Exhibit A, Attachments:

Exhibit 1 – West Coyote Hills Trails and Key Vista Improvements Phasing Plan
Exhibit 2 – Open Space Dedication Areas
Exhibit 3 – License Agreement
Exhibit 4 – Interpretive Center Construction Scope
Exhibit 5 – Open Space Area, Maintenance, Repair and Security Obligations
Exhibit 6 – Open Space, Trails and Interpretive Center Support Endowment Guidelines and Procedures
Exhibit 7 – Guaranty Agreement
Conditions of Approval Exhibit 2:
Open Space Dedication Areas

Approximate Acreages Pending Final Design:
- 230.7 Acres - City Owned Property
- 8.4 Acres - Detention Basins / Water Quality Areas
- 70.9 Acres - Fuel Modification
- 310.0 Acres Total

Legend:
- "A" - Open Space Area A
- "B" - Open Space Area B
- "C" - Open Space Area C
LICENSE AGREEMENT

This LICENSE AGREEMENT (“License Agreement”) is made as of the ___ day of ______, 2015 (the “Effective Date”), by and between Pacific Coast Homes, a California corporation (“Property Owner”), and the City of Fullerton, a California municipal corporation (“City”) (each, a “Party,” and collectively, the “Parties”), on the following terms and conditions.

RECITALS:

a. Property Owner owns certain real property in the City of Fullerton, commonly known as the West Coyote Hills Project Site (“Project Site”).

b. City owns real property in the City of Fullerton, commonly known as the Robert E. Ward Nature Preserve (“Ward Preserve”), which adjoins the Project Site.

c. Pursuant to Resolution No. PC 2015- _______, adopted __________, 2015, the Planning Commission of the City of Fullerton approved Vesting Tentative Tract Map 17609 (“VTTM 17609”), subject to the Conditions of Approval for VTTM 17609 (“Conditions of Approval”), for the West Coyote Hills Development Project (“WCH Project”) proposed by the Property Owner. Capitalized terms not otherwise defined in this License Agreement shall have the meaning ascribed thereto in the Conditions of Approval.

d. Pursuant to VTTM 17609 and the Conditions of Approval, the Property Owner and the City desire to enter into this License Agreement on specified terms and conditions whereby: (i) Property Owner grants to City a right of public access and use with respect to certain Initial Trail Improvements to be constructed partly within the Project Site, prior to the dedication by Property Owner and acceptance of said Improvements by the City; and (ii) City grants to Property Owner the right to enter into the Ward Preserve and other property that is currently owned by the City or may be acquired by the City through dedication or purchase for certain purposes described herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the Parties agree as follows:

1. Property Owner Grant of License to City (Initial Trail Improvements in Project Site).

Pursuant to the Conditions of Approval, Condition M.4, Property Owner shall construct certain Initial Trail Improvements to be located partly within the Project Site and partly within the Ward Preserve, for use as a hiking trail(s) and public access to the Ward Preserve, prior to the dedication and acceptance by the City of said Improvements. For these purposes, Property Owner hereby grants to City a non-exclusive license over certain portions of the Project Site (“City License Area”) depicted generally as “Initial Trails” on Exhibit A (West Coyote Hills Trails and Vista Points Improvements), attached hereto and incorporated by reference, for said purposes, to commence upon Property Owner’s notice to City of completion of construction of said Improvements. Property Owner acknowledges that City will be granting access to the City License Area to the general public. The right of entry and use of the City License Area is subject to the following terms and conditions:

a. The City License Area shall be used only during daylight hours (sunrise to sunset) solely for the purpose of a hiking trail and access to the Ward Preserve; and Property Owner shall install and maintain appropriate signage in connection with
the Initial Trail Improvements, in accordance with generally accepted standards for recreational trails and the West Coyote Hills Interpretative Master Plan (Acorn Group), pp. 20-39, providing notice of the hours of usage and restriction of use.

b. To the fullest extent permitted by law, City shall indemnify, defend (at City’s sole cost and expense), protect and hold harmless Property Owner, all subsidiaries, divisions, and affiliated companies of Property Owner, and all of such parties’ representatives, partners, members, designees, officers, directors, shareholders, employees, agents, successors, and assigns, and any lender of Property Owner with an interest in the City License Area (collectively, “Indemnified Parties”) from and against any and all claims (including, without limitation, claims for bodily injury, death or property damage), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorneys’ fees, disbursements and court costs, and all other professional, expert or consultants’ fees and costs incurred as a result of such claim or claims or in enforcing this indemnity provision) of every kind and nature whatsoever (collectively, “Claims”) which may arise at any time from or in any manner related to (directly or indirectly), or in connection with, the rights of City to use the City License Area (including, without limitation, the use of the City License Area by the general public) or any activities in connection with the exercise of said rights on the City License Area. Notwithstanding the foregoing, nothing herein shall be construed to require City to indemnify, defend, protect, or hold harmless an Indemnified Party from either (i) any Claim arising from the active negligence or willful misconduct of an Indemnified Party or (ii) any Claim arising from defective work by any Indemnified Party, whether latent or patent, or any unsafe condition caused or created by any of the Indemnified Parties. Subject to the aforesaid limitations, the duty to defend hereunder is wholly independent of and separate from the duty to indemnify, and such duty to defend exists regardless of any ultimate liability of Property Owner or any Indemnified Party and such defense obligation shall arise upon presentation of a Claim by any Indemnified Party that is within the scope of City’s defense and indemnity obligation and written notice of such Claim being provided to City. Payment to City by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such an Indemnified Party’s rights to indemnification hereunder. The City’s indemnification obligations hereunder shall survive the expiration or earlier termination of this License Agreement, until such time as it is determined by final judgment that action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations. The terms of this License Agreement are contractual and the result of arms’ length negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party shall not be employed in the interpretation of this License Agreement. The express indemnification provisions set forth in this License Agreement shall solely govern all issues of indemnification and contribution between the Parties on the subject hereof.
c. The City, as a material part of the consideration to the Property Owner under this License Agreement, hereby assumes all risk and liability for damage to the City License Area arising from the use of the City License Area by the general public, and injury to personal property and/or persons, in, upon, or about the City License Area during the term of this License Agreement, arising from any cause, and City hereby waives all claims in respect thereof against Property Owner or the Indemnified Parties, except to the extent caused either by (i) the active negligence or willful misconduct of Property Owner or the Indemnified Parties or (ii) defective work by Property Owner or the Indemnified Parties, whether latent or patent, or any unsafe condition caused or created by Property Owner or the Indemnified Parties. Subject to the limitations set forth in the preceding sentence, City hereby assumes the risk of any and all Claims and other obligations arising out of or incurred in connection with the entry onto and use of the City License Area by City (including, without limitation, the use of the City License Area by the general public), and City irrevocably and unconditionally releases, waives, and discharges, (and covenants not to sue) Property Owner and the Indemnified Parties from all responsibility to City and any other person or entity entitled to assert a claim on City’s behalf, with respect to any event, occurrence, injury or other incident occurring on the City License Area or in any way related to the entry onto and use of the City License Area by City or the general public (collectively, the “Damage and Personal Injury Claims”).

d. Subject to Property Owner’s responsibility with respect to defective work and unsafe conditions, as set forth above, City agrees to enter the City License Area and conduct all operations thereon at City’s own risk, and City hereby releases and forever discharges the Indemnified Parties of and from any and all claims, demands, actions or causes of action whatsoever which City may have, or may hereafter have, against the Indemnified Parties specifically arising out of the matter of the entry of City into the City License Area (collectively, the “Entry Claims” and together with the Damage and Personal Injury Claims, the “Released Claims”). This release shall be binding upon the undersigned and the heirs, executors, administrators, successors and assigns of City and covers all Claims arising out of or connected with City’s use of the Premises. City hereby expressly waives any right under or benefit of any law of any jurisdiction whatsoever providing to the contrary. Neither the acceptance of this release nor any payment made hereunder shall constitute any admission of any liability by Property Owner.

