

Agreement a development moratorium shall be deemed to exist (i) during the period that any action or inaction by County or other public agency that regulates land use, development or the provision of services to the land prevents, prohibits or delays the use of the approval or the construction of the Inland Project or (ii) during the period that any lawsuit is pending concerning this Agreement, any Inland Project Approval or any Subsequent Inland Approval.

ARTICLE 7. AMENDMENTS

Section 7.01. Amendment of Project Approvals. Any Inland Project Approval or Subsequent Inland Approval may, from time to time, be amended or modified in accordance with the terms of the Inland Project Approvals, Subsequent Inland Approvals and Applicable Law.

Section 7.02. Amendment of This Agreement. This Agreement may be amended, or canceled in whole or in part, by mutual consent of Developer and County or their successors in interest to the extent provided in Government Code §65868 and subject to the provisions of Government Code §65867.5. Notice of intention to amend or cancel any portion of this Agreement shall be given in the manner provided by Government Code §65867. No amendment of an Inland Project Approval or Subsequent Inland Approval shall require an amendment to this Agreement. Instead, any such matter automatically shall be deemed to be incorporated into the Inland Project and vested under this Agreement.

ARTICLE 8. ASSIGNMENT, TRANSFER AND NOTICE

Section 8.01. Assignment of Interests, Rights and Obligations. Developer may transfer or assign all or any portion of its interests, rights or obligations under this Agreement, the Inland Project Approvals or Subsequent Inland Approvals to third parties acquiring an interest or estate in the Inland Project or the Inland Project Site or any portion thereof including, without limitation, purchasers or ground lessees of lots, parcels or facilities.

Section 8.02. Transfer Agreements.

- (a) In connection with the transfer or assignment by Developer of all or any portion of the Inland Project or Inland Project Site (other than a transfer or assignment by Developer to an affiliated party, a holder of a mortgage, deed of trust, or similar security interest, or a Non-Assuming Transferee (as defined below)), Developer and the transferee shall enter into a written agreement (a "Transfer Agreement") regarding the respective interests, rights and obligations of Developer and the transferee in and under this Agreement, the Inland Project Approvals, and the Subsequent Inland Approvals. Such Transfer Agreement may (i) release Developer from obligations under the Agreement, the Inland Project Approvals, or the Subsequent Inland Approvals that pertain to that portion of the Inland Project or Inland Project Site being transferred, as described in the Transfer

Agreement, provided that the transferee expressly assumes such obligations, (ii) transfer to the transferee vested rights to improve that portion of the Inland Project or Inland Project Site being transferred and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the transfer or assignment.

- (b) Developer shall seek County's prior written consent to any Transfer Agreement, which consent shall not be unreasonably withheld or delayed. Failure by County to respond within forty-five (45) days to any request made by Developer for such consent shall be deemed to be County's approval of the Transfer Agreement in question. County may refuse to give its consent only if, in light of the proposed transferee's reputation and financial resources, such transferee would not in County's reasonable opinion be able to perform the obligations proposed to be assumed by such transferee. Such determination shall be made by the Director of Planning and Development, and is appealable by Developer to the County Board of Supervisors.
- (c) Any Transfer Agreement shall be binding on Developer, County and the transferee. Upon recordation of any Transfer Agreement in the Official Records of Santa Barbara County, Developer shall automatically be released from those obligations assumed by the transferee therein.
- (d) Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.

Section 8.03. Nonassuming Transferees. Except as otherwise required by Developer in Developer's sole discretion, the burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither a Transfer Agreement nor County's consent shall be required, in connection with the transfer of any single parcel or multiple parcels in the Inland Project Site to a third party that Developer elects will not assume Developer's obligations under this Agreement. The transferee in such a transaction and its successors ("Non-Assuming Transferees") shall be deemed to have no obligations under this Agreement, but shall continue to benefit from the vested rights provided by this Agreement for the duration of the Term. Nothing in this section shall exempt any property transferred to a Non-Assuming Transferee from payment of applicable fees and assessments or compliance with applicable conditions of approval. Notwithstanding the foregoing, nothing in this Section 8.03 shall terminate a Non-Assuming Transferee's obligation to comply with the Project Approvals, Applicable Law or Subsequent Applicable Law or the terms of this Agreement as it relates to the use or development of the Inland Project.

Section 8.04. Notice of Compliance Generally. Within forty-five (45) days following ~~any written request which~~ Developer may make from time to time, County shall execute and deliver to Developer (or to any party requested by Developer) a written "Notice of Compliance," in recordable form, duly executed and acknowledged by County, which certifies that to County's knowledge:

- (a) This Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications;
- (b) There are no current uncured defaults under this Agreement or specifying the dates and nature of any such default;
- (c) Any other information reasonably requested by Developer. The failure to deliver such a statement within such time shall constitute a conclusive presumption against County that this Agreement is in full force and effect without modification except as may be represented by the Developer and that there are no uncured defaults in the performance of the Developer, except as may be represented by the Developer. Developer shall have the right at Developer's sole discretion, to record the Notice of Compliance.
- (d) The Director of Planning and Development is authorized to execute a Notice of Compliance. Developer shall pay County's reasonable cost of providing a Notice of Compliance.

ARTICLE 9. COOPERATION IN THE EVENT OF LEGAL CHALLENGE

Section 9.01. Defense and Cooperation.

- (a) Third Party Litigation. In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of the Agreement or any Inland Project Approval or Subsequent Inland Approval ("Third Party Litigation"), the parties shall cooperate in defending such action or proceeding and shall proceed in accordance with the terms of the Inland Project Approval or Subsequent Inland Approval with respect to defense of such action or proceeding subject to the conditions set forth herein. To the extent Developer is required to indemnify, and offer to defend with counsel jointly selected by Developer and County with counsel jointly selected by Developer and County, the retention of such counsel shall be subject to the terms and conditions of Section 9.01(c).
- (b) Processing During Litigation. The commencement of any Third Party Litigation shall not delay or stop the development, processing or construction of the Inland Project or the processing or approval of any Subsequent Inland Approval or ministerial act, unless the court issues an order enjoining or otherwise preventing the activity. County shall not