

CONSTRUCTION CREDIT AND REIMBURSEMENT AGREEMENT

PRESERVE DEVELOPMENT IMPACT FEE PROGRAM

ALTITUDE BUSINESS CENTRE

PARCEL MAP 19756

This CONSTRUCTION CREDIT AND REIMBURSEMENT AGREEMENT ("**Agreement**") is entered into this 19th day of May, 2020 ("**Effective Date**"), by and between CITY OF CHINO, a California municipal corporation ("**City**"), and RICHLAND VENTURES, INC. ("**Developer**"). City and Developer are sometimes hereinafter referred to individually as "**Party**" and jointly as "**Parties**".

RECITALS

A. Developer owns that certain real property consisting of approximately 72.77 acres (21 buildable parcels) generally located between Kimball and Bickmore Avenues at Mayhew Avenue (APN: 1055-101-02, 1055-111-03, 1055-121-01, 1055-231-01 & 02, 1055-541-01 & 02) in the City of Chino, County of San Bernardino, California as depicted on Exhibit A ("**Property**").

B. Developer has requested from City certain entitlements and/or permits for the Project, and City has granted the entitlements and/or permits subject to certain conditions of approval provided on Exhibit B which will require certain public improvements to be constructed in excess of those applicable to the Project ("**Conditions of Approval**").

C. The Conditions of Approval also require Developer to pay Development Impact Fees ("**DIFs**"), as established in Chapter 3.45 of the Chino Municipal Code ("**DIF Ordinance**"). The DIFs have been established by City to finance public facilities in furtherance of the goals and objectives of City's general plan, various facility master plans, capital improvement plans, and the nexus reports described in the DIF Ordinance ("**Nexus Reports**").

D. Pursuant to the DIF Ordinance and the Conditions of Approval, Developer owes DIFs for the Project.

E. Developer has elected to construct certain public improvements in excess of those specifically required by the Conditions of Approval as described in Exhibit C ("**Public Improvements**").

F. The DIF Ordinance provides that if, as a condition of approval of a development project, a developer constructs a public facility identified in the Nexus Reports, for which a development impact fee is imposed, Developer shall be eligible to receive a fee credit toward the DIFs imposed on the Project for the same type of public facility so constructed, and shall be entitled to reimbursement for eligible costs of constructing the public facility, provided that developer complies with the requirements of the DIF Ordinance as it may be amended from time to time. The DIF Ordinance specifically requires that the developer and City enter into a credit and reimbursement agreement.

G. City and Developer desire to enter into this Agreement for the following purposes: (i) to provide for the timely construction and completion of the Public Improvements, (ii) to ensure that construction of the Public Improvements is undertaken in accordance with the Plans and Specifications, and the laws and ordinances pertaining to the construction of public improvements, (iii) to provide the methodology for establishing the reimbursement amounts and/or DIF credits to which Developer may be

entitled after completion of the Public Improvements (“**Reimbursement/Credits**”); and (iv) the requirements for Developer’s transfer or application of all or any portion of the Reimbursement/Credits to third party.

NOW, THEREFORE, for the purposes set forth herein, Developer and City hereby agree as follows:

AGREEMENT:

1. **Incorporation of Recitals.** The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2. **Construction of Public Improvements.** Unless extended by a written extension executed by the Parties, within one (1) year of the issuance of a building permit for the Project, Developer shall construct or have constructed, at its own cost and expense, the Public Improvements in accordance with the Plans and Specifications and the provisions of this Agreement. Developer shall provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary to fully and adequately complete the Public Improvements.

2.1 **Pre-approval of Plans and Specifications.** Developer is prohibited from commencing work on any portion of the Public Improvements until all plans and specifications for the Public Improvements have been submitted to and approved in writing by City (“**Plans and Specifications**”). Approval by City shall not relieve Developer from ensuring that all Public Improvements conform to all applicable laws, ordinances and regulation under California and federal law.

2.2 **Permits and Notices.** Prior to commencing any work, Developer (through its contractors) shall, at its sole cost and expense, obtain all necessary permits and licenses and give all necessary and incidental notices required for the lawful construction of the Public Improvements and performance of Developer’s obligations under this Agreement. Developer shall conduct the work in full compliance with the regulations, rules, and other requirements contained in this Agreement, any applicable law, and any permit or license issued to Developer.

2.3 **Public Works Requirements.** Developer shall ensure that the bidding, awarding, and construction of the Public Improvements are undertaken as if such Public Improvements were constructed as a public works project under the direction and authority of City, pursuant to all provisions of law applicable to governmental entities. Developer shall also comply with the requirements of City’s Bidding and Contract Requirements for Public Improvements Policy, as adopted by City Council, hereby incorporated by reference and made a part of hereof (as may be amended from time to time).

(a) Prior to soliciting or awarding the bid for any portion of the Public Improvements, Developer shall submit the bid packet and a set of construction drawings signed by Developer or another authorized representative designated by Developer for the work being bid to City Engineer or his or her designee for review and approval, which approval shall be granted or denied within fifteen (15) calendar days after submission of such bid packet. If City Engineer denies approval of such bid packet and construction drawings, City Engineer shall specify the reasons for such disapproval and Developer shall resubmit a revised bid packet for review and approval until such approval is obtained.

(b) Developer shall obtain bids for the construction of the Public Improvements in a manner which has been approved by City Engineer. Developer shall provide City Engineer with copies of all bids received from California licensed contractors and a bid summary in a form approved by City Engineer to assure that the contractor/subcontractors adhere to the applicable legal requirements for public works projects. The contract or contracts for the construction of the Public Improvements shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the

construction of the Public Improvements. Developer shall enter into a construction contract with each contractor selected to perform work on the Public Improvements (after competitive bidding as set forth above), (each, a “**Construction Contract**”) for the performance of the work set forth in the selected bid, and the terms of each Construction Contract entered into by Developer and each contractor/subcontractor shall be reasonably acceptable to City Engineer. Developer shall submit to City a copy of each executed Construction Contract for the Public Improvements within fifteen (15) days after execution thereof.

(c) Developer’s general contractor for the construction of the Public Improvement (“**General Contractor**”) shall pay prevailing wages (in accordance with Articles 1 and 2 of Chapter 1, Part 7, Division 2 of the Labor Code) and otherwise comply with applicable provisions of the Labor Code, the Government Code, the Civil Code, and the Public Contract Code relating to public works projects of cities and as required by the procedures and standards of City with respect to the construction of its public works projects or as otherwise directed by City Engineer.

(d) All contractors shall be required to provide proof of insurance coverage throughout the term of the construction of the Public Improvements which they will construct in conformance with Section 5 of this Agreement.

2.4 Schedule of Performance. Developer shall commence construction of the Public Improvements in accordance with the Schedule of Performance attached as Exhibit D.

2.5 Standard of Performance. Developer and its contractors shall perform all work required, constructing the Public Improvements in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

2.6 Alterations to Public Improvements. All work shall be done and the Public Improvements completed as shown on the Plans and Specifications, and any subsequent alterations thereto mutually agreed upon by City and Developer. If Developer desires to make any alterations to the Plans and Specifications, it shall provide written notice to City of such proposed alterations. City shall have ten (10) business days after receipt of such written notice to administratively approve or disapprove such alterations, which approval shall not be unreasonably withheld, conditioned or delayed. If City fails to provide written notice to Developer of its approval or disapproval of the alterations within such ten (10) business day period, City will be deemed to have disapproved such alterations to the Plans and Specifications. Any and all alterations in the Plans and Specifications and the Public Improvements to be completed may be accomplished without first giving prior notice thereof to Developer’s surety for this Agreement.