City acknowledges that it has read this License Agreement and had the opportunity to be advised by legal counsel and, for itself and for City’s subdivisions, departments, commissions, agencies or other similar entities, officials, officers, employees, agents, successors and assigns, knowingly and voluntarily expressly waives all rights and benefits it may have or hereafter acquire pursuant to California Civil Code Section 1542 with respect to the Released Claims, including those relating to unknown and unsuspected Claims, damages and causes of action, which provides as follows:
“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOW BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

CITY’s Initials: _______  PROPERTY OWNER’s Initials: _______

e. City shall obtain, at its sole cost and expense, any and all required governmental permits, licenses and authorizations for access and use of the City License Area, and shall comply with all applicable statutes, ordinances, rules, regulations, orders and requirements regulating City’s activities on the City License Area.

f. City shall maintain, repair or replace any part of the Initial Trail Improvements that are damaged or destroyed as a result of City’s activities (including, without limitation, the use of the City License Area by the general public) in the City License Area. Further, City acknowledges the presence of non-producing oil and gas wells in the City License Area and that the exact location of such wells is unknown. Excepting for the active negligence or willful misconduct of Property Owner, or any act or omission by Property Owner constituting defective work, whether latent or patent, or creating any unsafe condition, City shall be solely responsible for any and all damage done to such wells.

g. City shall keep any equipment used or brought into the City License Area under its absolute and complete control at all times and said equipment shall be used on the City License Area at the sole risk of City. City shall not alter, damage or commit any kind of waste upon the City License Area or any improvement, equipment or personal property thereon, and shall not unreasonably interfere in any manner with the lawful operations or activities of the Property Owner.

h. City shall not undertake any work in the City License Area without prior written notice to Property Owner at least 48 hours in advance. City agrees that all work done or undertaken by it on the City License Area shall be for its sole account and not as an agent, servant, or contractor for Property Owner. City shall not cause any workmen’s or materialmen’s liens to be placed upon the City License Area and agrees to indemnify and hold Property Owner harmless against any such liens that are placed upon the City License Area in violation of City’s obligations hereunder, including but not limited to the payment of attorneys’ fees. Should City fail to timely remove any such lien, Property Owner may take action as necessary to remove such lien and City shall immediately reimburse Property Owner for the expenses incurred to remove the lien.

i. City agrees to furnish all labor, tools, equipment, and material for the performance of the work done by it in connection with use of the City License Area and to pay all taxes assessed on wages for said labor and to make any and all reports required in connection therewith.
j. Other than this License, no interest of any kind in the Project Site is hereby given and City shall not assert any claim or title to the City License Area under this License Agreement.

k. Except as otherwise stated in this License Agreement, City hereby acknowledges that neither Property Owner nor its employees or agents have made any oral or written warranties or representations to City relative to the condition or use by City of the City License Area, and City acknowledges that City assumes all responsibilities regarding the Occupational Safety Health Act in connection with City’s activities on the City License Area.

l. This License is granted subject to the terms and conditions of the Conditions of Approval, including without limitation Condition M.4, and shall not change any rights or obligations of either Party under said Conditions.

2. City Grant of License to Property Owner (Habitat Obligations, Initial Trail Improvements, Interpretive Center, Southern Trails, Feeder Trail, Remediation).

Pursuant to the Conditions of Approval, Property Owner shall undertake certain activities on City-owned property including for purposes of construction, repair, and maintenance, and public access and use as follows: (a) performance of certain Habitat Obligations in the Ward Preserve, within Open Space Dedication Areas if not complete at the time of dedication and acceptance by the City, and within the areas of Neighborhood 1 or Neighborhoods 1 and 3 if acquired by the City, if not complete at the close of escrow, and to the extent not borne by the Management Agency identified under Condition M.3 (Conditions M.2, M.3, G.7, L.3.i, and L.4.i) (“Habitat Obligation Areas”); (b) construction, repair, abandonment and maintenance of trails as reflected in Exhibit A hereto, including the Initial Trail Improvements within the Ward Preserve (Condition M.4), an Interpretive Center within the Ward Preserve (Condition M.6), a portion of the feeder trail in the area of Neighborhood No. 1 located in the Ward Preserve (if required); certain additional trail improvements to and abandonment of portions of the Nora Kutner, Castlewood, and existing southern West Coyote Hills backbone trails (Condition M.10) (all subsection (b) items are, collectively, the “Public Benefit Improvements”); and (c) performance of certain Remediation Obligations (Standard Condition 25) within the Open Space Dedication Areas if not complete at the time of dedication and acceptance by the City and the areas of Neighborhood 1 or Neighborhoods 1 and 3 if acquired by the City and not complete at close of escrow (Conditions L.3.i and L.4.i). In order for Property Owner to access and use City property to undertake the Habitat Obligations, the Public Benefit Improvements, and Remediation Obligations, City hereby grants to Property Owner, at no cost, a non-exclusive license, generally in the areas depicted on Exhibit A (“Property Owner License Areas”), attached hereto and incorporated herein by reference, subject to the following terms and conditions, which shall apply prior to the dedication of the Habitat Obligation Areas and the Public Benefit Improvements by Property Owner and acceptance thereof by City, as follows:

