the approved design standards for the Property; and (c) facilitate informal consultation between Developer and other developers or operators on Mare Island regarding integration of design standards prior to granting final approval of the design elements of any such developer's or operator's improvements on Mare Island.

ARTICLE IX

TRANSFERS, ASSIGNMENTS

9.1 Limitations on Right to Assign Development Agreement..

(a) Because of the necessity to coordinate development of the Property pursuant to the Specific Plan, particularly with respect to the provision of public infrastructure and public services, certain restrictions on the right of the Developer to assign or transfer its interest under this Development Agreement with respect to the Property, or any portion thereof, are necessary in order to assure the achievement of the goals, objectives and public benefits of the Specific Plan and this Development Agreement with respect to the Property. Developer agrees to and accepts the restrictions herein set forth in this Article IX as reasonable and as a material inducement to City to enter into this Development Agreement. For purposes of this Article IX, Developer may transfer ownership interests in Developer without City's consent as long as following such transfer Lennar Mare Island, LLC, or any holding company of Lennar Mare Island, LLC and its parent company, remain in control of all decision making with respect to, and the management of the development of, the Property and the Project in accordance with this Development Agreement, whether by contract or otherwise. Developer shall notify City of any transfer of ownership of Lennar Mare Island, LLC, which notice shall contain a certification from a responsible officer of Developer, its parent company or the holding company of Developer and its parent company that such transfer conforms to the requirements of this Article IX.

(b) In connection with the transfer or assignment by Developer of its interests under this Development Agreement with respect to all or any portion of the Property (other than a transfer as set forth in paragraph (a) above), Developer and the assignee shall enter into a written agreement (the "Assignment of Development Agreement") regarding the respective interests, rights and obligations of Developer and the assignee in and under this Development Agreement. Further, in connection with such Assignment of Development Agreement in connection with a transfer of the entire remainder of the Property, City shall confirm in writing that no default by Developer under the Acquisition Agreement or the Development Agreement shall be deemed a default of the assignee with respect to the portion of the Property transferred to such assignee, which confirmation shall not be a waiver of any default by Developer that has not been cured prior to such assignment. Such Assignment of Development Agreement may (i) release Developer from obligations under this Development Agreement that pertain to that portion of the Property being transferred, as described in the Assignment of Development Agreement, provided that the assignee expressly assumes such obligations, and (ii) address any other matter deemed by Developer to be necessary or appropriate in connection with the assignment.

Developer shall seek City's prior written consent to any Assignment of Development Agreement. Failure by City to respond within forty-five (45) days to any written request made by Developer for such consent shall be deemed to be City's approval of the Assignment of Development Agreement in question, provided, however, that City shall be under no obligation to consent to any such proposed assignment if Developer is in default of this Development Agreement or the Acquisition Agreement, and is not diligently curing any such default. In addition, City may refuse to give its consent only if, in light of the proposed transferee's reputation and financial resources, such assignee would not in City's reasonable opinion be able to perform the obligations proposed to be assumed by such assignee.

Any Assignment of Development Agreement shall be binding on Developer, City and the assignee. Upon recordation of any Assignment of Development Agreement in the Official Records of Solano County, Developer shall automatically be released from those obligations expressly assumed by the assignee therein.

Developer shall be free from any and all liabilities accruing on or after the date of any assignment with respect to those obligations assumed by an assignee pursuant to an Assignment of Development Agreement. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Development Agreement shall be attributed to Developer, nor may Developer's remaining rights hereunder be canceled or diminished in any way by any breach or default by any such person. No breach or default by Developer under the Acquisition Agreement or this Development Agreement shall be attributed to an assignee under an Assignment of Development Agreement, provided that the foregoing shall not be deemed a waiver by City of any default of Developer that is not cured as of the date of such assignment.

Upon compliance with this Section 9.1 by Developer and the assignee, such assignee shall be deemed a "Permitted Assignee." The subsequent assignment or transfer of Developer's interests under this Development Agreement with respect to all or any portion of property by a Permitted Assignee shall also be subject to the requirements of this Article IX.

(c) City shall administer the provisions of this Article IX through its City Manager or his/her designee. Developer shall notify the City Manager in writing pursuant to this Article IX of its request for City consent to any assignment of its interests under the Development Agreement under this Article IX requiring such consent, together with supporting information and satisfaction of the conditions set forth in subsections (a) and (b) above, together with clear notice that failure of City to respond within forty-five (45) days of receipt thereof shall be deemed approval. Developer shall furnish such additional information as City Manager, City Council or any designee may reasonably request and City shall proceed to consider and act upon Developer's request for City consent to the proposed assignment. Failure of City to act within this forty-five (45) day period shall be deemed an approval of the request provided Developer. A denial by City of the request based upon late, inaccurate or insufficient information furnished by Developer shall not be deemed unreasonable. If denial is based upon such grounds, Developer may cure such deficiency and reinstate its request providing such information, thereby starting the initial forty-five (45) day period anew.

9.2 Release Upon Transfer.

Except as provided in Section 11.1 hereof and subject to the Approved Participation Model and the provisions of the Memorandum of Acquisition Agreement and City

Participation Payment, Developer shall be released from its obligations accruing on or after the date of any sale, transfer or assignment under this Development Agreement with respect to that portion of the Property sold, transferred or assigned as permitted under Section 9.1. Failure to deliver a written assumption agreement hereunder shall not affect the running of any covenants herein with the land, as provided in Section 13.2 below, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Development Agreement. No breach or default by any person or entity succeeding to any portion of Developer's interest with respect to the transferred or assigned rights and/or obligations shall be attributable to Developer, nor may Developer's rights hereunder be cancelled or diminished in any way by any default or breach by any such person or entity.

ARTICLE X

MORTGAGEE PROTECTION

10.1 Mortgage Protection.

This Development Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording of this Development Agreement, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Development Agreement (including but not limited to City's remedies to terminate the rights of Developer (and its successors and assigns) under this Development Agreement, to terminate this Development Agreement, and to seek other relief as provided in this Development Agreement) shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

10.2 Mortgagee Not Obligated.

Notwithstanding the provisions of Section 10.1 above, no Mortgagee shall have any obligation or duty under this Development Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Development Agreement, or otherwise under the Existing Approvals.

10.3 Notice of Default to Mortgagee.

If City receives a written notice from a Mortgagee or from Developer or any Permitted Assignee requesting a copy of any notice of default given Developer or a designated Permitted Assignee hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee at such Mortgagee's cost (or Developer's cost), concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has committed an event of default, and if City makes a determination of default hereunder, City shall if so requested by such Mortgagee likewise serve at such Mortgagee's cost (or Developer's cost) notice of such noncompliance on such Mortgagee concurrently with service thereon on Developer. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in City's notice.

10.4 No Supersedure.

Nothing in this Article X shall be deemed to supersede or release a Mortgagee or modify a Mortgagee's obligations under any subdivision improvement agreement or other obligation incurred with respect to the Project outside this Development Agreement, nor shall any provision of this Article X constitute an obligation of City to such Mortgagee, except as to the notice requirements of Section 10.3.

ARTICLE XI

INDEMNIFICATION; INSURANCE

11.1 No Duty of City.

It is specifically understood and agreed by the parties that the development contemplated by this Development Agreement is a private development, that City has no interest in or responsibility for or duty to third persons concerning any of said improvements except as otherwise expressly set forth herein in Articles IX and X, and that Developer shall have full power over the exclusive control of the Property herein described subject only to the limitations and obligations of Developer under this Development Agreement. Developer hereby agrees to and shall hold City and its elected and appointed representatives, officers, agents and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's operations under this Development Agreement, excepting suits and actions brought by Developer for default of this Development Agreement or arising from the gross negligence or willful misconduct of City to the extent, if any, that such gross negligence or willful misconduct has contributed to such damage.

This indemnification and hold harmless agreement applies to all damages and claims for damages suffered or alleged to have been suffered by reason of the operations referred to in this Section 11.1, regardless of whether or not City prepared, supplied or approved plans or specifications for the Project, but does not apply to damages and claims for damages caused by City with respect to public improvements and facilities after City has accepted responsibility for such public improvements and facilities.