2.7 Force Majeure. Developer agrees that the time within which it shall be required to perform any act under this Agreement shall not be extended except as follows: (i) Developer is delayed by City (including, without limitation, restrictions on priority, initiative or referendum, or moratoria), in which case Developer shall provide written notice to City specifically describing the nature and extent of the delay caused by City and Developer’s detailed efforts to avoid such delay, which references this Section and deliver such notice within twenty (20) days of discovering such delay, and Developer’s obligations shall be extended for such time as City deems reasonable as a result of the delay if and only if Developer provides such written notice to City within such time; or (ii) Developer is delayed due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, natural disasters, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, processing with any governmental

agencies, unusually severe weather, or any other similar causes beyond the control of Developer or without the fault of Developer. An extension of time for any such cause shall be for the period of the enforced delay equal to the number of days during which Developer's performance was delayed and shall commence to run from the time of the commencement of the cause, if written notice by Developer claiming such extension is sent to City within twenty (20) days of knowledge of the commencement of the cause.

3. Security; Surety Bonds. Prior to the commencement of any work on the Public Improvements, Developer or its contractor shall provide City with surety bonds in the amounts and under the terms set forth below or, at City's request, in lieu of surety bonds, a letter of credit or letters of credit issued by a banking institution with a rating to be approved by City and in the form and upon terms approved by City ("**Security**"). The amount of the Security shall be based on the estimated actual costs ("**Estimated Costs**") to construct the Public Improvements, as determined by City after Developer has awarded a contract for construction of the Public Improvements to the lowest responsive and responsible bidder in accordance with this Agreement. If City determines, in its sole and absolute discretion, that the Estimated Costs have changed, Developer or its contractor shall adjust the Security in the amount requested by City. Providing the Security shall not release Developer of its indemnification obligation in Section 4.

3.1 Performance Bond. To guarantee the construction of the Public Improvements and faithful performance of all the provisions of this Agreement, to protect City if Developer is in default as defined in Section 14, and to secure the Warranty of the Public Improvements pursuant to Section 10, Developer or its contractor shall provide City a faithful performance bond in an amount which sum shall be not less than one hundred percent (100%) of the Estimated Costs. City may, in its reasonable discretion, partially release a portion or portions of the security provided under this section as the Public Improvements are accepted by City, provided that Developer is not in default on any provision of this Agreement and the total remaining security is not less than twenty percent (20%) of the Estimated Costs. All security provided under this section shall be released at the end of the Warranty period, provided that Developer is not in default of this Agreement.

3.2 Labor & Material Bond. To secure payment to the contractors, subcontractors, laborers, materialmen, and other persons furnishing labor, materials, or equipment for performance of the Public Improvements and this Agreement, Developer or its contractor shall provide City a labor and materials bond in an amount which sum shall not be less than one hundred percent (100%) of the Estimated Costs. The security provided under this section shall be released by City six (6) months after the date City accepts the Public Improvements, provided there are no outstanding stop payment notices.

3.3 Additional Requirements. The surety for any surety bonds provided as Security shall have a current A.M. Best rating of at least "A" and FSC-VIII, shall be licensed to do business in California. As part of the obligation secured by the Security and in addition to the face amount of the Security, Developer and its contractor or the surety shall secure the costs and reasonable expenses and fees, including reasonable attorneys' fees and costs, incurred by City in enforcing the obligations of this Agreement. Developer and its contractor and the surety shall stipulate and agree that no change, extension of time, alteration, or addition to the terms of this Agreement, the Public Improvements, or the Plans and Specifications shall in any way affect its obligation on the Security.

4. Indemnification. Developer shall defend, indemnify, and hold harmless City, its elected officials, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental agency, arising out of or incident to any acts, omissions, negligence or willful misconduct of Developer in connection with the performance of this Agreement ("**Claims**"). This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of City, its elected officials, employees, and/or agents for all legal expenses and costs

incurred by each of them. This indemnification excludes only such portion of any Claim which is caused solely and exclusively by the negligence or willful misconduct of City, as determined by a court or administrative body of competent jurisdiction. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by City, its elected officials, employees, or agents.

5. Insurance.

5.1 Types; Amounts. Developer shall procure and maintain, and shall require its contractors to procure and maintain, during performance of this Agreement, insurance of the types and in the amounts described below ("**Required Insurance**"). If any of the Required Insurance contains a general aggregate limit, such insurance shall apply separately to this Agreement or be no less than two times the specified occurrence limit.

5.1.1 General Liability. Occurrence version general liability insurance, or equivalent form, with a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage.

5.1.2 Business Automobile Liability. Business automobile liability insurance, or equivalent form, with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for the ownership, operation, maintenance, use, loading, or unloading of any auto owned, leased, hired, or borrowed by the insured or for which the insured is responsible.

5.1.3 Workers' Compensation. Workers' compensation insurance with limits as required by the Labor Code of the State of California and employers' liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence, at all times during which insured retains employees.

5.1.4 Professional Liability. For any consultant or other professional who will engineer or design the Public Improvements, liability insurance for errors and omissions with limits not less than Two Million Dollars (\$2,000,000) per occurrence, shall be procured and maintained for a period of five (5) years following completion of the Improvements. Such insurance shall be endorsed to include contractual liability.

5.2 Deductibles. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its elected officials, officers, employees, agents, and volunteers; or (b) Developer and its contractors shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

5.3 Additional Insured; Separation of Insureds. The Required Insurance, except for the professional liability and workers' compensation insurance, shall name City as an additional insured with respect to work performed by or on behalf of Developer or its contractors, including any materials, parts, or equipment furnished in connection therewith. The Required Insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to City, its elected officials, officers, employees, or agents.

5.4 Primary Insurance; Waiver of Subrogation. The Required Insurance shall be primary with respect to any insurance or self-insurance programs covering City, its elected officials, officers, employees, or agents. The policy required for workers' compensation insurance shall provide that the insurance company waives all right of recovery by way of subrogation against City in connection with any damage or harm covered by such policy.

5.5 Certificates; Verification. Developer and its contractors shall furnish City with original certificates of insurance and endorsements effecting coverage for the Required Insurance. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by City before work pursuant to this Agreement can begin. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

5.6 Term; Cancellation Notice. Developer and its contractors shall maintain the Required Insurance for the term of this Agreement and shall replace any certificate, policy, or endorsement which will expire prior to that date. All policies shall, to the extent available from commercially reasonable insurance providers, be endorsed to provide that the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except on thirty (30) days' prior written notice to City.

5.7 Insurer Rating. Unless approved in writing by City, all Required Insurance shall be placed with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least "A-" and FSC-VIII.

6. Maintenance of Improvements. City shall not be responsible or liable for the maintenance or care of, and shall exercise no control over, the Public Improvements until such Public Improvements are accepted by City. Developer shall have no obligation to make the Public Improvements available for public use at any time before the Public Improvements are accepted by City. Any use by any person of the Public Improvements, or any portion thereof, shall be at the sole and exclusive risk of Developer at all times prior to City's acceptance of the Improvements. Developer shall maintain all of the Public Improvements in a state of good repair until they are completed by Developer and accepted by City, and until the security for the performance of this Agreement is released. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by City. If Developer fails to properly prosecute its maintenance obligation under this section, City may, upon written notice and Developer's failure to remedy as provided in Section 14, do all work necessary for such maintenance, and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. City shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Public Improvements or their condition prior to acceptance, except to the extent such damage or injury is caused by the negligence or willful misconduct of City, its elected officials, employees, and/or agents.