a. To the fullest extent permitted by law, Property Owner shall indemnify, defend (at Property Owner’s sole cost and expense), protect and hold harmless City and City officials, officers, employees, and agents, including without limitation City consultants, attorneys, contractors, and subcontractors, (collectively, the “City
Indemnified Parties”) from and against any and all Claims caused by or arising out of Property Owner’s or its agents’, contractors’ or subcontractors’ entry on, performance of work, or construction and maintenance of the Habitat Obligations within the Habitat Obligation Areas and the Public Benefit Improvements within the Property Owner License Areas. Notwithstanding the foregoing, nothing herein shall be construed to require Property Owner to indemnify, defend, protect, or hold harmless a City Indemnified Party from either (i) any Claim arising from the active negligence or willful misconduct of a City Indemnified Party or (ii) any Claim arising from defective work by any of the City Indemnified Parties, whether latent or patent, or any unsafe condition caused or created by any of the City Indemnified Parties. Subject to the aforesaid limitations, the duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend exists regardless of any ultimate liability of City or any City Indemnified Party and such defense obligation shall arise upon presentation of a Claim by any City Indemnified Party that is within the scope of Property Owner’s defense and indemnity obligation and written notice of such Claim being provided to Property Owner. Payment to Property Owner by any City Indemnified Party or the payment or advance of defense costs by any City Indemnified Party shall not be a condition precedent to enforcing such City Indemnified Party’s rights to indemnification hereunder. Property Owner’s indemnification obligation hereunder shall survive the expiration or earlier termination of this License Agreement until such time as it is determined by final judgment that action against the City Indemnified Parties for such matter is indemnified hereunder is fully and finally barred by the applicable statute of limitations. The terms of this License Agreement are contractual and the result of arms’ length negotiation between the Parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party shall not be employed in the interpretation of this License Agreement. The express indemnification provisions set forth in this License Agreement shall solely govern all issues of indemnification and contribution between the Parties.

b. Property Owner shall obtain, at its sole cost and expense, any and all required governmental permits, licenses and authorizations necessary to undertake the Habitat Obligations, the Remediation Obligations, and to construct, repair and maintain the Public Benefit Improvements in the Property Owner License Areas, and shall comply with all applicable statutes, ordinances, rules, regulations, orders and requirements regulating Property Owner’s activities within said Areas.

c. Property Owner agrees to furnish all labor, tools, equipment, and material for the performance of the work done by it in connection with such use and to pay all taxes assessed on wages for said labor and to make any and all reports required in connection therewith.

d. Other than this License, no interest of any kind is hereby given in any City property and Property Owner shall not assert any claim or title to the Property Owner License Areas under this License Agreement.
e. Property Owner agrees that all work done or undertaken by it within the Habitat Obligation Areas, the Remediation Obligation Areas, and the Property Owner License Areas shall be for its sole account and not as an agent, servant, or contractor for City. Property Owner shall not cause any workmen’s or materialmen’s liens to be placed upon the Improvements or within the said Areas, and agrees to indemnify and hold the City harmless against any such liens in violation of Property Owner’s obligations hereunder, including but not limited to the payment of attorneys’ fees. Should Property Owner fail to timely remove any such lien, City shall take action as necessary to remove such lien and Property Owner shall immediately reimburse City for the expenses incurred to remove the lien.

f. This License is granted subject to the terms and conditions of the Conditions of Approval, including without limitation Conditions M.2, M.3, M.4, M.6, M.10, L.3.i, and L.4.i and shall not change any rights or obligations of either Party under said Conditions.

3. Term of License Agreement.

a. This License Agreement shall commence on the Effective Date and shall expire as to each associated license area upon the dedication by Property Owner and the acceptance by the City of the Habitat Obligation Areas and the Public Benefit Improvements, or any of them (including the Initial Trail Improvements), or as otherwise required by the Conditions of Approval, and thereafter Property Owner shall have no responsibility for maintenance, repair, public security or otherwise with respect to said accepted Areas and/or Improvements, subject to the terms and conditions below. Upon City’s acceptance of dedication of the Habitat Obligation Areas and the Public Benefit Improvements, or portion thereof (including the Initial Trail Improvements), the City shall assume all responsibility for operation, maintenance, and security for each such accepted Area or Improvement, or portion thereof.

b. Notwithstanding the foregoing, City acknowledges that the license for the City License Area may be suspended by Property Owner if City is in material default of this License Agreement with respect to the City License Area (“Default”) and City fails to cure such Default within thirty (30) days after City’s receipt of written notice from Property Owner or, if the nature of the Default is such that it cannot be cured within 30 days, if City fails to commence to cure such Default within 30 days and thereafter pursue such cure to completion with reasonable diligence; provided further, that if the Property Owner suspends this License Agreement under this provision, Property Owner’s obligations with respect to the Habitat Obligation Areas and the Public Benefit Improvements, to the extent affected by the Default, shall likewise be suspended until the Default is resolved to the reasonable mutual satisfaction of the City and Property Owner, or failing such agreement, under the dispute resolution provisions in the Subdivision Implementation Agreement between the Parties relating to the project. At all times, City shall be responsible for any reasonable expenses incurred by Property Owner to repair any damage to the City License Area that may have been caused by City or under its authority.
c. Notwithstanding the foregoing, Property Owner acknowledges that the license for the Property Owner License Areas may be suspended by the City if the Property Owner is in material default of this License Agreement with respect to the Property Owner License Areas ("Default") and Property Owner fails to cure such Default within thirty (30) days after Property Owner’s receipt of written notice from the City or, if the nature of the Default is such that it cannot be cured within 30 days, if Property Owner fails to commence to cure such Default within 30 days and thereafter pursue such cure to completion with reasonable diligence; provided however, that if City suspends this License Agreement under this provision, Property Owner’s obligations with respect to the Habitat Obligation Areas and the Public Benefit Improvements, to the extent affected by the Default, shall likewise be suspended until the Default is resolved to the reasonable mutual satisfaction of the City and Property Owner, or failing such agreement, under the dispute resolution provisions in the Subdivision Implementation Agreement between the Parties relating to the project. At all times, Property Owner shall be responsible for any reasonable expenses incurred by City to repair any damage to the Property Owner License Areas that may have been caused by Property Owner or under its authority.

d. The term and effectiveness of this License Agreement are subject to the provisions for suspension or termination of the Property Owner’s project-related obligations under the Conditions of Approval, including but not limited to Conditions L.4.vi and N.

4. Insurance.

City and Property Owner shall each obtain and maintain insurance coverage at all times during the term of this License Agreement as follows:

a. City shall obtain and maintain insurance coverage to cover liability assumed under this License Agreement, including but not limited to comprehensive general liability including personal injury and property damage liability. The limit of liability for such insurance shall not be less than Two Million Dollars ($2,000,000) to indemnify against the claim of one or more persons. Said insurance shall be on forms and with a company satisfactory to Property Owner, protecting Property Owner against any liability to any person or persons, arising out of or in any way connected with the exercise of any of the permissions granted hereunder. Property Owner, its parent corporation and their affiliates, shall be named as additional insureds in such policy or policies, and certificates thereof endorsed “Premium Paid” shall be delivered to Property Owner prior to the exercise by City of any permission granted hereunder. City shall obtain the written agreement of the insurers to notify Property Owner, in writing, at least 30 days prior to cancellation of any such policy. It is expressly understood that the fulfillment by City of these obligations is a condition precedent to the exercise by City of this License Agreement.