11.2 Insurance Requirements.

At all times during the term of and consistent with the Acquisition Agreement, Developer shall provide, maintain and keep in full force and effect, the insurance required therein. Upon the termination of the Acquisition Agreement, the parties shall meet and confer in good faith to determine the appropriate level of insurance to be maintained by Developer during periods of construction of the Project.

ARTICLE XII

NOTICES

12.1. Notices.

Formal written notices, demands, correspondence and communications between City and Developer shall be sufficiently given if: (a) personally delivered; or (b) dispatched by next day delivery by a reputable carrier such as Federal Express or DHL to the offices of City and Developer indicated below, provided that a receipt for delivery is provided; or (c) if dispatched within the San Francisco Bay Area by first class mail, postage prepaid, to the offices of City and Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as either party may from time-to-time designate by next day delivery or by mail as provided in this Section.

CITY:

City Manager
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

with copies to:

City Attorney
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Director of Community Development
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Director of Development Services
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

McDonough, Holland & Allen
555 Capitol Mall, 9th Floor
Sacramento, CA 95814
Attn: Iris P. Yang

DEVELOPER:

Mr. Emile Haddad
24800 Chrisanta Road
Mission Viejo, CA 92691

with copies to: Greg McWilliams
Mare Island, Quarters D
P. O. Box 2013
Vallejo, CA 94592

Kevin Hanson
David O. Team
Lennar Partners
18401 Von Karman,. Suite 540
Irvine, CA 92612

David Gold, Esq.
Bruce Reed Goodmiller, Esq.
Mitchell S. Randall, Esq.
Morrison & Foerster, LLP
101 Ygnacio Valley Road, Suite 450
Walnut Creek, CA 94596-4095

Notices delivered by deposit in the United States mail as provided above shall be deemed to have been served two (2) business days after the date of deposit if addressed to an address within the State of California, and three (3) business days if addressed to an address within the United States but outside the State of California.

ARTICLE XIII

MISCELLANEOUS

13.1. Severability.

Except as otherwise provided herein, if any provision(s) of this Development Agreement is (are) held invalid, the remainder of this Development Agreement shall not be affected except as necessarily required by the invalid provisions, and shall remain in full force and effect unless amended or modified by mutual consent of the parties.

13.2 Agreement Runs with the Land.

Except in the case of an Exempted Transfer, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Development Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devises, administrators, representatives, lessees, and all of the persons or entities acquiring the Property or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Development Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do or refrain from doing some act on the Property hereunder, or with respect to any City-owned property, (a) is for the benefit of such properties and is a burden upon such property, (b) runs with such properties, (c) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person or entity having any interest therein derived in any manner through any owner of such properties, or any portion thereof, and shall benefit each property hereunder, and each other person or entity succeeding to an interest in such properties. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Project or the Property is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Development Agreement is contained in the instrument by which such person acquired an interest in the Project or the Property.

13.3 Nondiscrimination.

Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, ancestry or national origin in the development of the Property in furtherance of this Development Agreement. The foregoing covenant shall run with the land.

13.4 Developer Right to Rebuild.

City agrees that Developer may renovate or rebuild the Project within the term of this Development Agreement should it become necessary due to natural disaster, changes in seismic requirements, or should the buildings located within the Project become functionally outdated, within Developer's sole discretion, due to changes in technology. Any such renovation or rebuilding shall be subject to the square footage and height limitations vested by this Agreement, and shall comply with the Applicable Law, the building codes existing at the time of such rebuilding or reconstruction, and the requirements of CEQA/NEPA.

13.5 Headings.

Section headings in this Development Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Development Agreement.

13.6. Agreement is Entire Understanding.

This Development Agreement is executed in four (4) duplicate originals, each of which is deemed to be an original. This Development Agreement consists of Articles I through XIII, including the Recitals, and Exhibits A through F both inclusive, attached hereto and incorporated by reference herein, which constitute the entire understanding and agreement of the parties. The exhibits are as follows:

Exhibit A	Property Description
Exhibit B	Map of Property
Exhibit C	Phasing Plan
Exhibit D	Schedule of Performance
Exhibit E	Projected Entitlements Process
Exhibit F	Schedule of Fees

13.7. Recordation of Termination.

Upon completion of performance of the parties or termination of this Development Agreement, a written statement acknowledging such completion or termination shall be recorded by City in the Official Records of Solano County, California.

CITY:

CITY OF VALLEJO

By: ______________________
David R. Martinez

Title: City Manager

Attest:

By: ______________________
Allison Villarante
City Clerk

APPROVED AS TO FORM:

By: ______________________
Frederick G. Soley
City Attorney

DEVELOPER:

LENNAR MARE ISLAND, LLC,
a California limited liability company

By: ______________________

Title: Authorized Signature

APPROVED AS TO FORM:

MORRISON & FOERSTER LLP

By: ______________________
Developer's Counsel

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of California

County of Solano

On April 16, 2001 before me, Allison Villarante, Notary Public
DATE — NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Gregory H. McWilliams,
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.

ALLISON VILLARANTE
COMM. 1297201
NOTARY PUBLIC - CALIFORNIA
SOLANO COUNTY
My Comm. Expires Apr. 11, 2005

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

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

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

Dev. Agreement w/ Lennar
TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Solano } ss.

On July 25, 2001, before me, Jennifer Artates, Notary Public,
Date — Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared David R. Martinez,
Name(s) of Signer(s)

☒ personally known to me
☐ 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.

JENNIFER ARTATES
Commission # 1300646
Notary Public - California
Solano County
My Comm. Expires Apr 13, 2005

Place Notary Seal Above

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: DEVELOPMENT AGREEMENT W/ LENNAR

Document Date: ______ Number of Pages: ______

Signer(s) Other Than Named Above: ______

Capacity(ies) Claimed by Signer

Signer's Name: ______

☐ Individual
☐ Corporate Officer — Title(s): ______
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

ACKNOWLEDGMENTS

STATE OF CALIFORNIA)
COUNTY OF ________________)

On ___________________________, before me, the undersigned notary public, personally appeared ____,

[ ] personally known to me; or
[ ] proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that he / she executed the same in his / her authorized capacity, and that by his / her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature ________________________________

Type of Document: ______________________________

* * * * *

STATE OF CALIFORNIA)
COUNTY OF ________________)

On ___________________________, before me, the undersigned notary public, personally appeared ____,

[ ] personally known to me; or
[ ] proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that he / she executed the same in his / her authorized capacity, and that by his / her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature ________________________________

Type of Document: ______________________________

EXHIBIT A

PROPERTY DESCRIPTION

MORRISON & FOERSTER LLP

ATTORNEYS AT LAW

SAN FRANCISCO
LOS ANGELES
DENVER
PALO ALTO
WALNUT CREEK
SACRAMENTO
CENTURY CITY
ORANGE COUNTY
SAN DIEGO

PLEASE RESPOND TO:
P.O. BOX 8130
WALNUT CREEK, CALIFORNIA 94596-8130

101 YGNACIO VALLEY ROAD, SUITE 450
WALNUT CREEK, CALIFORNIA 94596-4095
TELEPHONE (925) 295-3300
TELEFACSIMILE (925) 946-9912

NEW YORK
WASHINGTON, D.C.
NORTHERN VIRGINIA
LONDON
BRUSSELS
BEIJING
HONG KONG
SINGAPORE
TOKYO

June 26, 2001

Writer's Direct Contact
(925) 295-3386
BGoodmiller@mofo.com

Alvaro da Silva
Community Development Director
City of Vallejo
P.O. Box 3068
555 Santa Clara St.
Vallejo, CA 94590

Re: Development Agreement Property Description

Dear Alvaro:

This letter confirms the City's and Lennar's understanding expressed at the Acquisition Agreement status meeting last week that the property description prepared by Reimer last year for use as Exhibit A to the development agreement between Lennar Mare Island and the City of Vallejo (the "Development Agreement") is not completely accurate. Apparently some of the points of reference in the underlying Navy survey are incorrect and the Navy is in the process of correcting these inaccuracies.

Upon receipt by the City of a revised Navy survey and completion of an accurate property description by the City, Lennar and the City agree to replace the current Development Agreement Exhibit A with a correct property description. I am informed that Gil now has all of the other exhibits. Accordingly, there are no remaining impediments to the City Manager's execution of the Development Agreement.