7. City Inspection of Public Improvements. Developer shall, at its sole cost and expense, and at all times during construction of the Public Improvements, maintain reasonable and safe facilities and provide safe access for inspection by City of the Public Improvements and areas where construction of the Public Improvements is occurring or will occur. Developer shall give notice to City when the construction of all or a portion of the Public Improvements is complete. Upon receiving such notice, City may inspect the Public Improvements and request any modifications or corrections as may be deemed reasonably necessary by City Engineer, in his or her sole discretion, to bring the Public Improvements into conformity with the Plans and Specifications, including any approved revisions thereto. Developer or Developer's contractors shall make all such modifications and corrections requested by City Engineer.

8. Liens. Developer shall not permit any liens to be filed against the Public Improvements and indemnifies City with respect to any such liens. Upon the expiration of the time for the recording of claims of liens as prescribed by Sections 8412 and 8414 of the Civil Code with respect to the Public Improvements, Developer shall provide to City such evidence or proof as City shall reasonably require that all persons, firms, and corporations supplying work, labor, materials, supplies, and equipment to the construction of the Public Improvements have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm, or corporation. Rather than await the expiration of the said time for the recording of claims of liens, Developer may elect to provide to City a title insurance policy or other

security acceptable to City guaranteeing that no such claims of liens will be recorded or become a lien upon any of the Property.

9. **Acceptance of Improvements; As-Built or Record Drawings.** If the Public Improvements are completed by Developer in accordance with the Plans and Specifications, as determined by City Engineer, City shall be authorized to accept the Public Improvements. City may, in its reasonable discretion, accept fully completed portions of the Public Improvements prior to such time as all of the Public Improvements are complete, which shall not release or modify Developer's obligation to complete the remainder of the Public Improvements. Upon the total or partial acceptance of the Public Improvements by City, Developer shall file with the Recorder's Office of the County of San Bernardino a notice of completion for the accepted Improvements in accordance with California Civil Code Section 9204 ("**Notice of Completion**"), at which time the accepted Public Improvements shall become the sole and exclusive property of City without any payment therefor. Notwithstanding the foregoing, City may not accept any Public Improvements (or the applicable portion thereof) unless and until Developer provides two (2) sets of "as-built" or record drawings or plans to City for all such Public Improvements (or the applicable portion thereof). The drawings shall be certified and shall reflect the condition of the Public Improvements as constructed, with all changes incorporated therein.

10. **Warranty and Guaranty.** Developer warrants and guarantees all the Public Improvements against any defective work or labor done, or defective materials furnished in the performance of this Agreement, including the maintenance of the Public Improvements, for a period of one (1) year following completion of the work and acceptance by City ("**Warranty**"). During the Warranty, Developer shall repair, replace, or reconstruct any defective or otherwise materially unsatisfactory portion of the Improvements, in accordance with the Plans and Specifications. All repairs, replacements, or reconstruction during the Warranty period shall be at the sole cost and expense of Developer, and shall not be eligible for credits or reimbursements. As to any Public Improvements which have been repaired, replaced, or reconstructed during the Warranty, Developer hereby agree to provide a warranty for a one (1) year period following City acceptance of the repaired, replaced, or reconstructed Public Improvements. Nothing herein shall relieve Developer from any other liability it may have under federal, state, or local law to repair, replace, or reconstruct any Public Improvement following expiration of the Warranty or any extension thereof. Developer's warranty obligation under this section shall survive the expiration or termination of this Agreement.

11. **DIF Credit and Reimbursement.**

11.1 **Calculation of Eligible Costs.** Upon or prior to completion of the Public Improvements by Developer, Developer shall submit to City Engineer such information as City Engineer may require to calculate the actual costs incurred by Developer to construct the Public Improvements ("**Actual Costs**").

11.2 **Credit/Reimbursement Limits.** The credit and, if applicable, reimbursement amount owed to Developer for construction of the Public Improvements ("**Credit/Reimbursement Amount**") shall be equal to the Actual Costs, subject to the following limitations:

11.2.1 **Reasonable Soft Costs.** City Engineer shall, in his or her sole reasonable discretion, determine the amount of reasonable soft costs eligible for credit and reimbursement under the DIF Ordinance. Such amounts may include professional engineering and design services, construction management, soils testing, permits, plan check fees, and inspections, but shall not include interest or attorneys' fees. For soft costs to be reimbursable to Developer pursuant to this Agreement, City must be able to verify that such soft costs are specifically attributable to the specified Public Improvements for which reimbursement is being made, by reference to separate subcontract(s) or by another means approved by City in writing. The total amount of the soft costs shall not exceed fifteen percent (15%) of the

Credit/Reimbursement Amount. City Engineer may, in his or her reasonable discretion, reduce or disallow credit/ reimbursement for any costs he or she finds excessive or unreasonable.

11.2.2 Nexus Report Costs Estimates. The Credit/Reimbursement Amount shall not exceed the cost estimates for the Public Improvements included in the Nexus Reports, unless approved by City council.

11.2.3 DIF Categories. Developer acknowledges that DIFs are imposed in various separate categories to fund specific public facilities. Credit against DIFs may only be applied for eligible improvements identified in the specific DIF category.

11.3 Conditions Precedent to Final Credit or Reimbursement. City's obligation to provide fee credits or reimbursements for the Public Improvements pursuant to this Agreement is conditioned upon the prior satisfaction by Developer or written waiver by City Manager of each of the following **Conditions Precedent** within the times designated below:

11.3.1 Completion of Construction. Developer shall have completed the construction of the Public Improvements acceptable to City, and thirty (30) days have elapsed since notices of completion have been recorded in relation to the Public Improvements, in accordance with California Civil Code Sections 9204 and/or 8182 (as applicable). The purpose of this provision is to ensure that the Public Improvements will be independently functional and to maintain consistency with vesting rights, and nothing herein shall be deemed to make any part of the Project a public work other than the Public Improvements.

11.3.2 Submission of Documents. Developer shall have made full and complete payment of all undisputed claims for work performed on the Public Improvements, or in the event of a dispute between Developer and the General Contractor or a subcontractor, Developer shall have obtained a commercially reasonable bond reasonably satisfactory to City to release any applicable mechanics' lien or stop notice, and Developer shall have submitted and City shall have approved a written request for the credit/reimbursement, including copies of all bills and/or invoices evidencing the costs of constructing the Public Improvements actually incurred by Developer and any other documents reasonably required by City.

11.3.3 As-Built Drawings. Pursuant to Section 9, Developer shall have submitted two (2) sets of final as-built drawings for the Public Improvements to City Engineer.

11.3.4 Acceptance of Required Public Improvements by City. The City Council shall have accepted title to the Public Improvements.

11.3.5 No Default. Developer shall not be in default in any of its obligations under the terms of this Agreement, and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

11.3.6 Compliance with DIF Ordinance and Conditions of Approval. Developer shall be in compliance with all requirements of the DIF Ordinance and the Conditions of Approval.

12. DIF Addendum.

12.1 DIF Addendum. If Developer is entitled to a Credit/Reimbursement Amount, the Parties shall execute a Credit/Reimbursement Addendum in the form attached as Exhibit E ("DIF Addendum").