In the alternative, City at its option may self-insure for the risks assumed by City hereunder if such self-insurance is consistent with City’s self-insurance program applicable to other public park and recreational properties in the City of Fullerton.
City agrees to comply with all applicable state and federal labor laws and to maintain in effect Workers’ Compensation Insurance as prescribed or permitted by law. City’s insurance shall contain a waiver of subrogation in favor of Property Owner.

b. Property Owner shall obtain and maintain insurance coverage to cover liability assumed under this License Agreement, including but not limited to comprehensive general liability including personal injury and property damage liability. The limit of liability for such insurance shall not be less than Two Million Dollars ($2,000,000) to indemnify against the claim of one or more persons. Said insurance shall be on forms and with a company satisfactory to the City, protecting the City against any liability to any person or persons, arising out of or in any way connected with the exercise of any of the permissions granted hereunder. The City, and its agencies, employees, agents, and consultants, shall be named as additional insureds in such policy or policies, and certificates thereof endorsed “Premium Paid” shall be delivered to the City prior to the exercise by Property Owner of any permission granted hereunder. Property Owner shall obtain the written agreement of the insurers to notify the City, in writing, at least 30 days prior to cancellation of any such policy. It is expressly understood that the fulfillment by Property Owner of these obligations is a condition precedent to the exercise by Property Owner of this License Agreement.

In the alternative, PCH at its option may self-insure for the risks assumed by PCH though a self-administered claims program of its ultimate parent entity, Chevron Corporation.

Property Owner agrees to comply with all applicable state and federal labor laws and to maintain in effect Workers’ Compensation Insurance as prescribed or permitted by law. Property Owner’s insurance shall contain a waiver of subrogation in favor of City.

5. Cooperation by the Parties.

The Parties shall cooperate with and provide reasonable assistance to each other to the extent necessary to implement this License Agreement. The City shall take action in a prompt and reasonable manner on applications submitted by Property Owner to the City in proper form and acceptable for processing of necessary land use entitlements and permits relating to the activities Property Owner will undertake pursuant to this License Agreement.


All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the Parties hereto and their respective heirs, legal representatives, successors and assigns, subject to the following.

   a. This License Agreement shall not be sold, transferred, or assigned (hereinafter, collectively, a “Transfer”) by City without the express written consent of the Property Owner, which consent shall not be unreasonably withheld, delayed or conditioned. Any attempted Transfer in violation of this provision shall be null
and void. City shall give Property Owner thirty (30) days’ prior written notice of any such proposed Transfer.

b. Property Owner shall have the right to Transfer Property Owner’s fee title in the City License Area, and Property Owner’s rights and obligations under this License Agreement as to the Property Owner License Areas, in whole or in part, to any person, partnership, joint venture, firm, or corporation at any time. Any such Transfer shall include the assignment and assumption of all of Property Owners’ rights and obligations set forth in or arising under this License Agreement as to the City License Area or the Property Owner License Areas, or portions thereof so transferred. Prior to the effective date of a proposed Transfer, Property Owner shall notify the City, in writing, of the proposed transfer and deliver to the City a written assignment and assumption, in a form subject to the reasonable approval of the City Attorney (or his or her designee), pursuant to which Property Owner assigns and the successor owner assumes all such rights and obligations (which successor, as of the effective date of the Transfer, shall become the “Property Owner” under this License Agreement), including in the case of a partial transfer, the duty to perform such obligations that must be performed in relation to the portion of the property so transferred prior to the successor owner’s right to develop that portion of the City License Area or undertake construction, repair or maintenance activities in the Property Owner License Areas. The transfer of the rights and obligations of Property Owner to a parent, subsidiary, or other affiliate of Property Owner, or to any successor-in-interest or entity acquiring fifty-one percent (51%) or more of Property Owner’s stock or assets, shall not be deemed a Transfer.

Notwithstanding any such Transfer, the transferring Property Owner shall continue to be jointly and severally liable to the City, together with the successor Property Owner, to perform all of the transferred obligations set forth in or arising under this License Agreement, unless the transferring Property Owner is given a release in writing by City, which release shall be only with respect to the portion of the City License Area or the Property Owner License Area so transferred in the event of a partial Transfer. City shall immediately provide such a release upon the transferring Property Owner’s full satisfaction of all of the following conditions: (i) the transferring Property Owner no longer has a legal or equitable interest in the portion of the City License Area or the Property Owner License Area so Transferred other than as a beneficiary under a deed of trust; (ii) the transferring Property Owner is not then in material Default under this License Agreement and no condition exists that with the passage of time or the giving of notice, or both, would constitute a material Default hereunder; and (iii) the successor Property Owner either provides the City with substitute security equivalent to any security previously provided by the Property Owner to the City, if applicable, to secure performance of the successor Property Owner’s obligations with respect to the property or the portion of the property transferred, or if the transferred obligation is not a secured obligation, the successor Property Owner either provides security reasonably satisfactory to City or otherwise demonstrates to City’s reasonable satisfaction that the successor Property Owner
has the financial resources or commitments available to perform the transferred obligations at the time and in the manner required under this License Agreement.

7. **Reimbursement of Costs.**

To the extent it has not done so prior to the Effective Date, within thirty (30) days after the later of (i) the Effective Date or (ii) receipt of City’s invoice, Property Owner shall reimburse the City for all costs reasonably incurred by City in connection with reviewing this License Agreement. City shall have the right to charge and the Applicant shall pay applicable processing and permit fees to cover the reasonable cost to the City of processing and reviewing applications and plans necessary to carry out the Habitat Obligations in the Habitat Obligation Areas or to construct, repair, and maintain the Public Benefit Improvements.

8. **Default and Remedies.**

In the event of any material default, cross-default, breach, or violation of the terms of this License Agreement ("Default"), the Party alleging a Default shall have the right to deliver a written Notice of Default to the defaulting Party. The Notice of Default shall specify the nature of the alleged Default and provide a reasonable period of time ten (10) days if the Default relates to the failure to timely make a monetary payment due thereunder and not less than thirty (30) days in the event of non-monetary Defaults) in which the Default must be cured (the “Cure Period”). During the Cure Period, the Party charged shall not be considered in Default for the purposes of termination of this License Agreement or institution of legal proceedings. If the alleged Default is cured within the Cure Period, then the Default thereafter shall be deemed not to exist. If a non-monetary Default cannot be cured during the Cure Period, the defaulting party must commence to cure within thirty (30) days after it receives the Notice of Default and thereafter use reasonable diligence to pursue said cure to completion.

a. If Property Owner is alleged to have committed a non-monetary Default and it disputes the claimed Default, it may make a written request for an appeal hearing before the City Council or other applicable City board, commission, or code enforcement official within ten (10) days of receiving the Notice of Default, and a hearing shall be scheduled at the next available City Council or other applicable City board, commission, or code enforcement meeting to consider Property Owner’s appeal of the Notice of Default.

b. If Property Owner alleges a City Default and alleges that City has not cured the Default within the Cure Period, Property Owner may pursue any equitable remedy available to it, including, without limitation, an action for a writ of mandamus, injunctive relief, or specific performance of City’s obligations under this License Agreement, in addition to the right to suspend this License Agreement pursuant to Section 3. Upon a City Default, any resulting delays in Property Owner’s performance thereunder shall neither be a Property Owner Default nor constitute grounds for termination or cancellation of the License Agreement by City and shall, at Property Owner’s option (and provided Property Owner delivers written notice to City within thirty (30) days of the commencement of the alleged City Default), extend the term for a period equal to the length of the delay.
c. Failure or delay by either party in delivering a Notice of Default shall not waive that party’s right to deliver a future Notice of Default of the same or any other Default.