Very truly yours,

Bruce Reed Goodmiller

cc: Gil Hollingsworth
Greg McWilliams
Bill Moore

wc-56697

PRELIMINARY

LEGAL DESCRIPTION
PROPERTY DESCRIPTIONS
FOR
CONVEYANCE TO
LENNAR MARE ISLAND LLC

All that real property situated on the Former Mare Island Naval Shipyard, City of Vallejo, County of Solano, State of California described as follows;

Being a portion of the land shown within the boundary of that parcel shown and so delineated on the map filed for record on November 14, 1996 in Book 21 of Land Survey Maps, at Pages 94 to 98, inclusive, County of Solano Official Records, said map being titled "Record of Survey For Lands Owned By The United States Of America Per The 1938 United States Supreme Court Decision "United States versus O'Donnell 303 U.S. 501"" and further described as "Retracement Of Tract 38 Of The Joy Survey Entitled, "Fractional Township 3 North, Range 4West, Mount Diablo Base And Meridian, California" Approved by The US Survey General's Office October 24, 1923, Accepted November 8, 1923 And Filed With The Bureau Of Land Management", said portion being more particularly described as follows;

PARCEL A

Beginning at a point lying North 31° 09' 48" West, 13647.57 feet from a standard USC&GS brass disk stamped "MARE ID SE 1852 1932" located on the highest and most easterly of the two peaks on Mare Island and referred to as "SEMARE" with NAD 83 Zone II Coordinates of N1789849.0637, E6488254.0248, as shown and delineated on that certain map filed for record in Book 24 of Surveys at Pages 12 through 13 inclusive, Solano County Records, said Point of Beginning also bears South 47° 27' 40" West, 227.21 feet from a 2-1/2" aluminum disk stamped "Mare Island Control Point, Mcgill-Martin-Self, Inc. Orinda, CA. 8" and referred to as "HCN-8" on said map 21 L.S.M. 94-98; thence

1) North 59° 26' 12" East, 480.90 feet; thence
2) North 63° 14' 03" East, 182.97 feet; thence
3) South 34° 59' 40" East, 126.99 feet; thence
4) North 58° 54' 54" East, 221.35 feet; thence
5) South 29° 45' 10" East, 227.45 feet; thence
6) South 31° 05' 36" East, 380.07 feet; thence
7) South 59° 09' 33" West, 33.00 feet; thence
8) South 31° 05' 36" East, 595.54 feet; thence
9) North 58° 54' 24" East, 33.00 feet; thence
10) South 31° 05' 36" East, 360.90 feet; thence
11) South 35° 38' 50" East, 2545.69 feet; thence
12) South 36° 12' 34" West, 128.29 feet; thence
13) South 56° 38' 01" West, 123.28 feet; thence
14) South 61° 28' 41" West, 287.34 feet; thence
15) South 36° 01' 48" East, 2928.33 feet; thence

16) North 54° 11' 41" East, 524.72 feet; thence
17) South 39° 40' 47" East, 1226.11 feet; thence
18) South 49° 51' 40" West, 571.02 feet; thence
19) South 06° 28' 51" West, 488.50 feet; thence non-tangentially
20) 125.89 feet along a 156.53 foot radius curve to the left, having an included angle of 46° 04' 49", and the long chord of which measures South 16° 26' 40" East, 122.52 feet; thence non-tangentially
21) South 39° 35' 59" East, 464.55 feet; thence
22) South 54° 46' 07" West, 217.66 feet; thence
23) South 35° 51' 59" East, 343.04 feet; thence non-tangentially
24) 206.89 feet along a 448.37 foot radius curve to the left, having an included angle of 26° 26' 17", and the long chord of which measures South 50° 35' 24" East, 205.06 feet; thence non-tangentially
25) South 63° 51' 27" East, 435.93 feet; thence non-tangentially
26) 197.52 feet along a 441.92 foot radius curve to the right, having an included angle of 25° 36' 32", and the long chord of which measures South 51° 14' 29" East, 195.88 feet; thence non-tangentially
27) South 35° 13' 20" East, 189.74 feet; thence
28) South 52° 57' 37" West, 60.03 feet; thence
29) North 35° 13' 20" West, 87.52 feet; thence non-tangentially
30) 209.62 feet along a 419.83 foot radius curve to the left, having an included angle of 28° 36' 26", and the long chord of which measures North 49° 31' 33" West, 207.45 feet; thence non-tangentially
31) North 63° 49' 46" West, 180.52 feet; thence
32) North 56° 56' 18" West, 221.98 feet; thence
33) North 65° 38' 27" West, 88.98 feet; thence non-tangentially
34) 242.72 feet along a 537.70 foot radius curve to the right, having an included angle of 25° 51' 48", and the long chord of which measures North 52° 44' 30" West, 240.66 feet; thence non-tangentially
35) North 35° 51' 59" West, 340.81 feet; thence
36) South 51° 53' 36" West, 423.01 feet; thence
37) South 01° 19' 41" East, 493.01 feet to an angle point on the northerly boundary of that certain land as shown and designated on map filed for record on September 27, 2000 in Book 24 of "Surveys" at Page 12-13, at the Recorders Office of Solano County, California; thence along said northerly boundary
38) South 57° 28' 45" West, 491.07 feet; thence non-tangentially
39) 332.11 feet along a 184.78 foot radius curve to the right, having an included angle of 102° 58' 44", and the long chord of which measures South 00° 34' 43" East, 289.18 feet; thence non-tangentially
40) North 34° 28' 06" West, 40.00 feet to a point on the easterly boundary of that parcel shown and so delineated on the map entitled "Record of Survey, Tract 38, T.3N., R.4W., M.D.M., County of Solano, California, November 1997" filed for record on March 10, 1998 in Book 22 of Surveys, at page 59, at the Recorders Office of Solano County, California; thence leaving said northerly boundary of said map 24 R.S. 12-13 and along said easterly boundary of said map 22 R.S. 59 the following ten courses:
41) North 55° 33" 32" East (South 56°28'12" West), 32.48 feet; thence

PRELIMINARY

42) Northeasterly along the arc of a non-tangent circular curve, the center which bears North 34°27'10" West, 35.00 feet distant, through a central angle of 63° 08' 18", for an arc distance of 38.57 feet; thence tangentially
43) North 07° 35' 28" West (South 06°40'06" East), 1.68 feet; thence
44) Along the arc of a circular curve, concave to the southwest, having a radius of 400.03 feet (400.00 feet in grid); through a central angle of 20° 49' 23", for an arc distance of 145.38 feet (145.37 feet in grid); thence non-tangentially;
45) North 49° 13' 00" West (South 48°17'38" East), 144.77 feet (144.75 feet in grid); thence
46) North 70° 36' 55" West (South 69°41'33" East), 312.98 feet (312.95 feet in grid); thence
47) North 84° 29' 01" West (South 83°33'39" East), 61.17 feet; thence
48) South 78° 13' 15" West (North 79°08'37" East), 37.17 feet; thence
49) South 69° 03' 04" West (North 69°58'26" East), 56.94 feet; thence
50) North 83° 30' 37" West (South 82°35'15" East), 216.33 feet (216.32 feet in grid); thence leaving said boundary of said map 22 R.S. 59 and along said boundary of said map 24 R.S. 12-13
51) North 08° 31' 59" East, 312.50 feet; thence
52) North 25° 02' 11" West, 214.74 feet; thence
53) South 45° 41' 38" West, 445.24 feet; thence
54) South 71° 53' 07" West, 666.10 feet; thence leaving said boundary of said map 24 R.S. 12-13
55) North 33° 00' 27" West, 24.95 feet; thence
56) North 11° 22' 52" West, 297.77 feet; thence
57) North 44° 45' 15" West, 363.10 feet; thence
58) North 28° 00' 32" West, 125.75 feet; thence
59) South 58° 33' 36" West, 24.71 feet; thence
60) North 62° 19' 18" West, 440.67 feet; thence
61) North 58° 02' 45" West, 222.28 feet; thence
62) North 30° 50' 33" West, 1270.68 feet; thence
63) South 70° 38' 33" West, 581.42 feet; thence
64) North 31° 39' 35" West, 330.36 feet; thence
65) North 14° 49' 39" East, 152.79 feet; thence
66) North 64° 40' 37" East, 129.99 feet; thence
67) North 43° 28' 20" East, 306.79 feet; thence
68) North 34° 33' 18" West, 1177.48 feet; thence
69) North 52° 25' 26" East, 673.22 feet; thence
70) North 46° 03' 35" East, 313.52 feet; thence
71) North 00° 00' 44" East, 282.34 feet; thence
72) North 31° 23' 04" West, 360.78 feet; thence
73) North 15° 00' 51" East, 244.39 feet; thence
74) North 36° 03' 04" West, 848.16 feet; thence
75) North 64° 11' 19" West, 424.14 feet; thence
76) North 17° 23' 17" West, 148.03 feet; thence
77) North 75° 16' 43" West, 357.92 feet; thence
78) South 50° 30' 21" West, 512.29 feet; thence
79) South 53° 14' 37" West, 406.15 feet; thence
80) North 39° 17' 52" West, 290.86 feet; thence
81) North 54° 49' 24" East, 379.84 feet; thence