12.2 DIF Fees. For purposes of the DIF Addendum, the amount of the DIF owed by Developer shall be calculated as of the date the fees are due pursuant to the DIF Ordinance.

12.3 Payment. If Developer's credit is less than the DIF owed, then Developer shall pay the remaining balance to City to fully satisfy Developer's DIF obligation within thirty (30) days of the execution of the DIF Addendum.

12.4 Reimbursement. If Developer is entitled to a reimbursement, City shall reimburse the balance to Developer in accordance with the provisions of the DIF Ordinance.

12.5 Assignment of Credit/Reimbursement Amount. Developer shall have the right to assign all or portions of the Credit/Reimbursement Amount in accordance with the requirements specified in the DIF Addendum, which assignment will require City's written acknowledgement. Developer understands that strict compliance with the assignment restrictions is critical to allow City to track the total Credit/Reimbursement Amount and Developer's failure to comply with the assignment requirements in the DIF Addendum may result in delays in the processing of credit/reimbursement assignments by the City.

13. Assignment. Prior to completion of the Public Improvements, Developer may assign this Agreement to a third party ("**Assignment**"), subject to the approval of City's Director of Development Services ("**Director**") in his/her reasonable discretion. If Developer desires to assign this Agreement, Developer shall provide detailed information as to the proposed assignee ("**Assignee**") as requested by City including but not limited, evidence of Assignee's right to acquire the Property, its background and financial information evidencing the ability of Assignee to complete the Public Improvements. Any assignment of this Agreement shall not release Assignor.

14. Default; Notice; Remedies.

14.1 Notice. If Developer neglects, refuses, or fails to fulfill or timely complete any obligation, term, or condition of this Agreement, or if City determines there is a violation of any federal, state, or local law, ordinance, regulation or code, City may at any time thereafter declare Developer to be in default or violation of this Agreement and make written demand upon Developer or its surety, or both, to immediately remedy the default or violation ("**Notice of Default**"). Developer shall substantially commence the work required to remedy the default or violation within five (5) business days of the Notice of Default. If the default or violation constitutes an immediate threat to the public health, safety, or welfare, City may provide the Notice of Default verbally, and Developer shall substantially commence the required work within twenty-four (24) hours thereof. Immediately upon City's issuance of the Notice of Default, Developer and its surety shall be liable to City for all costs of construction and installation of the Public Improvements and all other administrative costs or expenses, as provided for in Section 15 of this Agreement.

14.2 Failure to Remedy; City Action. If the work required to remedy the noticed default or violation is not commenced within the time required under Section 14.1 of this Agreement and diligently prosecuted to completion, City may complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its reasonable discretion it believes is required to remedy the default or violation. All such work or remedial activity shall be at the sole and absolute cost and expense of Developer and its surety, without the necessity of giving any further notice to Developer or surety. In the event City elects to complete or arrange for completion of the remaining work and the Public Improvements, City may require all work by Developer or its surety to cease in order to allow adequate coordination by City.

14.3 Other Remedies. No action by City pursuant to this Section 14 shall prohibit City from exercising any other right or pursuing any other legal or equitable remedy available under this Agreement or any federal, state, or local law. City may exercise its rights and remedies independently or cumulatively, and City may pursue inconsistent remedies. City may institute an action for damages, injunctive relief, or specific performance.

15. Administrative Costs. If Developer fails to construct and install all or any part of the Public Improvements, or if Developer fails to comply with any other obligation contained herein, Developer and its surety shall be jointly and severally liable to City for all administrative expenses, fees, and costs, including reasonable attorneys' fees and costs, incurred in obtaining compliance with this Agreement or in processing any legal action or for any other remedies permitted by law.

16. Miscellaneous.

16.1 Relationship between the Parties. The Parties hereby mutually agree that this Agreement shall not operate to create the relationship of partnership, joint venture, or agency between City and Developer. Developer's contractors are exclusively and solely under the control and dominion of Developer. Nothing herein shall be deemed to make Developer or its contractors an agent or contractor of City.

16.2 Authority to Enter Agreement. Each person executing this Agreement on behalf of Developer represents and warrants that he or she has the legal power, right and authority to execute this Agreement on behalf of Developer and that this Agreement is binding upon Developer.

16.3 Notices. Any notice, demand, request, consent, approval, or communication either Party desires or is required to give to the other Party or any person shall be in writing and either served personally, communicated electronic mail (with a receipt requested), or sent by prepaid, first-class mail to the address set forth below. Notice shall be deemed communicated immediately upon personal delivery, fax or email receipt, or forty-eight (48) hours from the time of mailing if mailed as provided in this Section:

To City:

City of Chino
13220 Central Ave.
Chino, CA 91710
Attn: Director of Development Services
Email: nliguori@cityofchino.org

With Copy to:

Aleshire & Wynder, LLP
188881 Von Karman Ave., Suite 1700
Irvine, CA 92612
Attn: Fred Galante, Esq.
Email: fgalante@awattorneys.com

To Developer:

Richland Ventures, Inc
3161 Michelson Drive, Suite 425
Irvine, CA 92612
Attn: Craig Cristina, Senior Vice President
Email: ccristina@richlandcommunities.com

With a copy to:

Attn: John Troutman, Chief Legal Counsel
Email: jtroutman@richlandinvestments.com

16.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

16.5 Construction; References; Captions. The Parties agree that the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days, unless specified therein. All references to Developer include all personnel, employees, agents, and contractors of Developer, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

16.6 Amendment; Modification. No supplement, modification, or amend-ment of this Agreement shall be binding unless executed in writing and executed by both Parties.

16.7 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

16.8 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

16.9 No Third-Party Beneficiaries. There are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

16.10 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

16.11 Governing Law; Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of San Bernardino, California.

16.12 Time is of the Essence. Time is of the essence in this Agreement, and the Parties agree to execute all documents and proceed with due diligence to complete all covenants and conditions.

16.13 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

16.14 City Officers and Employees. No officer or employee of City shall be personally liable to Developer or any successors in interest in the event of any default or breach by City or for any amount that may become due to Developer or any successor(s) in interest or for breach of any obligation of the terms of this Agreement. No officer or employee of Developer shall be personally liable to City or any successor(s) in interest in the event of any default or breach by Developer or for any amount that may become due to City or their successors in interest or for breach of any obligation of the terms of this Agreement.

16.15 Entire Agreement. This Agreement contains the entire agreement between City and Developer and supersedes any prior oral or written statements or agreements between City and Developer.

16.16 Exhibits. The following exhibits are attached hereto and incorporated herein by reference:

Exhibit A	Legal Description/Location Map
Exhibit B	Conditions of Approval
Exhibit C	Public Improvements
Exhibit D	Schedule of Performance
Exhibit E	DIF Credit/Reimbursement Addendum

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

RICHLAND VENTURES, INC.:



By: John C. Troutman
Its: Vice President

By: _____
Its: _____

CITY:

CITY OF CHINO, a municipal corporation

By: 
Matthew C. Ballantyne
City Manager

DATED: 7.7, 2019~~20~~

ATTEST:


Angela Robles, City Clerk

APPROVED AS TO CONTENT:


Nicholas Liguori
Director

APPROVED AS TO FORM:

ALESHIRE & WYNTER, LLP

By: 
Fred Galante, City Attorney

DEVELOPER: TWO PERSONS AUTHORIZED BY THE APPLICABLE ENTITY FORMATION DOCUMENTS SHALL EXECUTE THIS AGREEMENT. COPIES OF APPLICABLE DOCUMENTS EVIDENCING SUCH AUTHORITY SHALL BE PROVIDED TO CITY. DEVELOPER SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE APPLICABLE FORMATION DOCUMENTS FOR THE ENTITY.