Due to the size, nature, and scope of the WCH Project, the Parties acknowledge it would not be practical or possible to restore the real property underlying the WCH Project to its pre-existing condition once implementation of this License Agreement has begun. Property Owner and City have invested significant time and resources and performed extensive planning and processing of the WCH Project and in agreeing to the terms of this License Agreement, and will be investing additional significant time and resources in implementing the WCH Project in reliance upon the terms of this License Agreement. It is not possible to determine the sum of money which would adequately compensate Property Owner or City for such efforts; and, for these reasons, the City and Property Owner agree that monetary damages would not be an adequate remedy if either City or Property Owner fails to carry out its obligations under this License Agreement. Accordingly, the City and Property Owner stipulate and agree that specific performance of this License Agreement is necessary if the other Party fails to carry out its obligations under this License Agreement.

10. Indemnity of Third Party Claims.

Property Owner shall indemnify, defend, and hold harmless City and City officials, officers, employees, and agents, including without limitation City consultants, attorneys, contractors, and subcontractors (collectively, the “City’s Affiliated Parties”), from and against any Claims against City or City’s Affiliated Parties seeking to challenge, set aside, void, or annul the approval of this License Agreement. Said indemnity obligation shall include payment of attorney’s fees, expert witness fees, and court costs. City shall promptly notify Property Owner of any such Claim and City shall cooperate with Property Owner in the defense of such Claim. If City fails to promptly notify Property Owner of such Claim, Property Owner shall not be responsible to indemnify, defend, and hold City harmless from such Claim until Property Owner is so notified; and if City fails to cooperate in the defense of a Claim, Property Owner shall not be responsible to defend, indemnify, and hold harmless City during the period that City so fails to cooperate or for any losses attributable thereto. Property Owner shall be entitled to control the defense of such Claim; provided, however, that Property Owner shall not have the authority to unilaterally modify or change this License Agreement and Property Owner shall have no authority to bind City to taking any further actions with respect thereto except with City’s prior written consent, which consent City may withhold in its sole and absolute discretion. Property Owner shall have the right to choose legal counsel to defend the Claim (subject to such counsel’s compliance with any applicable conflict of interest or ethical rules that apply) and Property Owner shall pay any attorneys’ fees, expert witness fees, costs, interest, and other amounts that may be awarded against City or Property Owner, or both, resulting from the Claim. Property Owner shall keep City informed of the status of any pending or threatened Claim upon City’s request and promptly after there is any change in the status of the Claim. In the event Property Owner recovers any attorneys’ fees, expert witness fees, costs, interest, or other amounts
from the party or parties asserting the Claim, Property Owner shall be entitled to retain the same.

11. Mortgage Protection.

This License Agreement shall not prevent or limit Property Owner in any manner, in Property Owner’s sole discretion, from encumbering the City License Area or any portion thereof or any improvement thereon by any mortgage, deed of trust, or other security device securing financing with respect to the City License Area; provided however that at the time any portion of the City License Area is to be dedicated to and accepted by the City, any financing encumbrances established by Property Owner must be satisfied and discharged by Property Owner. City acknowledges that lenders providing such financing may require certain License Agreement interpretations and modifications, and agrees upon request, from time to time, to meet with Property Owner and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. City shall not unreasonably withhold or delay its consent to any such requested interpretation provided such interpretation is consistent with the intent and purposes of this License Agreement; provided, however, that City reserves its legislative discretion with respect to making any modifications to this License Agreement and Property Owner agrees to promptly pay or reimburse City for any City costs incurred with respect to its consideration of any such interpretations and modifications, whether or not the same are approved. Any mortgagee of the property shall be entitled to the following rights and privileges:

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

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

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

d. Any mortgagee who comes into possession of the City License Area, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the City License Area, or part thereof, subject to the terms of this License Agreement. Notwithstanding any other provisions of this License Agreement to the contrary, no mortgagee shall have an obligation or duty under this License Agreement to perform any of Property Owner’s obligations or other affirmative covenants of Property Owner thereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be
performed by Property Owner is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City’s performance under this License Agreement.

12. Notice.

All notices given hereunder shall be effective when personally delivered or sent by overnight delivery service to any representative or employee of City or to Property Owner at the respective addresses shown below.

**CITY:**

City of Fullerton  
303 W. Commonwealth Ave.  
Fullerton, CA 92832  
Attn: City Manager

**PROPERTY OWNER:**

Pacific Coast Homes  
145 South State College Blvd., Suite 500  
Brea, CA 92821  
Attn: Jim Pugliese


This License Agreement shall, in all respects, be governed by the laws of the State of California without regard to conflicts of law principles.

14. Modifications or Amendments.

No amendment, change or modification of this License Agreement shall be valid, unless in writing and signed by the Parties hereto.

15. Force Majeure.

Neither City nor Property Owner shall be deemed to be in Default of this License Agreement where failure or delay in performance of any obligations is caused by floods, earthquake, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the Party’s control (including the Party’s employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the Party’s control. If any such events shall occur, the time for performance by either Party of any of its obligations shall be extended for the period of time that such events prevented such performance. Either Party learning of a force majeure event shall, as soon as reasonably practicable, notify the other Party in writing of the occurrence of the event, which notice shall include a statement as to the date on which the force majeure event commenced. Upon the cessation of the force majeure event or its effects which prevented performance hereunder, either Party with knowledge of the cessation of the event shall notify the other Party in writing of such cessation, which notice shall include a statement as to the date on which the force majeure event ceased. In the event the Term of this License Agreement is extended for any reason, the Parties shall cooperate in executing an appropriate memorandum or other writing memorializing the change to the Term. Notwithstanding the foregoing, in no event shall adverse financial or market conditions, interest rates, Property Owner’s inability to obtain financing or its inability to obtain financing on terms acceptable to Property Owner, or Property Owner’s actual or alleged lack of financial capability to perform be deemed to constitute an event or occurrence entitling Property Owner to an extension of its time for performance of any obligation set forth in this License Agreement.
16. **Entire License Agreement.**

This License Agreement, together with the Exhibit attached hereto, constitutes the entire understanding and agreement of the Parties with respect to its subject matter. Any and all prior agreements, understandings or representations with respect to its subject matter, whether written or oral, are hereby canceled in their entirety and are of no force or effect. Notwithstanding the foregoing, it is understood and agreed that this License Agreement is not intended to supersede, modify, or amend the Conditions of Approval or the Subdivision Implementation Agreement entered into by and between Property Owner and City with respect to construction or installation of any of the public improvements for the WCH Project. In addition, and notwithstanding the foregoing, nothing in this License Agreement is intended to supersede, modify, or amend Property Owner’s obligations to undertake the Habitat Obligations in the Habitat Obligation Areas or to construct, repair, and maintain the Public Benefit Improvements in the City License Area and the Property Owner License Area in accordance with applicable federal, state, and local laws, regulations, and rules, including without limitation any warranty obligations that apply after said improvements have been accepted by City.