82) South 44° 45' 15" East, 218.04 feet; thence
83) North 31° 11' 23" East, 367.58 feet; thence
84) North 55° 00' 41" East, 360.11 feet; thence
85) North 34° 33' 02" West, 196.80 feet; thence
86) North 54° 15' 37" East, 298.63 feet; thence
87) North 35° 44' 22" West, 230.99 feet; thence
88) North 07° 12' 56" East, 43.39 feet; thence
89) North 54° 07' 02" East, 269.26 feet; thence
90) North 35° 36' 41" West, 1183.13 feet; thence
91) North 35° 36' 41" West, 1566.14 feet; thence
92) South 54° 34' 01" West, 542.77 feet; thence
93) North 36° 49' 42" West, 680.99 feet; thence
94) South 55° 14' 43" West, 387.23 feet; thence
95) North 35° 03' 43" West, 1386.45 feet to a point on the southerly boundary which bears South 50° 48' 20" West in Parcel No. 3 as described on that Quitclaim Deed from the grantor, united States of America, to the grantee, City of Vallejo, recorded in Book 1978 of Official Records at Page 56592-7, on July 12, 1978, at the Recorders Office of Solano County, California; thence along said boundary
96) North 50° 44' 57" East (South 50° 48' 20" West on said deed), 774.66 feet; thence
97) North 86° 24' 27" East (South 86° 27' 50" West on said deed), 124.35 feet; thence
98) North 03° 26' 03" West (South 03° 22' 40" East on said deed), 229.42 feet; thence leaving said boundary of said deed
99) South 35° 38' 13" East, 3818.16 feet; thence
100) North 54° 18' 02" East, 1188.68 feet to the Point of Beginning.

Said parcel contains a gross area of 685.21 acres, more or less.

Subject to other easements and restrictions, if any.

Excepting therefrom the following parcels of land:

PARCEL 1

All that certain land as shown and so designated on map entitled "Exhibit Map of Record of Survey of the Mare Island Elementary School, Mare Island Naval Shipyard, City of Vallejo, Solano County, California" filed for record on May 15, 2000 in Volume 23 of "Surveys" at Page 97, Records of Solano County, California.

Said parcel contains 7.51 acres, more or less.

PARCEL 2

Beginning at a point lying North 57° 53' 17" West, 897.42 feet from a 2-1/2" aluminum disk stamped "Mare Island Control Point, Mcgill-Martin-Self, Inc. Orinda, CA. 51" and referred to as

"PHCN-51" on the map filed for record on November 14, 1996 in Book 21 of Land Survey Maps, at Pages 94 to 98 inclusive, said Point of Beginning also bears South 31° 13' 30" East, 287.79 feet from a 2-1/2" aluminum disk stamped "Mare Island Control Point, Mcgill-Martin-Self, Inc. Orinda, CA. 22" and referred to as "HCN-22" on the aforementioned map; thence

1) South 35° 36' 22" East, 528.56 feet; thence
2) South 54° 27' 44" West, 232.27 feet; thence
3) Along the arc of a circular curve, concave to the north, having a radius of 60.00 feet, through a central angle of 86° 38' 01", for an arc distance of 90.72 feet; thence tangentially
4) North 38° 54' 15" West, 104.10 feet; thence
5) Along the arc of a circular curve, concave to the northeast, having a radius of 100.00 feet, through a central angle of 07° 25' 04", for an arc distance of 12.95 feet; thence tangentially
6) North 31° 29' 11" West, 23.28 feet; thence
7) Along the arc of a circular curve, concave to the northeast, having a radius of 100.00 feet, through a central angle of 10° 17' 29", for an arc distance of 17.96 feet; thence tangentially
8) North 21° 11' 43" West, 79.13 feet; thence
9) Along the arc of a circular curve, concave to the southwest, having a radius of 200.00 feet, through a central angle of 14° 28' 06", for an arc distance of 50.50 feet; thence tangentially
10) North 35° 39' 49" West, 84.82 feet; thence
11) Along the arc of a circular curve, concave to the southwest, having a radius of 170.00 feet, through a central angle of 22° 20' 19", for an arc distance of 66.28 feet; thence tangentially
12) North 58° 00' 08" West, 26.15 feet; thence
13) Along the arc of a circular curve, concave to the northeast, having a radius of 100.00 feet, through a central angle of 08° 35' 24", for an arc distance of 14.99 feet; thence non-tangentially
14) North 54° 29' 28" East, 294.98 feet to the Point of Beginning.

Said parcel contains 3.42 acres, more or less.

PARCEL 3

Beginning at a point lying North 35° 35' 03" West, 863.23 feet from a 2-1/2" aluminum disk stamped "Mare Island Control Point, Mcgill-Martin-Self, Inc. Orinda, CA. 18" and referred to as "HCN-18" on the map filed for record on November 14, 1996 in Book 21 of Land Survey Maps, at Pages 94 to 98 inclusive, said Point of Beginning also bears South 09° 37' 14" East, 809.17 feet from a 2-1/2" aluminum disk stamped "Mare Island Control Point, Mcgill-Martin-Self, Inc. Orinda, CA. 13" and referred to as "HCN-13" on the aforementioned map; thence

1) South 54° 07' 43" West, 64.30 feet; thence
2) South 36° 41' 41" East, 9.05 feet; thence
3) South 54° 38' 59" West, 69.66 feet; thence
4) South 34° 24' 54" East, 151.35 feet; thence
5) South 54° 21' 46" West, 227.76 feet; thence
6) North 36° 16' 37" West, 136.19 feet; thence
7) North 76° 39' 58" West, 28.09 feet; thence

8) North 36° 19' 40" West, 299.99 feet; thence
9) North 54° 15' 48" East, 199.52 feet; thence
10) North 22° 35' 16" East, 22.15 feet; thence
11) North 54° 16' 39" East, 170.25 feet; thence
12) South 35° 35' 28" East, 309.33 feet to the Point of Beginning.

Said parcel contains 3.56 acres, more or less.

PARCEL B

Beginning at a point lying North 28° 22' 37" West, 13644.64 feet from a standard USC&GS brass disk stamped "MARE ID SE 1852 1932" located on the highest and most easterly of the two peaks on Mare Island and referred to as "SEMARE" with NAD 83 Zone II Coordinates of N1789849.0637, E6488254.0248, as shown and delineated on that certain map filed for record in Book 24 of Surveys at Pages 12 through 13 inclusive, Solano County Records, said Point of Beginning also bears North 64° 05' 12" East, 445.16 feet from a 2-1/2" aluminum disk stamped "Mare Island Control Point, Mcgill-Martin-Self, Inc. Orinda, CA. 8" and referred to as "HCN-8" on said map 21 L.S.M. 94-98; thence