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California

County of Orange

On May 19, 2020 Date

before me,

Pamela Alongi, Notary Public
Here Insert Name and Title of the Officer
John C. Trastman
Name(s) of Signer(s)

personally appeared

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



Place Notary Seal and/or Stamp Above

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

WITNESS my hand and official seal.

Signature

Pamela Alongi
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

EXHIBIT A

LEGAL DESCRIPTION

That certain real property in the City of Chino, County of San Bernardino, State of California legally described as follows:

BEING A SUBDIVISION OF LOT 57, WITHIN SECTION 29, AND A PORTION OF LOT 54, WITHIN SECTION 30, TOWNSHIP 2 SOUTH, RANGE 7 WEST, ACCORDING TO THE MAP OF THE RANCHO SANTA ANA DEL CHINO, RECORDED IN BOOK 6, PAGE 15 OF MAPS, TOGETHER WITH PARCELS 1 THROUGH 4, OF LOT LINE ADJUSTMENT NO. 2017-01, RECORDED DECEMBER 21, 2017, AS INST. NO. 2017-0543255, OF OFFICIAL RECORDS, AND PARCEL 1 OF PARCEL MAP NO. 18816, RECORDED IN BOOK 247, PAGES 21-23 OF PARCEL MAPS, AND PARCEL 1 OF PARCEL MAP NO. 19704, RECORDED IN BOOK 250, PAGES 48-51 OF PARCEL MAPS, ALL IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT A-1

PARCEL MAP 19756

LOCATION MAP

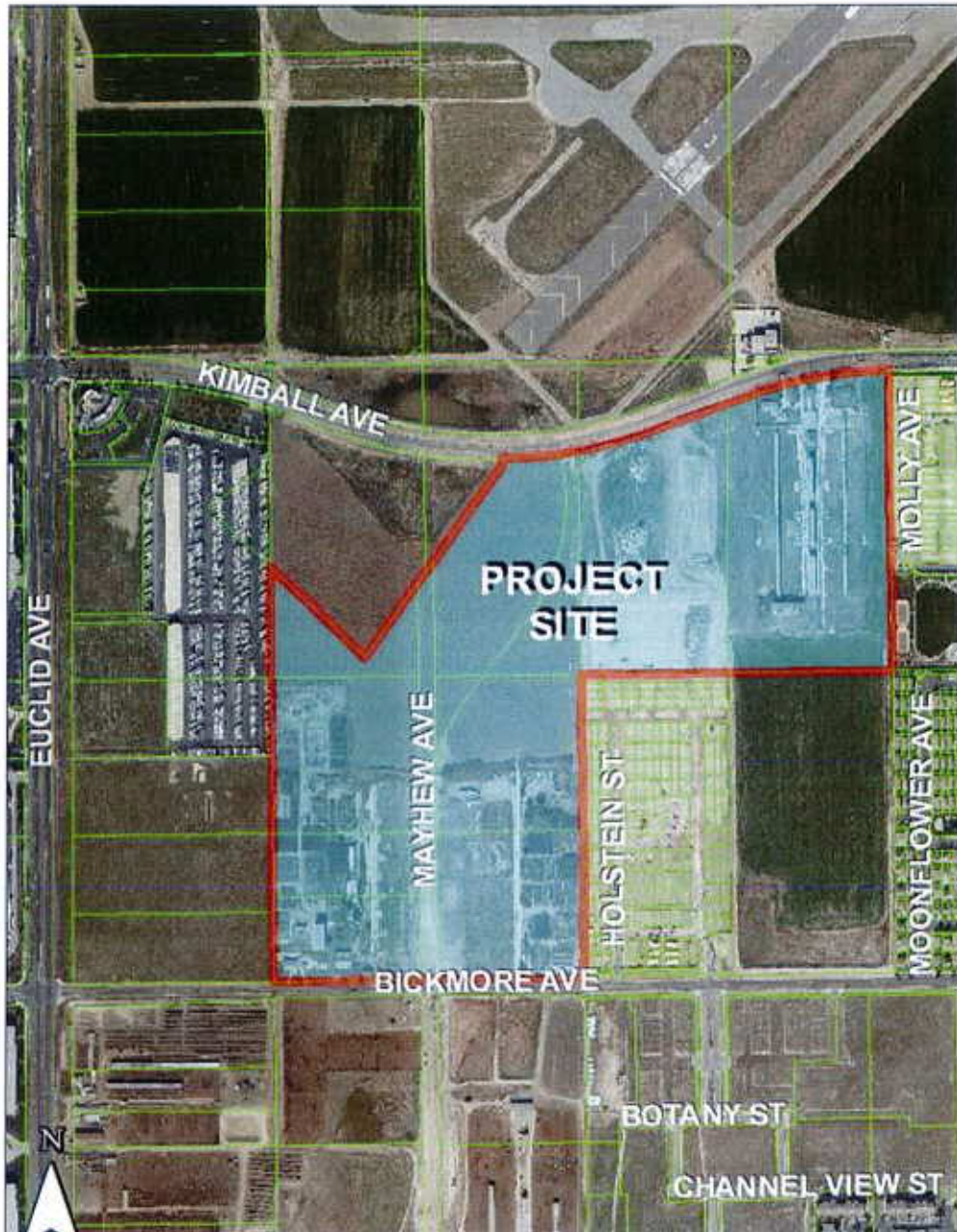


EXHIBIT B

CONDITIONS OF APPROVAL

[ATTACHED]

NL	_____	CM	_____	DSH	X
MB	_____	IA	_____	MK	X
GP	_____				

E-Mail Sent: 10/7/19
To: Andrea Gilbert

DEVELOPMENT ENGINEERING DIVISION CONDITIONS OF APPROVAL
PL16-0456 (PARCEL MAP NO. 19756)
PL16-0457 (MASTER SITE APPROVAL)

DATE: 9/18/2019 PC MEETING DATE: October 7, 2019

PROJECT DESCRIPTION: Industrial development on 72.77 acres, 21 buildable parcels.

PROJECT LOCATION: The Preserve, Both Sides of Mayhew Avenue between Bickmore Avenue and Kimball Avenue.

APPLICANT: Richland Communities PROJECT ENGINEER: M. Khudadatov

PRIOR TO THE THREE MAJOR DEVELOPMENT EVENTS, THE APPLICANT SHALL SATISFY AND FULFILL ALL CONDITIONS OUTLINED BELOW. FAILURE TO COMPLY WITH ANY CONDITIONS OF APPROVAL SHALL BE DEEMED JUST CAUSE FOR REVOCATION OF PROJECT APPROVAL BY THE PLANNING COMMISSION. HOWEVER, THE DIRECTOR OF DEVELOPMENT SERVICES SHALL HAVE THE AUTHORITY TO APPROVE MINOR DEVIATIONS IN THE CONDITIONS OF APPROVAL, AND ALL PLANS INCLUDING THE CONSTRUCTION DRAWINGS.

1.0 PRIOR TO MAP RECORDATION:

- 1.1 Provide a preliminary Title Report and support documents no older than 60 days.
- 1.2 Submit a preliminary soils report to the project engineer for review and approval in accordance with Government Code, Section 66434.5.