17. **Headings.**

The caption and paragraph headings used in this License Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the interpretation or construction of any term or provision hereof.

18. **No Other Inducement.**

The execution and delivery of this License Agreement by the parties hereto has not been induced by any representations, statements, warranties or License Agreements other than those expressed herein.

19. **Legal Fees.**

If any Party commences legal proceedings for any relief against the other Party arising out of or to interpret this License Agreement, the non-prevailing Party shall pay the prevailing Party’s legal costs and expenses incurred in connection therewith, including, but not limited to, reasonable attorney’s fees, expert’s fees and court costs. As used herein, “legal proceedings” includes any arbitration proceedings to which the Parties may submit.

20. **Non-Waiver.**

No waiver by any Party hereto of a default of any provision of this License Agreement shall constitute a waiver of any preceding or succeeding default of the same or any other provision hereof.

21. **Counterparts.**

This License Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
22. **Full Authority.**

Each of the Parties to this License Agreement represents and warrants (i) that the signatory to this License Agreement is duly authorized to execute this License Agreement on such Party’s behalf; (ii) that he, she or it has the full right, power, legal capacity and authority to enter into and perform the Parties’ respective obligations hereunder; and (iii) that such obligations shall be binding upon such Party without the requirement of the approval or consent of any other person or entity in connection herewith. Each of the signatories hereto represents and warrants that he or she is duly authorized to execute this License Agreement on the Party’s behalf.

23. **Severability.**

If any one or more of the provisions of this License Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision(s) shall be deemed severable from the remaining provisions of this License Agreement and shall in no way affect the validity of the remaining provisions of this License Agreement.

[Signature Page Follows]
IN WITNESS WHEREOF, the Parties hereto have executed this License Agreement this ____ day of ________, 2015.

**Property Owner:**
Pacific Coast Homes,
a California corporation
By: ______________________
Its: ______________________

**City:**
City of Fullerton,
a California municipal corporation
By: ______________________
Its: ______________________
EXHIBIT A
[West Coyote Hills Trails and Vista Points Improvement Phasing Plan]
Conditions of Approval Exhibit 4

Interpretive Center Construction Scope

Interpretive Center to be constructed in the Robert E. Ward Nature Preserve by Pacific Coast Homes, as identified on the Landscape Concept Plan, West Coyote Hills Specific Plan Amendment 8, Exhibit 36 as “Nature Center.”

Building Size: Not to exceed 2,400 sf

Amenities:

- Lobby with a reception desk and waiting area
- Exhibit area
- Staff office
- Classroom
- Restrooms

Parking lot with capacity for 28 cars and 1 bus

Outdoor amphitheater / outdoor classroom

Outdoor lunch / snack area

Interpretive Nature Discovery Garden

Other Nature Preserve amenities includes improved trails, interpretive and informational regulatory signage/displays
CONDITIONS OF APPROVAL EXHIBIT 5

Open Space Area, Maintenance, Repair, and Security Obligations

Property Owner - Post-Construction Maintenance Obligations

Except as provided in Resolution No. PC 2015-_______, Exhibit A (Conditions for Approval) with regard to public use of the Initial Trail Improvements prior to dedication by the Property Owner and acceptance by the City under Condition M.4, for each phase of construction, in accordance with Condition M.7, the Property Owner shall maintain, keep in good repair, and have responsibility for security (including security consistent with requirements of the USACOE and USFWS) for all improvements within the Open Space Dedication Areas, the Initial Trail Improvements, applicable portions of the Trail/Vista Improvements within each phase, and the Interpretive Center within the Robert E. Ward Nature Preserve (collectively, the “Resources Improvements”) for a period of 90 days from completion of the work (the “Maintenance Period”). Prior to dedication and acceptance by the City, the Property Owner shall assume liability, including responsibility for any injury or damages to persons or property due to or associated with the Resources Improvements. During the Maintenance Period, City shall prepare a final “punch list” of uncompleted or unacceptable items and provide said list to the Property Owner in order for the Property Owner to affect reasonable repairs and/or complete unacceptable items. Upon completion of the “punch list” items or the end of the Maintenance Period, whichever occurs later, City shall accept dedication of each phase of the Resources Improvements. Owner shall guarantee materials and construction for a period of one year, but shall not be responsible for ordinary “wear and tear” nor any damage caused by others, including improper care and maintenance by City or others.

City - Post-Dedication and Acceptance Repair and Maintenance Obligations

Subject to City’s reserved rights concerning defective or deficient work as set forth in the Subdivision Implementation Agreement, from and after City’s acceptance of the applicable Resources Improvements or any of them, City shall assume all responsibility for maintenance, repair, operation, and security (including providing security consistent with requirements of the USACOE and USFWS and general polices and fire protection under applicable City standards) consistent with the condition of the Resources Improvements at the time of dedication. Upon the City’s acceptance of dedication, the City shall assume liability and responsibility for any injury or damages to persons or property due to or associated with the Resources Improvements as provided in Condition M.7. City’s obligations under this section apply to the following items located in or associated with the Resources Improvements:

1. All public recreation trails, including the trail tread, fencing, trail markers, monuments and signage, excluding private feeder trails leading to public trails.

2. All Key Vista sites, including facilities and improvements associated with said sites.

3. All trail head areas, including associated parking and facilities.
4. The Robert E. Ward Nature Preserve Interpretive Center, including associated parking and facilities.

Security Obligations

City shall provide security for the Resources Improvements as follows:

1. General site security consistent with the requirements of the U.S. Army Corps of Engineers and USFWS for the West Coyote Hills Habitat Preserve.

2. General fire and police protection, consistent with City standards for such services as applicable to this site.

Notwithstanding any of the foregoing to the contrary, City shall not bear responsibility for those obligations set forth in the Service Contract between Pacific Coast Homes and the Center for Natural Lands Management or similar entity for the management of the West Coyote Hills Habitat Preserve.
CONDITIONS OF APPROVAL EXHIBIT 6
OPEN SPACE, TRAILS, AND INTERPRETIVE CENTER SUPPORT ENDOWMENT GUIDELINES AND PROCEDURES

Pursuant to PC 2015-_____, Condition for Approval M.9, Pacific Coast Homes (“Property Owner”) shall provide to the City a certain endowment amount for purposes of operations, maintenance, repairs, and security for the Open Space Dedication Areas, the Initial Trail Improvements, the Trail/Vista Point Improvements, and the Interpretive Center (collectively, the “Resources Improvements”) for the creation of an Open Space, Trails and Interpretive Center Support Endowment (“Endowment”) substantially as follows:

1. City shall comply with all applicable Government Code requirements for City’s management of invested funds, including to the extent applicable and not in conflict with said Codes, the Uniform Prudent Management of Institutional Funds Act (California Probate Code Section 18501 et seq.); provided, however, that unless otherwise required by applicable law, City shall not be bound by Probate Code Section 18504(d) (annual appropriation of amount greater than 7% of fair market value of Endowment creates rebuttable presumption of “imprudence”).