1) North 63° 14' 03" East, 282.32 feet; thence
2) South 30° 17' 51" East, 100.00 feet; thence
3) South 30° 53' 37" East, 1567.21 feet; thence
4) South 35° 50' 32" East, 2524.58 feet; thence
5) South 49° 36' 01" East, 186.93 feet; thence
6) South 34° 20' 56" East, 2515.89 feet; thence
7) South 39° 40' 47" East, 1736.43 feet; thence
8) South 39° 39' 20" East, 804.83 feet; thence
9) South 65° 16' 35" West, 780.92 feet; thence
10) South 39° 55' 11" East, 73.08 feet; thence
11) South 54° 46' 07" West, 268.65 feet; thence
12) North 39° 35' 59" West, 464.55 feet; thence
13) 125.89 feet along a 156.53 foot radius curve to the right, having an included angle of 46° 04' 49", and the long chord of which measures North 16° 26' 40" West, 122.52 feet;
14) North 06° 28' 51" East, 488.50 feet; thence
15) North 49° 51' 40" East, 571.02 feet; thence
16) North 39° 40' 47" West, 1226.11 feet; thence
17) South 54° 11' 41" West, 524.72 feet; thence
18) North 36° 01' 48" West, 2928.33 feet; thence
19) North 61° 28' 41" East, 287.34 feet; thence
20) North 56° 38' 01" East, 123.28 feet; thence
21) North 36° 12' 34" East, 128.29 feet; thence
22) North 35° 38' 50" West, 2545.69 feet; thence
23) North 31° 05' 36" West, 360.90 feet; thence
24) South 58° 54' 24" West, 33.00 feet; thence
25) North 31° 05' 36" West, 595.54 feet; thence

26) North 59° 09' 33" East, 33.00 feet; thence
27) North 31° 05' 36" West, 380.07 feet; thence
28) North 29° 45' 10" West, 227.45 feet; thence
29) South 58° 54' 54" West, 221.35 feet; thence
30) North 34° 59' 40" West, 126.99 feet to the Point of Beginning.

Said parcel contains 67.94 acres, more or less.

Subject to other easements and restrictions, if any.

PARCEL C

Beginning at a point lying North 47° 05' 46" East, 1574.45 feet from a standard USC&GS brass disk stamped "MARE ID SE 1852 1932" located on the highest and most easterly of the two peaks on Mare Island and referred to as "SEMARE" with NAD 83 Zone II Coordinates of N1789849.0637, E6488254.0248, as shown and delineated on that certain map filed for record in Book 24 of Surveys at Pages 12 through 13 inclusive, Solano County Records, said Point of Beginning also bears North 62° 56' 51" West, 309.75 feet from a 2-1/2" aluminum disk stamped "Mare Island Control Point, Mcgill-Martin-Self, Inc. Orinda, CA. 35" and referred to as "HCN-35" on said map 21 L.S.M. 94-98; thence

1) North 73° 06' 29" West, 345.44 feet; thence
2) North 41° 46' 28" West, 148.56 feet; thence
3) North 85° 02' 22" West, 527.86 feet; thence
4) North 62° 09' 45" West, 453.77 feet; thence non-tangentially
5) 249.32 feet along a 266.81 foot radius curve to the right, having an included angle of 53° 32' 25", and the long chord which measures North 42° 19' 23" West, 240.35 feet; thence non-tangentially
6) North 08° 57' 49" West, 681.74 feet; thence
7) North 20° 45' 02" West, 359.99 feet; thence
8) North 35° 13' 20" West, 282.52 feet; thence
9) North 35° 13' 20" West, 189.74 feet; thence non-tangentially
10) 197.52 feet along a 441.92 foot radius curve to the left, having an included angle of 25° 36' 32", and the long chord which measures North 51° 14' 29" West, 195.88 feet; thence non-tangentially
11) North 63° 51' 27" West, 303.40 feet; thence
12) North 65° 18' 24" East, 434.55 feet; thence
13) North 40° 15' 01" West, 129.12 feet; thence
14) North 65° 28' 42" East, 776.99 feet; thence
15) South 39° 39' 20" East, 139.85 feet; thence
16) South 30° 07' 16" East, 65.43 feet to a point on the Mare Island Strait shoreline based on "Mean High Water Line" elevation of 5.18 feet as determined from NAVD data published in 1996 and NOS leveling of 1989; thence following said "Mean High Water Line" of elevation 5.18 feet in a southerly direction along said shoreline to a point lying

PRELIMINARY

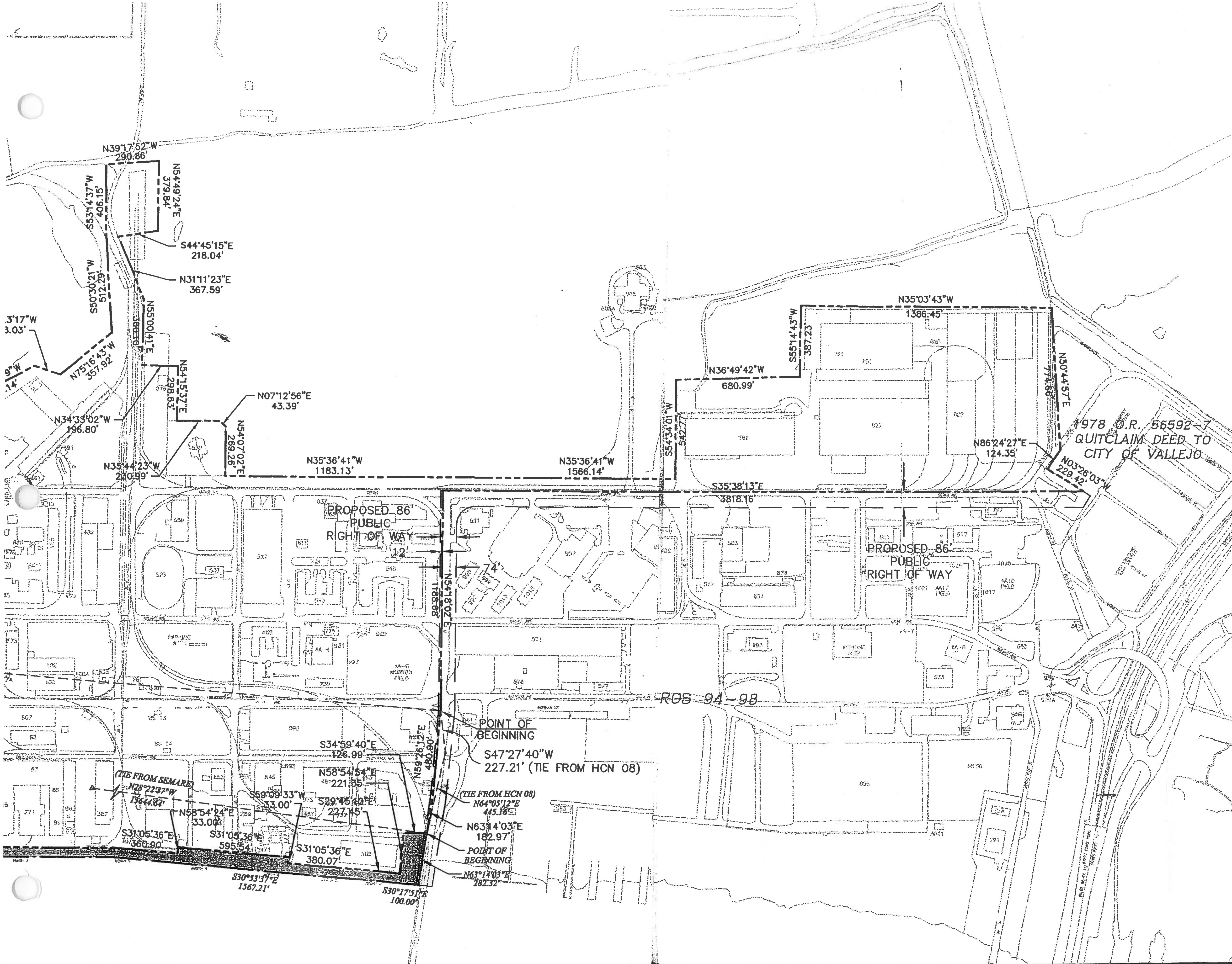
17) South 03° 01' 10" East, 685.56 feet; thence following said "Mean High Water Line" of elevation 5.18 feet in a southerly direction along said shoreline to a point lying
18) South 36° 43' 34" East, 2394.17 feet; thence leaving said Mare Island Strait shoreline
19) South 49° 55' 19" West, 207.08 feet to the Point of Beginning.

Said parcel contains 64.13 acres, more or less.

Subject to other easements and restrictions, if any.