1.3a Make the following dedications:

<u>Street Name</u>	<u>Distance</u>	<u>Direction From C/L</u>
Kimball Avenue ¹	45-ft	North
	59-ft	South
Mayhew Avenue ²	37-ft	West
	55-ft	East
Bickmore Avenue ³	50-ft	North

- 1. Euclid Avenue to Rincon Meadows Avenue
- 2. Bickmore Avenue to Kimball Avenue
- 3. Easterly boundary of Alere Property Group project to westerly boundary of TM 18858.

- 1.3b Dedicate to the City an adequate easement for storm drain purposes, located at the north-westerly corner of Parcel 3, for storm drain lateral used to dewater airport basins. Backup documentation for width of easement shall be provided, to the satisfaction of City Engineer.
- 1.3c Prepare and record necessary drainage easements to implement the project in accordance with drainage law.
- 1.3d Prepare and record necessary utility easements for maintenance purposes.

- 1.4 Provide and record a reciprocal use agreement to assure common ingress and egress and joint maintenance of all common access, parking areas and drives.
- 1.5 Provide a set of proposed Covenants, Conditions and Restrictions (CC&R) for review and approval. The proposed CC&Rs shall contain the Association's/Owner's maintenance obligations with respect to various facilities including, but not limited to, right-of-way landscaping, private streets, sidewalks, utilities, street lights, and Water Quality Management Plan (WQMP) features. This document must be submitted to and approved by the City before it is submitted to any other governmental entity.
- 1.6 Execute a Subdivision Agreement and submit security in an amount acceptable to the City Engineer to guarantee construction of the public improvements including but not limited to those listed in 2.8. All security must be accessible to the City at any time and in a form acceptable to the Director of Development Services, pursuant to Government Code, Section 66499.
- 1.7 Provide a Monumentation Bond in an amount specified in writing by a Registered Engineer or Licensed Land Surveyor of Record.
- 1.8 Submit a list of proposed street names for the interior/private streets to the Street Naming Committee for name(s) selection.
- 1.9 Comply with all applicable requirements of the City Code.
- 1.10 Pay all applicable fees pursuant to City Code including, but not limited to, plan check fees.
- 1.11 Airport Basins shall be maintained by County of San Bernardino. Obtain a maintenance agreement from the County of San Bernardino, to which the City of Chino shall be a beneficiary, satisfactory to the City Engineer and the City Attorney.

2.0 PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS:

- 2.1 Prepare and submit a drainage study, including supporting hydraulic and hydrological data to the project engineer for approval. The study shall confirm or recommend changes to the City's adopted Master Drainage Plan by identifying off-site and on-site storm water runoff impacts resulting from build-out of permitted General Plan land uses. In addition, the study shall identify the project's contribution and shall provide locations and sizes of catchments and system connection points and all downstream drainage-mitigating measures.
- 2.2 Design and install a monitoring manhole (per City Standard No. 530) on each domestic sewer lateral connection from any industrial building into the City's main sewer or into a private sewer main that is tributary to the City's main sewer. In addition, design and install a sampling Wye on a stubbed out sewer lateral connection into the main sewer for each industrial building in this development.
- 2.3 Design per City Standards full public improvements for all impacted and interior streets/facilities in accordance with City Code, Standards and Specifications. Such public improvements may include, but not be limited to the following: (Please coordinate and verify all requirements with the project engineer.)

	Street Names			
	Kimball	Mayhew	Bickmore	Private
	Ave ^{1,20}	Ave ^{2,20}	Ave ^{3,20}	St
Curb & Gutter (Offset from Centerline)	33' N 33' S	22' E 22' W	17' N	22' E 22' W
Sidewalk (Width)	n/a 13'	13' 5'	13' 5'	5' 5'
Asphalt Concrete Pavement on Aggregate Base (Width from Centerline)	Full Width	Full Width	Half Width	Full Width
Asphalt Concrete Overlay				
Street Lights	X	X	X	X
Median Island and Landscaping	X			
Parkway Landscaping	X	X	X	X
Striping and Traffic Controls	X	X	X	X
Traffic Signal Interconnect	X ^{4,5,8}		X ⁷	X ^{8,9}
Traffic Signal with CCTV ⁶	X	X	X	X
Sewer		X ¹⁰	X ¹⁸	X ¹⁹
Storm Drain	X ¹³	X ¹⁴	X ¹⁵	X
Domestic Water		X ¹¹		X ^{11,21}
Recycled Water	X ¹⁶	X ¹⁷		
Fire Hydrants as required by CVIFD ¹²	X	X	X	X
Other				

1. Prepare full ultimate street improvements for Kimball Avenue from Euclid Avenue to Main Street. Construct ultimate street section for Kimball Avenue from Euclid Avenue to Rincon Meadows Avenue.
2. Construct ultimate street section from Bickmore Avenue to Kimball Avenue.
3. Construct ultimate north half of street section from easterly boundary of Alere Property Group project to westerly boundary of TM 18858.
4. Construct conduit in Kimball Avenue by joining existing conduits, from approx. 1,000' east of Euclid Avenue to approx. 600' west of Rincon Meadows Avenue.
5. Run fiber optic communication system from new vault at the northeast corner of Euclid Ave and Kimball Avenue, east along Kimball Avenue to Mill Creek Avenue, and south along Mill Creek Avenue to existing hub at the northeast corner of intersection of Mill Creek Avenue and Bickmore Avenue.
6. Construct traffic signal with CCTV at intersection of Bickmore Avenue and Mayhew Avenue, Mayhew Avenue and Kimball Avenue, Kimball Avenue and Private Street.
7. Connect new traffic signal at Bickmore Avenue and Mayhew Avenue to existing fiber optic communication system. TS shall communicate with City Hall.
8. Connect new traffic signals at Kimball Avenue and Private Street & Kimball Avenue and Mayhew Avenue to proposed fiber optic communication system. TS shall communicate with City Hall.
9. Coordinate with CVIFD regarding traffic signal activation method. (Install conduit into Fire Station for emergency vehicle preemption communication.)
10. Construct sewer from Kimball Avenue to Bickmore Avenue.
11. Construct domestic water main in Mayhew Avenue and Private Street. Conduct necessary study to determine size requirement, to the satisfaction of City Engineer.
12. Coordinate fire hydrant requirements with CVIFD.
13. Storm Drain design shall be incorporated as a part of ultimate Kimball Avenue improvements, from Euclid Avenue to Main Street. Storm Drain improvements shall be constructed from Euclid Avenue to Rincon Meadows Avenue, and any interim drainage improvements necessary to mitigate street flows until such time that the remaining portion of Kimball Avenue, Rincon Meadows Avenue to Main Street, is improved.
14. Construct ultimate Storm Drain Line H in Mayhew Avenue, with a termination point and outlet s/o Bickmore Avenue, to the satisfaction of City Engineer.
15. Construct Storm Drain Line to mitigate street flows to the satisfaction of City Engineer.

16. Construct 18" recycled water main in Kimball Avenue, from Euclid Avenue to easterly parcel boundary and connect to existing 12" line.
17. Construct 8" recycled water main in Mayhew Avenue, from Kimball Avenue to Bickmore Avenue.
18. Construct 12" sewer from Mayhew Avenue to easterly boundary of Alere Property Group project.
19. Sewer in private street and outside public ROW shall be private.
20. Permanent public improvements listed in the DIF nexus study are eligible for reimbursement.
21. Water system in private street shall be public. Water system onsite shall be private.