2. City shall deposit the Endowment funds into a separate account to be used solely for operations, maintenance, repairs, and security, and related staffing requirements of and directly related to the Resources Improvements.

3. City shall be limited to the use of earned interest only from the Endowment (“Endowment Income”) to fund those operations, maintenance, repairs, replacements, security operations, and related staffing requirements.

4. Except in the event of emergencies, no principal, net appreciation (realized or unrealized), or gains may be utilized to fund operations, maintenance, repairs, replacements, security operations or staffing requirements contemplated under the Endowment.

5. Endowment Income shall first be distributed to (i) support current-year expenses, then, if an excess remains, (ii) to an Income Stabilization Account and, if an excess still remains, (iii) re-capitalized into the Endowment principal.

6. Neither the Endowment nor any Endowment Income or related proceeds shall be used to fund new or other facilities.

7. Under PC 2015-_____, Conditions for Approval M.2-M.7, the Resources Improvements are to be dedicated by Property Owner to the City, and following said dedication to and acceptance by the City, the Resources Improvements shall become the sole property and responsibility of the City including as to any obligations covered by the Endowment, and City accepts responsibility for maintaining endowment funds sufficient to operate, maintain, repair and secure said Improvements.
EXHIBIT 7

GUARANTY AGREEMENT

This Guaranty Agreement, is made and entered into by and between Chevron Land and Development Company (“Chevron”), a Delaware corporation, and the City of Fullerton (“City”), a California municipal corporation, each a “Party” and collectively the “Parties,” as of __________, 2015 (the “Effective Date”), on the following terms and conditions;

RECITALS:

WHEREAS, Pacific Coast Homes, a California corporation (the “Company”) received approval from the City on __________, 2015, of Vesting Tentative Tract Map No. 17609 (“VTTM 17609”), including Conditions of Approval thereto (“Conditions of Approval”), pursuant to Resolution No. PC 2015- ____, for the West Coyote Hills Development Project Site (“Project Site”) owned and operated by the Company in the City;

WHEREAS, Chevron owns 100% of the outstanding stock of the Company; and

WHEREAS, Standard Condition 16 of the Conditions of Approval provides that Chevron shall enter into a guaranty agreement with the City as to certain remediation and indemnity obligations of the Company under Standard Conditions 24 and 25 of the Conditions of Approval.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the Parties agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. Except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section 1.1, shall for all purposes of this Guaranty Agreement, have the meanings herein specified, the following definitions to be equally applicable to both the singular and plural forms of any of the terms herein defined:

Section 1.1.1. The term “Banking Day” shall mean any day other than a Saturday, a Sunday or any other day on which commercial banks in New York or California are authorized or required to be closed.

Section 1.1.2. The term “City” shall mean the City of Fullerton.

Section 1.1.3. The term “Chevron” shall mean Chevron Land and Development Company, until a successor corporation shall have become such pursuant to the applicable provisions hereof, and thereafter Chevron shall mean such successor corporation.

Section 1.1.4. The term “Company” shall mean Pacific Coast Homes.
Section 1.1.5. The term “Conditions of Approval” shall mean the Conditions of Approval attached to and approved with VTTM 17609.

Section 1.1.6. The term “Guaranty Agreement” shall mean this Guaranty Agreement dated as of ____________, as originally executed or as it may from time to time be supplemented, modified or amended as provided herein.

Section 1.1.7. The term “Guaranteed Obligations” shall have the meaning accorded such term in Section 3.1 of this Guaranty Agreement.

Section 1.1.8. The term “Person” shall mean an individual, a corporation, a limited liability entity, a partnership, a joint venture, an association, a joint stock company, a trust, an unincorporated organization or a government or any agency, authority or political subdivision thereof.

Section 1.1.9. The term “Agreement” shall mean the Subdivision Implementation Agreement by and between the City and the Company dated as of ____________, as originally executed or as it may from time to time be supplemented, modified or amended as provided herein.

Section 1.2 Other Defined Terms. Capitalized terms not otherwise defined in this Guaranty Agreement shall have the meaning ascribed thereto in the Conditions of Approval.

ARTICLE II
CHEVRON REPRESENTATIONS

Section 2.1 Chevron Representations. Chevron makes the following representations to City:

Section 2.1.1. Chevron has been duly organized and validly exists under the laws of the State of Delaware and has full corporate power and authority to enter into this Guaranty Agreement and to carry out and consummate all transactions contemplated by this Guaranty Agreement.

Section 2.1.2 The execution and delivery of this Guaranty Agreement and the consummation of the transactions contemplated herein will not conflict with or constitute a breach of or default under Chevron’s charter documents, its By-Laws, or any indenture, or other material agreement or instrument to which Chevron is a party or by which it or its properties are bound, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over Chevron or any of its activities or properties.

Section 2.1.3. This Guaranty Agreement has been duly authorized, executed and delivered by Chevron and constitutes the valid and binding obligation of Chevron.

//

//
ARTICLE III
GUARANTY AND AGREEMENTS

Section 3.1 Guaranty. Chevron hereby unconditionally guarantees to and for the benefit of City the full and prompt performance by the Company of the Company’s obligations in Standard Conditions 24 and 25 of the Conditions of Approval (the “Guaranteed Obligations”); provided however, that Chevron shall have no obligation hereunder until Chevron has received a written demand from City. All payments by Chevron shall be made in lawful money of the United States of America.

Section 3.2 Unconditional Nature of Obligations. The obligations of Chevron under this Guaranty Agreement shall be absolute and unconditional, and shall remain in full force and effect until the entire Guaranteed Obligations shall have been performed, and except as specifically otherwise provided in this Guaranty Agreement, such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, Chevron:

(a) waiver, surrender, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of Company under the Agreement;

(b) failure to give notice to Chevron of the occurrence of an Event of Default under the Agreement;

(c) the waiver, compromise or release of the payment, performance or observance by the Company or by Chevron, respectively, of any or all of the obligations, covenants or agreements of either of them contained in the Agreement or this Guaranty Agreement, as the case may be;

(d) the extension of the time for payment of any principal or interest or for any other payment under the Agreement or of the time for performance of any other obligations, covenants or agreements under or arising out of the Agreement;

(e) the modification, amendment or alteration (whether material or otherwise) of any obligation, covenant or agreement set forth in the Agreement;

(f) the taking or the omission of any of the actions referred to in the Agreement including any acceleration of sums owing thereunder;

(g) any failure, omission, delay or lack on the part of City to enforce, assert or exercise any right, power or remedy conferred on it in the Agreement;
the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting Chevron or Company or any of the respective assets of either of them, or any allegation or contest of the validity of this Guaranty Agreement in any such proceeding;

any defense based upon any legal disability of Company or, to the extent permitted by law, any release, discharge, reduction or limitation of or with respect to any sums owing by Company or any other liability of Company to City;

to the extent permitted by law, the release or discharge by operation of law of Chevron from the performance or observance of any obligation, covenant or agreement contained in this Guaranty Agreement; or

the default or failure of Chevron fully to perform any of its obligations set forth in this Guaranty Agreement.