EXHIBIT B

MAP OF PROPERTY



LENNAR MARE ISLAND

EXHIBIT B

DATE: OCTOBER 12, 2000

MAP OF PROPERTY TO ACCOMPANY THE DEVELOPMENT AGREEMENT BETWEEN CITY OF VALLEJO AND LENNAR MARE ISLAND LLC FOR MARE ISLAND

LEGEND

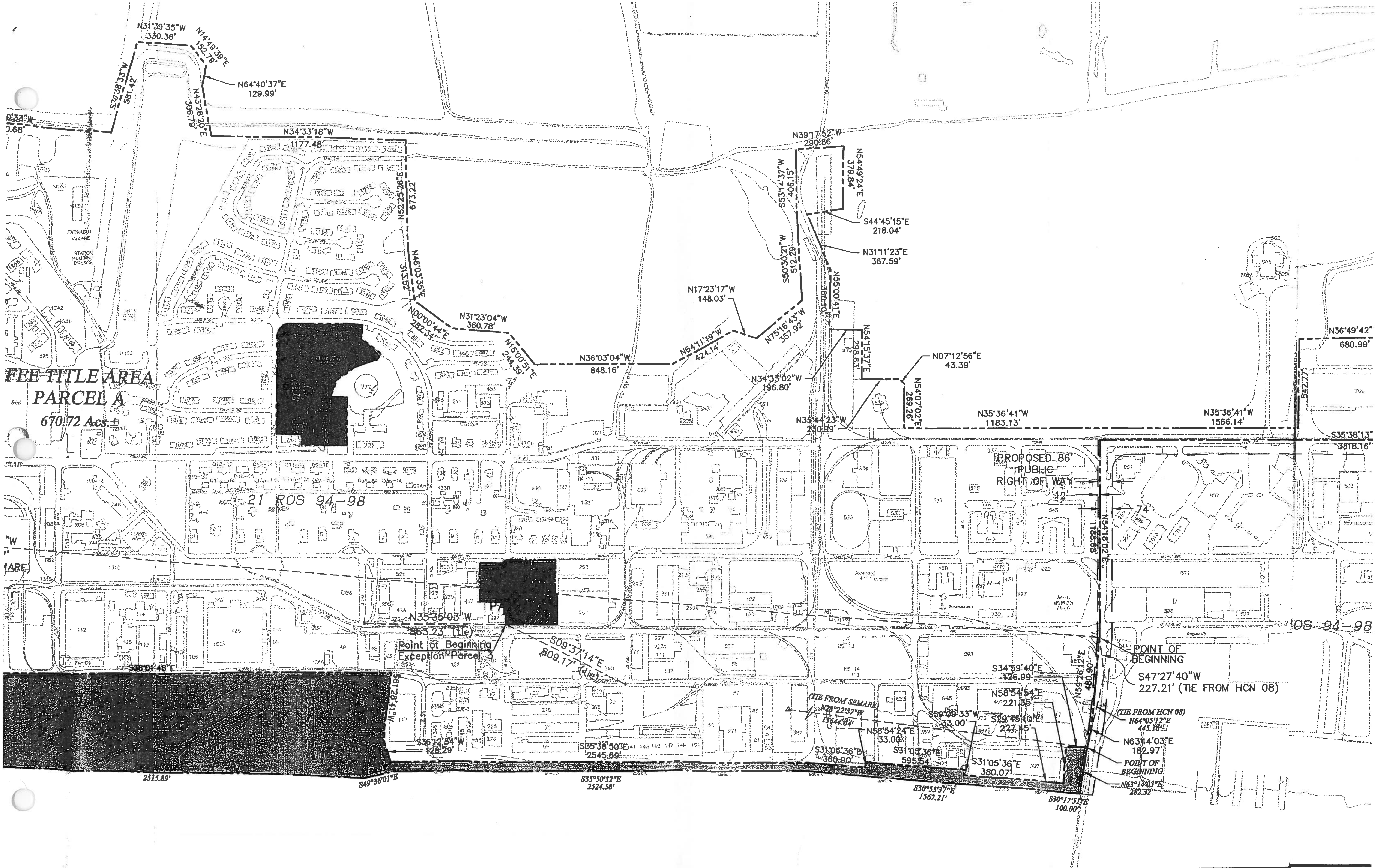
- Fed. to Fed. Transfer
- Public Benefit Conveyance
- Properties Retained by City
- State Land Leased to City with Subsequent Lease to Lennar
- Fee Title Boundary
- State Lands Boundary Defining Leased Lands
- Proposed Public Right of Way

Reimer Associates

Scale: 1" = 500'

Page 1 of 1

file: develop_agree.dwg


FEE TITLE AREA
PARCEL A
670.72 Acs.±
21 ROS 94-98
N31°39'35"W
330.36'
N14°49'39"E
152.79'
N64°40'37"E
129.99'
S70°38'33"W
581.42'
N43°28'20"E
306.79'
N34°33'18"W
1177.48'
N52°25'26"E
673.22'
N46°03'35"E
313.52'
N00°00'44"E
282.34'
N31°23'04"W
360.78'
N15°00'51"E
244.39'
N36°03'04"W
848.16'
N64°11'19"W
424.14'
N17°23'17"W
148.03'
N75°16'43"W
357.92'
S50°30'21"W
512.29'
S53°14'37"W
406.15'
N39°17'52"W
290.86'
N54°49'24"E
379.84'
S44°45'15"E
218.04'
N31°11'23"E
367.59'
N55°00'41"E
N54°15'37"E
298.63'
N07°12'56"E
43.39'
N34°33'02"W
196.80'
N35°44'23"W
230.99'
N54°07'02"E
269.26'
N35°36'41"W
1183.13'
N35°36'41"W
1566.14'
N36°49'42"
680.99'
542.77'
S35°38'13"
3818.16'
PROPOSED 86'
PUBLIC
RIGHT OF WAY
12'
74'
N54°18'02"E
1188.88'
N35°35'03"W
863.23' (tie)
Point of Beginning
Exception Parcel 3
S09°37'14"E
809.17' (tie)
S36°01'48"E
S61°28'41"W
S36°12'34"W
128.29'
S35°38'50"E
2545.69'
2515.89'
S49°36'01"E
S35°50'32"E
2524.58'
(TIE FROM SEMARE)
N28°22'37"W
S31°05'36"E
360.90'
N58°54'24"E
33.00'
S31°05'36"E
595.54'
S59°08'33"W
33.00'
S29°45'40"E
227.45'
N58°54'54"E
221.35
S34°59'40"E
126.99'
N59°26'12"E
480.90'
S31°05'36"E
380.07'
S30°53'37"E
1567.21'
S30°17'51"E
100.00'
POINT OF
BEGINNING
S47°27'40"W
227.21' (TIE FROM HCN 08)
(TIE FROM HCN 08)
N64°05'12"E
N63°14'03"E
182.97'
POINT OF
BEGINNING
N63°14'03"E
282.32'
ROS 94-98