- 2.4 All projects developing one (1) acre or more of total land area, or which are part of a larger phased development that will disturb one acre of land, are required to obtain coverage under the State Water Resources Control Board's (SWRCB) General Permit for storm water discharges associated with construction activity. Proof of filing a Notice of Intent (NOI) with the SWRCB for coverage under this permit is required. A copy of the Waste Discharger's Identification Number (WDID), issued by the SWRCB, must be submitted to the Project Engineer prior to issuance of grading permits. More detailed information regarding this General Permit, applicable fee information and the necessary forms to complete the NOI are available by calling (916) 341-5537 or on the SWRCB web site at:
http://www.swrcb.ca.gov/water_issues/programs/stormwater/constpermits.shtml.
- 2.5 Pursuant to Santa Ana Regional Water Quality Control Board Order Number R8-2010-0036, NPDES Permit No. CAS618036, prepare a project-specific Water Quality Management Plan (WQMP) and submit to the project engineer for review and approval. To address NPDES Permit requirements to the maximum extent practicable, the project shall be designed to specify preferential use of Low Impact Development Best Management Practices that reduce pollutants and runoff volume through structural measures (e.g. infiltration, harvesting, and bio-treatment) and non-structural measures (e.g. preserving natural areas, clustering development, and reducing impervious areas). The WQMP shall conform to the requirements of the San Bernardino County Stormwater Program, 2013 WQMP Technical Guidance Document.
- 2.6 Any future maintenance and repair of fire service and sewer laterals to the project site shall be the sole responsibility of the applicant/property owner in accordance with City Code, Chapter 13.04.175 and 13.12.150.
- 2.7 Convey ownership of all existing onsite water wells to the City and convert to monitoring wells as directed by the City's Water Utilities Supervisor. Prepare and record any necessary easements to provide the City with access to the monitoring wells. Any existing water wells that cannot be feasibly converted to monitoring wells shall be destroyed per City Standard No. 465. This condition does not apply to existing wells that belong to the Chino Basin Desalter Authority (CDA).
- 2.8 Developer shall prepare signing and striping plans, signal plans and improvement plans for all affected street intersection and segments to include new lane configurations, appropriate transitions, modified lane configurations, utility location, etc. to the satisfaction of the City Engineer and the Director of Development Services.
- 2.9 All public street corners shall have a minimum curb radii per City Code, Chapter 19.06 and City Standards and Specifications.
- 2.10 Provide adequate sight distance per City Standard No. 865 for each project driveway and at all intersections. Landscaping type and height shall be maintained to ensure sight distance requirements are perpetuated.
- 2.11 Submit to the City electronic files, in Adobe Acrobat PDF format, of all submittals, including reports, studies, improvement plans and City redlines of previous submittals.

- 2.12 The developer is responsible to contract with the City's designated traffic signal maintenance company for ongoing maintenance of traffic signals until such time the improvements are accepted by the City.
- 2.13 Based on the approved plans, begin the process of constructing the following intersection improvements. These improvements must be approved by the Development Services Department prior to the request and release of occupancy permits. (Interim improvements are not DIF eligible)
1. Mayhew Avenue at Kimball Avenue – Design and install a traffic signal at this intersection. Design will include CCTV camera installation. Improvements are eligible for DIF credit.
 2. Mayhew Avenue at Bickmore Avenue – Design and install a traffic signal at this intersection. Design will include CCTV camera installation. Improvements are eligible for DIF credit.
 3. Private Street at Kimball Avenue - Design and install a traffic signal at this intersection. Design will include CCTV camera installation. Improvements are not eligible for DIF credit.
 4. Euclid Avenue at Kimball Avenue – Perform any traffic signal improvements triggered by improvements listed in section 2.16.
- 2.14 Additional right-of-way and improvements shall be required to accommodate these improvements and widening for turn pockets. If right-of-way cannot be acquired from properties not controlled by Richland Communities, mitigate traffic to the satisfaction of the City Engineer and the Director of Development Services.
- 2.15 Comply with all requirements of the Traffic Impact Analysis (TIA) dated March 4, 2019 including participation in fair share contributions and construction of required improvements and mitigation measures as shown on the Mitigation Monitoring and Reporting Program, to mitigate impacts.
- 2.16 Based on the approved plans, construct the following intersection improvements as described in the TIA dated March 4, 2019 and/or the City's DIF Nexus Study. These improvements must be approved by the Development Services Department prior to the request and release of occupancy permits:
1. Central Avenue at El Prado Road – Modify the traffic signal to implement overlap phasing on the northbound right turn lane to improve the existing deficiency (currently under construction). Design will include CCTV camera installation. Improvements listed in the DIF nexus study are eligible for DIF credit.
 2. Euclid Avenue at Kimball Avenue
 - Add a 2nd eastbound left turn lane (currently under construction).
 - Add a 2nd southbound left turn lane and westbound right turn lane.
 - Add a southbound right turn lane with overlap phasing (currently under construction).
 - Improvements listed in the DIF nexus study are eligible for DIF credit.
 3. Mayhew Avenue at Kimball Avenue
 - Construct a northbound right turn lane.
 - Construct a northbound left turn lane.
 - Construct a westbound left turn lane.
 - Construct an eastbound right turn lane.

4. Mayhew Avenue at Bickmore Avenue
 - Construct a southbound left turn lane.
 - Construct an eastbound left turn lane.
 - Construct a westbound left turn lane.
5. Kimball Avenue at Private Street
 - Construct an eastbound right turn lane.
 - Construct a westbound left turn lane.

Note: All project entrances off of Kimball Avenue shall have designated right turn pockets.

Pay fair share contribution for non DIF improvements in the City of Chino as described in the TIA dated March 4, 2019.

- 2.17 Prior to installation of underground utilities, CCTV inspection of existing sewer and storm drain conduits that may be impacted by the construction shall be performed and recordings submitted to the City for comparison to post-construction inspection.
- 2.18 City staff shall determine the type of water (potable or recycled) to be used for grading operations, dust control activities, and common area/public landscape irrigation at the time of permit issuance.
- 2.19 The developer is responsible for the continued operation and maintenance of perimeter street lights, common area landscaping, and parkway areas (landscaping, sidewalk). The project is required to establish an association for the continued operation and maintenance of above improvements or the alternative is to annex the properties into the Preserve Master Maintenance Corporation (PMMC) or other association acceptable to the Director.
- 2.20 This development shall mitigate its impact to downstream properties by reducing post-developed runoff to 80% of pre-developed runoff peak flow rates. The analysis shall include 5, 10, 25 & 100-year frequency storm events. Provisions for emergency overflow, should the basin fail, shall be provided.
- 2.21 Emergency overflow shall be provided for all basin types.
- 2.22 The flows coming off of future residential tract at the NEC of Mayhew Avenue & Bickmore Avenue shall be mitigated to the satisfaction of City Engineer. Storm Drain Line H shall be sized under assumption that said tract is fully developed.
- 2.23 Pay fair share contribution for improvements in the City of Eastvale (\$91,720) as described in the March 4, 2019 TIA.
- 2.24 Pay fair share contribution for improvements in the City of Ontario (\$197,627) as described in the March 4, 2019 TIA.
- 2.25 Pay fair share contribution for improvements in the City of Jurupa Valley (\$7,219) as described in the March 4, 2019 TIA.
- 2.26 Pay fair share contribution for improvements in Caltrans ROW (\$89,870) as described in the March 4, 2019 TIA.
- 2.27 Driveway locations for the future industrial parcel at the NWC of Bickmore Avenue and Mayhew Avenue, shall be determined at the time of site approval, to the satisfaction of City Engineer.