If any payment by Company to City is rescinded or must be returned by City, the obligations of Chevron hereunder shall be reinstated with respect to such payment.

No set-off, counterclaim, reduction, or diminution of any obligation, or any defense of any kind or nature which Chevron has or may have against City shall be available hereunder to Chevron against City to reduce the payments to it under Section 3.1 of this Guaranty Agreement.

Chevron assumes responsibility for being and remaining informed of the financial condition of Company and of all other circumstances bearing upon the risk of nonpayment of amounts owing under the Agreement which diligent inquiry would reveal and agrees that City shall not have a duty to advise Chevron of information known to it regarding such condition or any such circumstances.

Section 3.3 Proceedings Against Chevron. In the event of a default in the obligations guaranteed pursuant to the terms hereof when and as the same shall become due, City shall have the right to proceed first and directly against Chevron under this Guaranty Agreement without proceeding against Company or exhausting any other remedies which it may have.

Section 3.4 Costs. Chevron agrees to pay all costs, expenses and fees, including all reasonable attorneys’ fees, which may be incurred by City in enforcing or attempting to enforce this Guaranty Agreement following any default on the part of Chevron hereunder, whether the same shall be enforced by suit or otherwise.

Section 3.5 Corporate Existence of Chevron. Chevron covenants that so long as it has any outstanding obligations under this Guaranty Agreement, it will maintain its corporate existence, will not dissolve, sell or otherwise dispose of all of its assets and will not consolidate
with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it; provided that Chevron may, without violating the covenants in this Section 3.5 contained, consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it, or sell or otherwise transfer all of its assets as an entirety and thereafter dissolve, if the surviving, resulting or transferee corporation, as the case may be, (i) shall be incorporated and existing under the laws of one of the States of the United States of America, (ii) assumes, if such corporation is not Chevron, all of the obligations of Chevron hereunder and (iii) is not, after such transaction, otherwise in default under any provisions hereof; and provided further that nothing in this Section 3.5 shall preclude Chevron from disposition or exchange of projects or assets for comparable consideration as part of its normal business activities.

Section 3.6 Reimbursement of Chevron. If at any time after (a) the Company has defaulted in performing the Guaranteed Obligations (a “Defaulted Obligation”) and (b) Chevron has performed such Defaulted Obligation pursuant to Section 3.1 of this Guaranty Agreement, and the obligation involves the payment of money and the City receives all or a portion of the Defaulted Obligation payment from the Company, City hereby agrees to immediately reimburse Chevron in an amount equal to all or whatever portion of the Defaulted Obligation payment it has received from the Company.

ARTICLE IV
MISCELLANEOUS

Section 4.1 Governing Law. This Guaranty Agreement shall be governed by the California law without regard to conflict of law principles.

Section 4.2 Notices. All notices and other communications to Chevron or City may be electronically communicated by facsimile transmission or hand delivered or sent by overnight courier, to any party hereto at the addresses as provided in this Section 4.2:

All communications intended for Chevron shall be sent to:

Chevron Land and Development Company
6001 Bollinger Canyon Road
Building A
San Ramon, CA 94583
Attention: Treasurer

Fax Number: (925) 842-8090

With a copy to:

Pillsbury Winthrop Shaw Pittman LLP
Four Embarcadero Center, 22nd Floor
Post Office Box 2824
San Francisco, CA 94126-2824
Attention: Ronald Van Buskirk
Fax Number (415) 983-1200
All communications intended for City shall be sent to:

City of Fullerton  
303 W. Commonwealth Avenue  
Fullerton, CA 92832  
Attention: City Manager,  
with a copy being sent to the City Attorney (at the same address)

or at any other address or facsimile transmission number of which either party shall have notified the other in any manner prescribed in this Section 4.2.

For all purposes of this Guaranty Agreement, a notice or communication will be deemed effective:

(a) if delivered by hand or sent by overnight courier, on the day it is delivered unless (i) that day is not a day upon which commercial banks are open for the transaction of business in the city specified (a “Local Banking Day”) in the address for notice provided by the recipient or (ii) if delivered after the close of business on a Local Banking Day, then on the next succeeding Local Banking Day, and

(b) if sent by facsimile transmission, on the date transmitted, provided that oral or written confirmation of receipt is obtained from the recipient by the sender unless the date of transmission and confirmation is not a Local Banking Day, in which case on the next succeeding Local Banking Day.

Section 4.3 Banking Days. Except as otherwise provided in this Guaranty Agreement, if any date on which a payment is to be made, notice is to be given or other action taken hereunder is not a Banking Day, then such payment, notice or other action shall be made, given or taken on the next succeeding Banking Day in such place, and in the case of any payment, no interest shall accrue for the delay.

Section 4.4 Successors and Assigns. This Guaranty Agreement shall be binding upon Chevron and its successors and assigns and inure to the benefit of City and its permitted successors and assigns under the Agreement. Except as provided in Section 3.5 hereof, Chevron may not assign its obligations hereunder without the prior written consent of City.

Section 4.5 Guaranty for Benefit of City. This Guaranty Agreement is entered into by Chevron for the benefit of City. Nothing contained herein shall be deemed to create any right in, or permit any Person to enforce or make any claim hereunder or to be in whole or in part for the benefit of any person other than Chevron, City and their respective permitted successors and assigns.

Section 4.6 Term. This Guaranty Agreement shall commence as of the Effective Date and shall continue in existence as long as the obligations of the Company under Standard Conditions 24 and 25 of the Conditions for Approval remain in effect, subject to and including the provisions for suspension and termination provided in Conditions L and N of the Conditions of Approval.
Section 4.7 Amendments and Waivers. Any provision of this Guaranty Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by each of Chevron and City.

Section 4.8 Headings. The article and section headings of this Guaranty Agreement are for convenience only and shall not affect the construction hereof.

Section 4.9 Partial Invalidity. The invalidity of any one or more phrases, sentences, clauses or sections in this Guaranty Agreement shall not affect the validity or enforceability of the remaining portions of this Guaranty Agreement or any part thereof.

Section 4.10 No Waiver, Remedies. No failure or delay by City in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

Section 4.11 Entire Agreement. This Guaranty Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all oral statements and prior writings with respect thereto.

Section 4.12 Execution in Several Counterparts. This Guaranty Agreement may be executed by the Parties in counterparts, all of which shall for all purposes be deemed to be an original; but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, CHEVRON LAND AND DEVELOPMENT COMPANY and _____________________________ have each caused this Guaranty Agreement to be executed in its respective name and on its behalf by its respective duly authorized officer as of the date first above written.

CHEVRON LAND AND DEVELOPMENT COMPANY

By ______________________________

CITY OF FULLERTON

By ______________________________