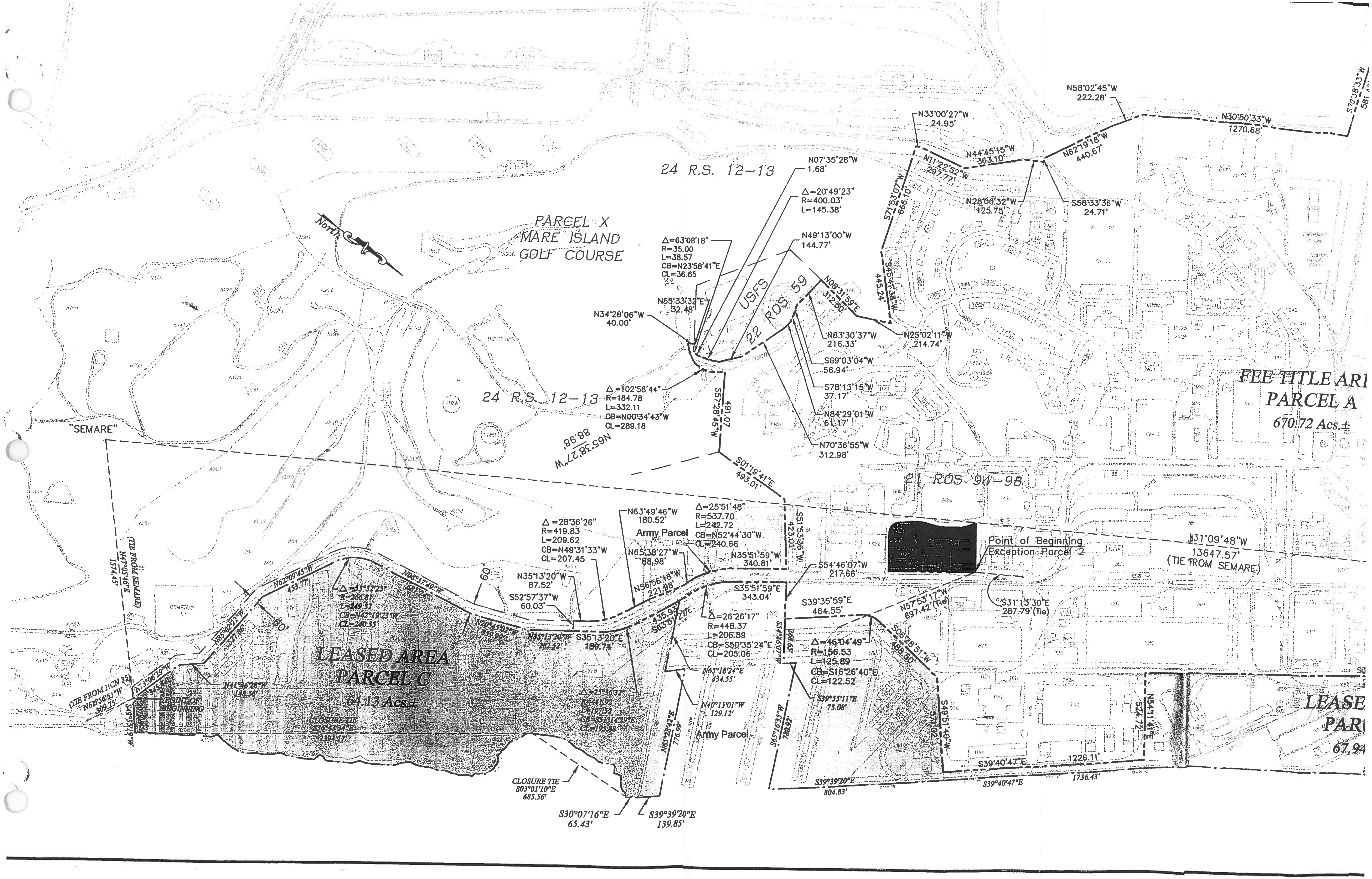
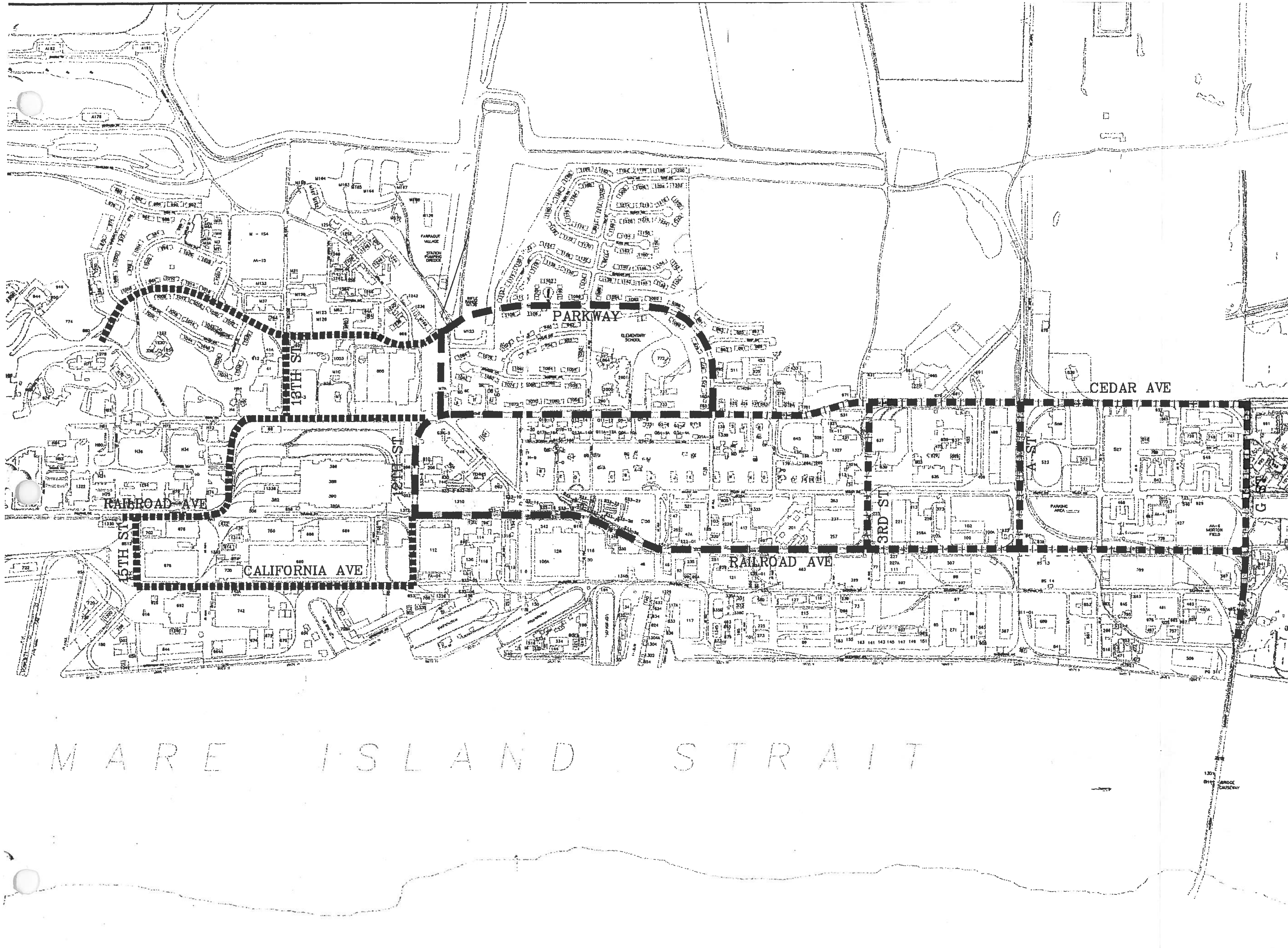

PARCEL X
MARE ISLAND
GOLF COURSE
24 R.S. 12-13
24 R.S. 12-13
North
"SEMARE"
USFS
22 ROS 59
21 ROS 94-98
FEE TITLE ARI
PARCEL A
670.72 Acs.±
LEASED AREA
PARCEL C
64.13 Acs.±
LEASE
PAR
67.94
Army Parcel
Army Parcel
POINT OF BEGINNING
Point of Beginning
Exception Parcel 2
N31°09'48"W
13647.57'
(TIE FROM SEMARE)
(TIE FROM SEMARE)
N47°05'46"E
1574.45'
(TIE FROM HCN 35)
N62°56'51"W
309.75'
CLOSURE TIE
S03°01'10"E
685.56'
S30°07'16"E
65.43'
S39°39'20"E
139.85'
N65°28'42"E
776.99'
N40°15'01"W
129.12'
N65°18'24"E
434.55'
S65°16'35"W
780.92'
S39°39'20"E
804.83'
S39°40'47"E
1736.43'
S39°40'47"E
1226.11'
N54°11'41"E
524.72'
S49°51'40"W
571.02'
S06°28'51"W
188.50'
Δ=46°04'49"
R=156.53
L=125.89
CB=S16°26'40"E
CL=122.52
S39°55'11"E
73.08'
S39°35'59"E
464.55'
N57°53'17"W
897.42' (Tie)
S31°13'30"E
287.79' (Tie)
S54°46'07"W
217.66'
S35°51'59"E
343.04'
Δ=26°26'17"
R=448.37
L=206.89
CB=S50°35'24"E
CL=205.06
N35°51'59"W
340.81'
S51°53'36"W
423.01'
Δ=25°51'48"
R=537.70
L=242.72
CB=N52°44'30"W
CL=240.66
N63°49'46"W
180.52'
N65°38'27"W
88.98'
N56°56'18"W
221.98'
Δ=28°36'26"
R=419.83
L=209.62
CB=N49°31'33"W
CL=207.45
N35°13'20"W
87.52'
S52°57'37"W
60.03'
S35°13'20"E
189.74'
N35°13'20"W
60'
60'
N62°09'45"W
453.77'
N41°46'28"W
S01°19'41"E
493.01'
S57°28'45"W
491.07
N65°38'27"W
88.98'
Δ=102°58'44"
R=184.78
L=332.11
CB=N00°34'43"W
CL=289.18
N34°28'06"W
40.00'
N55°33'32"E
32.48'
Δ=63°08'18"
R=35.00
L=38.57
CB=N23°58'41"E
CL=36.65
N07°35'28"W
1.68'
Δ=20°49'23"
R=400.03'
L=145.38'
N49°13'00"W
144.77'
N08°31'59"E
312.50'
N83°30'37"W
216.33'
S69°03'04"W
56.94'
S78°13'15"W
37.17'
N84°29'01"W
61.17'
N70°36'55"W
312.98'
N25°02'11"W
214.74'
S45°41'38"W
445.24'
S71°53'07"W
666.10'
N33°00'27"W
24.95'
N11°22'52"W
297.77'
N44°45'15"W
363.10'
N28°00'32"W
125.75'
S58°33'36"W
24.71'
N62°19'18"W
440.67'
N58°02'45"W
222.28'
N30°50'33"W
1270.68'
S76°38'33"W
581