3.0 PRIOR TO ISSUANCE OF BUILDING PERMITS FOR ANY LOT WITHIN THE SUBDIVISION:

- 3.1 Record Parcel Map No. 19756 pursuant to the Subdivision Map Act and in accordance with City Code. Provide a duplicate photo mylar of the recorded map to the City Engineer's office.
- 3.2 All required plans and studies shall be prepared by a Registered Professional Engineer and submitted to the project engineer for review and approval. All project plans must be approved by the City Engineer's office before a Building Permit will be issued. All maps, studies, calculation sheets, reports, etc. must be on and/or folded in an 11-inch x 8 1/2-inch standard format.
- 3.3 Prepare and submit a final grading plan showing building footprints, pad elevations, finished grades, drainage routes, retaining walls, erosion control, slope easements and other pertinent information in accordance with Appendix J of the California Building Code, latest edition.
- 3.4 Provide a certificate, from a Registered Civil Engineer, certifying that the finished grading has been completed in accordance with the City approved grading plan.
- 3.5 Obtain design and plan approval from appropriate utility companies for undergrounding all utility lines adjoining and interior to the project, including power lines of 34.5 kV or less, in accordance with City Code, Chapter 13.32.
- 3.6 Pay all applicable fees including, but not limited to, Development Impact Fees (DIF) and Sewage Facilities Development Fee (SFDF) not previously paid under Item 1.0 above, in accordance with the City Code. The actual amount of fees due to the City will be based on the fee schedule in place on the date that the fees are due, or the date that they are paid, whichever occurs last. The fee amount stated in this notice is subject to change based on (1) annual adjustments for inflation, pursuant to Chino Municipal Code Section 3.40.100 or 3.45.100, (2) revisions to the Chino Municipal Code, and (3) updates to the fee studies and nexus reports adopted by the City.

Developer is solely responsible for remaining informed about changes in the fee amounts. City shall have no obligation to inform Developer of changes in the fee amounts unless Developer requests notice of such changes, pursuant to Government Code Section 66019(b) and Chino Municipal Code Section 3.40.080(B) or 3.45.080(B).

- 3.7 Enter into a reimbursement agreement for work listed in the DIF nexus study.

4.0 PRIOR TO REQUEST AND RELEASE OF ANY OCCUPANCY PERMITS:

- 4.1 Construct and secure Development Services Department approval of all required improvements and public facilities enumerated under Section 2.0 & 3.0 above (per Resolution No. 88-23).
- 4.2 Underground all utility lines adjoining and interior to the project, including power lines of 34.5kV or less in accordance with City Code, Chapter 13.32.
- 4.3 The applicant's Civil Engineer shall field verify that all BMPs are designed, constructed, and functional in accordance with the approved WQMP. BMPs shall also be inspected by Public Works Environmental staff. Coordinate inspection with staff and submit a completed City of Chino BMP field verification form for review and approval.

- 4.5 Slurry seal along all streets impacted by the development as directed by City staff. Install signing and striping per approved plans.
- 4.5 Submit to the City, electronic files of Tract/Parcel Map and "as-built" improvement plans in AUTOCAD format and Adobe Acrobat PDF format. AUTOCAD files shall be submitted as an archived zip file of the CAD drawings with all base files attached.
- 4.6 After installation of underground utilities, perform CCTV inspection of the existing conduits that were CCTV inspected prior to construction and all new storm drain and sewer conduits that are less than 48-inch in diameter.
- 4.7 Other Conditions:

MK

Attachment

EXHIBIT "C"

ALTITUDE BUSINESS CENTRE
DIF ELIGIBLE IMPROVEMENTS

ENGINEER'S ESTIMATE		Bickmore	Maynew	Kimball	SUBTOTAL	Project Contingencies 10%	Construction Staking 3%	Soils Testing 1%	Material Testing 1%	Construction Inspection 2%	Contract Administration 1%	SUBTOTAL	Kimball - Design Only (Rincon Meadows to Main Street)	TOTAL DIF CREDIT
Streets		761,109	2,321,536	4,577,714	7,660,519	766,052	229,816	76,605	76,605	153,210	76,605	1,378,893		9,166,513
Water		-	363,089	-	363,089	36,307	10,892	3,631	3,631	7,261	3,631	65,352		428,421
Recycled Water		-	232,496	432,868	665,165	66,516	19,955	6,652	6,652	13,303	6,652	119,730		784,894
Sewer		130,118	368,545	-	498,664	49,866	14,960	4,987	4,987	9,973	4,987	89,760		588,423
Storm Drain		190,785	2,068,458	436,890	2,696,133	269,813	80,944	26,981	26,981	53,963	26,981	485,864		3,183,796
SUBTOTAL		1,082,072	5,354,205	5,449,272	11,885,549	1,188,555	356,566	118,855	118,855	237,711	118,855	2,139,399		14,152,048
PROJECT ADDITIVES														
Project Contingencies:	10.0%	108,207	535,421	544,927	1,188,555									
Construction Staking	3.0%	32,462	160,626	163,478	356,566									
Soils Testing	1.0%	10,821	53,542	54,493	118,855									
Material Testing	1.0%	10,821	53,542	54,493	118,855									
Construction Inspection	2.0%	21,641	107,084	108,985	237,711									
Contract Administration	1.0%	10,821	53,542	54,493	118,855									
SUBTOTAL		194,773	963,757	980,869	2,139,399									
Kimball - Design Only (Rincon Meadows to Main Street)				127,100	127,100									
TOTAL		1,276,845	6,317,962	6,567,241	14,152,048									
Maximum DIF Credits														
Circulation (Streets, Signals & Bridges)														9,166,513
Water (Potable & Recycled)														1,213,316
Sewer														588,423
Storm Drainage														3,183,796
TOTAL														14,152,048

*Credit/reimbursement is based on the actual validated costs approved by the City Engineer. The actual validated costs shall not exceed the project's cost estimate included in the Nexus Report.

EXHIBIT D

SCHEDULE OF PERFORMANCE

- Plans Approved - April & May 2020
- Public Bid - May 2020
- Award Contracts - 6/1/2020
- Pre-construction Meeting - 6/8/2020
- Mobilization - 6/10/2020
- Construction
 - Bickmore - June 2020 to October 2020
 - Sewer
 - Storm Drain
 - Street Improvements
 - Mayhew - June 2020 to May 2021
 - Sewer
 - Storm Drain
 - Domestic Water
 - Recycled Water
 - Street Improvements
 - Kimball - August 2020 to February 2021
 - Sewer
 - Storm Drain
 - Recycled Water
 - Street Improvements
- R&R & Final Inspection - May 2021
- City Acceptance of Improvements - June 2021

EXHIBIT E

DIF CREDIT/REIMBURSEMENT ADDENDUM

Form to include:

- ❖ Contract No.
- ❖ Developer name
- ❖ Project Name
- ❖ Developer DIF Fees payable (if any)
- ❖ Credit/Reimbursement Amount per Section 11.2
- ❖ Assignment restrictions which will include:
 - Mandatory use of attached assignment form which will include:
 - Name of assignee
 - Name of assignor
 - Contract number
 - Signatures of both assignor and assignee
 - Summary of Original Amount of Credit or Credits/Reimbursement amounts previously assigned
 - Remaining Final Credit/Reimbursement Amount after assignment.
 - City must execute assignment acknowledging transfer
 - Requirements for future assignment by assignee of Credit/Reimbursement