EXHIBIT C

PHASING PLAN

NOTE: THE PROJECTED TIMELINES IN THIS SCHEDULE ARE ILLUSTRATIVE AND INTENDED TO SET FORTH THE GOOD FAITH EFFORTS OF THE PARTIES, AND ARE NOT STRICTLY BINDING ON THE PARTIES



LENNAR MARE ISLAND

INFRASTRUCTURE PHASING PLAN

LEGEND

YEAR 1 THRU 2

YEAR 3 THRU 4

YEAR 5 THRU 7

TIMING OF PHASES CONTINGENT ON ENVIRONMENTAL REMEDIATION ACTIVITIES

EXHIBIT C

GRAPHIC SCALE

700 0 700

(IN FEET)

MAP SOURCE: MIRIS 1996 Aerial Planimetric

Reimer Associates

SAME AS 10TH AMEDMENT OF DA

EXHIBIT D

SCHEDULE OF PERFORMANCE

Projections and Targets Only*

Column 1	Column 2	Column 3	Column 4
Benchmark Date	Cumulative Job Projection	Cumulative Semi-Annual Investment	Cumulative Semi-Annual Target Revenues
Existing	1,250		
12/31/2001	1,338	$9,585,001	$633,430
06/30/2002	1,431	$11,955,786	$6,153,933
12/31/2002	1,531	$13,503,338	$7,560,761
06/30/2003	1,638	$31,271,717	$9,308,707
12/31/2003	1,753	$32,713,244	$15,910,483
06/30/2004	1,876	$39,108,694	$44,627,103
12/31/2004	2,007	$45,673,618	$53,432,788
06/30/2005	2,148	$52,628,469	$89,517,742
12/31/2005	2,298	$57,993,867	$105,188,573
06/30/2006	2,459	$70,066,080	$114,794,235
12/31/2006	2,631	$79,212,067	$125,791,937
06/30/2007	2,815	$92,780,135	$150,791,639
12/31/2007	3,012	$102,634,494	$169,591,477
06/30/2008	3,223	$107,351,832	$203,959,395
12/31/2008	3,449	$113,585,568	$209,431,161
06/30/2009	3,690	$120,003,480	$216,448,900
12/31/2009	3,949	$125,517,526	$223,960,210
06/30/2010	4,225	$129,763,156	$235,990,975
12/31/2010	4,521	$133,512,749	$240,423,334
06/30/2011	4,837	$137,507,905	$254,565,733
12/31/2011	5,176	$140,850,963	$258,932,468
06/30/2012	5,538	$145,837,495	$268,374,235
12/31/2012	5,926	$151,276,152	$271,626,352
06/30/2013	6,340	$159,060,302	$273,916,470
12/31/2013	6,784	$164,125,024	$310,239,446
Total	6,784	$164,125,024	$310,239,446

* The parties expressly acknowledge that any failure to meet the projections and targets set forth in Exhibit D shall not constitute a default under this Development Agreement. The investment and revenue projections in columns 3 and 4 are exclusive of reimbursable expenses associated with Early Transfer. The parties also acknowledge that these projections and targets may be revised in the event of a Recalculation Event, as defined in and contemplated by the Acquisition Agreement.

EXHIBIT E

LENNAR MARE ISLAND - CITY OF VALLEJO
PROJECTED ENTITLEMENTS PROCESS

Entitlement	Timeline	Event
Supplemental EIR ("SEIR")		
	2-3 months following DSEIR circulation	City certifies SEIR
Historic Guidelines		
	Concurrent with or within 30 days following SEIR certification and concurrent with the SPA Adoption date	City adopts Historic Guidelines
Infrastructure Master Plan		
	Concurrent with or within 30 days following SEIR certification and concurrent with adoption of SPA	Mare Island Infrastructure Master Plan approved as part of SPA
Mare Island Specific Plan Amendment (the "SPA")		
	Concurrent with or within 30 days of SEIR certification	City Council Adoption of SPA
Unit Plans		
	Potentially, prior to Historic Guidelines adoption	City approval of Unit Plans consistent with Mare Island Specific Plan
	Post-Historic Guidelines adoption	City approval of Unit Plans
Vesting Tentative Maps		
		City Planning Commission Approval of VTMs
Final Maps		Final Map covering all or portions of VTMs
Demolition Permits		
	Ongoing	City issuance of non-historic Demolition Permits
	Following complete application submittal and Historic Guidelines adoption	City issuance of Demolition Permits covering other structures, including-historical resources

EXHIBIT F

SCHEDULE OF CITY OF VALLEJO PROCESSING AND DEVELOPMENT FEES

A. Planning Division Processing Fees

1. Abandonments*
2. Administrative Permit*
3. Annexations*
4. Architectural Heritage Permits*
5. Certificate of Compliance*
6. Development Agreement*
7. Environmental Impact Report*
8. Environmental Assessment*
9. General Plan Amendment*
10. Lot Line Adjustment*
11. Minor Exception*
12. Minor Use Permit*
13. Mitigated Negative Declaration*
14. Negative Declaration*
15. Parcel Map*
16. Parcel Map Extension*
17. Parcel Map Amendment*
18. Planned Development*
19. Public Notice Lists*
20. Rezoning, Prezoning*
21. Sign Permit*
22. Site Development*
23. Special Request*

* Processing Fee.

24. Specific Plan*

25. Specific Plan Amendment*

26. Tentative Map*

27. Unit Investigation*

28. Use Permit*

29. Variance*

B. Public Works Department – Engineering Division Processing Fees

1. Abandonment*

2. Excavation Fee*

3. Grading Permit*

4. Engineering and Inspection Fee*

5. Sidewalk Permit Fee*

6. Apportionment of Assessment*

C. Public Works Department – Water Division Processing Fees

1. Sterilization*

2. Tap-Tie*

3. Construction Water*

4. Water Meter*

D. Building Permit Processing Fees

1. Building Permit Fee*

2. Plan Check Fee*

E. Building Permit Development Fees and Taxes

1. Excise Tax

2. Transportation Impact Mitigation Fee (existing fee increased by the applicable C.P.I. from and after the Vesting Date)

F. Electrical Permits Processing Fees

1. Issuance Fee*

2. Residential (minimum $45.00)*

3. Commercial (minimum $450.00)*

4. Signs*

5. Temporary Power Pole*
6. Service Charge*
7. Appliances*
8. New Residential Units and Additions*
9. Residential Accessory Buildings*
10. Swimming Pools and Spas*

G. <u>Mechanical Permit Processing Fees</u>

1. Issuance Fee*
2. Residential*
3. Commercial*
4. Additions, Alterations and Replacement*

H. <u>Plumbing Permit Processing Fees</u>

1. Issuance*
2. Residential*
3. Commercial*
4. Swimming Pools*
5. Private Storm Water Drainage Systems*
6. Private Water Main Systems*
7. Additions and Alterations*

I. <u>Fire Department Permit Processing Fees</u>

1. Permits Required Under Article 4, Unified Fire Code*
2. Inspection Fees*
3. Plan Review Fees*
4. Special Inspections/Special Services*
5. Highrise Certification*