

EXCLUSIVE NEGOTIATING AGREEMENT

This EXCLUSIVE NEGOTIATING AGREEMENT (this "Agreement" or "ENA") is dated as of November __, 2012 ("Effective Date"), and is entered into by and between the Orange Unified School District, a public body, corporate and politic (the "District"), and FF Realty LLC, a Delaware limited liability company (the "Developer"). The District and the Developer are sometimes individually referred to as a "Party" and are sometimes collectively referred to as the "Parties."

RECITALS

The Parties enter into this Agreement on the basis of the following facts, understandings and intentions:

A. The District owns that certain real property located at 2190 North Canal Street, in the City of Orange, California, known generally as the Peralta School Site (the "Peralta Site") as identified on the "Site Map" attached hereto as Exhibit A-1, and legally described on Exhibit A-2 attached hereto.

B. On or about February 20, 2012, the District issued that certain Request for Proposals ("RFP") seeking a developer for the objective of "redeveloping the Peralta School Site with income-generating uses under an unsubordinated ground lease; maximizing an income stream to supplement its annual operating and capital project budget; and preserving the ownership to the Peralta School Site."

C. The Developer responded to the RFP with a proposal dated April 30, 2012, and supplemental material for a presentation, together with a presentation and answers to questions of the District at a public meeting on June 7, 2012 (collectively, the "Developer Proposal").

D. The Developer proposes to construct on the Peralta Site a multi-family residential rental apartment complex (the "Project"). A preliminary conceptual design of the Project is depicted on Exhibit B attached hereto.

E. After considering the qualifications and proposal of the Developer, the Board of Education has instructed the District staff to proceed with this Agreement between the District and the Developer to negotiate with each other on an exclusive basis to establish the terms and conditions of a ground lease (the "Ground Lease") that would result in the Developer's ground lease, development and operation of the Project.

F. The Developer and the District are willing to enter into this Agreement setting forth, among other things, the terms pursuant to which the District shall negotiate with the Developer on an exclusive basis for a specified period, as set forth in Article II, regarding the terms of the Ground Lease Option (as defined herein) and Ground Lease. The Developer and the District desire, for the period set forth herein and provided that certain milestones are met (as such milestones are described below), to negotiate diligently and in good faith the terms of the Ground Lease, the Ground Lease Option, and other ancillary documents relating thereto with respect to the Peralta Site. References in this Agreement to the "Ground Lease" shall refer to the Ground Lease itself, along with such other ancillary documents that are entered into relating to

the Ground Lease. The Parties anticipate that, without limitation, in addition to the Ground Lease itself, they will enter into an option agreement (“Ground Lease Option”) pursuant to which Developer shall have the option, based upon its due diligence review of the Peralta Site and its ability to procure entitlements for the Project, to enter into and elect to cause the District to enter into, the Ground Lease. The Ground Lease Option shall provide, without limitation, for a period of ninety (90) days from the date thereof (“Due Diligence Period”) in which Developer shall have the right to conduct its due diligence investigations upon or relating to the Peralta Site and the Project (including, without limitation subject to Article VI of this Agreement, title, survey, environmental, entitlements, etc.), during and after which Developer shall have the right to seek such land use approvals and other entitlements as are necessary for the development of the Project upon the Peralta Site.

G. Through the ENA Period (as defined below), the District staff, consultants and attorneys shall devote substantial time and effort in meeting with the Developer and its representatives in negotiating and preparing the terms of the Ground Lease Option and Ground Lease.

NOW, THEREFORE, and in consideration of the mutual covenants hereinafter contained, it is mutually agreed upon by the Parties as follows:

ARTICLE I

Nature of Negotiations

- 1.1 Good Faith. The District and the Developer agree that for the period set forth in Article II herein, they will negotiate diligently and in good faith to prepare and enter into such agreements or instruments as may be necessary and appropriate to document the transaction agreed upon by the parties, including, without limitation, a Ground Lease Option and a long term Ground Lease.
- 1.2 No Obligation to Enter into the Ground Lease. This Agreement is solely an agreement to negotiate and is not a final agreement. The Parties acknowledge that the Developer Proposal and this Agreement do not establish the essential terms of the Ground Lease Option and the Ground Lease or the development of the Project. The essential terms of the Ground Lease Option and the Ground Lease, if agreed to by the Parties, shall be set forth, if at all, in the Ground Lease Option and the Ground Lease approved and executed by the authorized representatives of each Party. Each Party assumes the risk that, notwithstanding the Agreement and good faith negotiations, the Parties may not enter into the Ground Lease Option and the Ground Lease due to the Parties’ failure to agree upon essential terms of the transaction.
- 1.3 Exclusivity. During the ENA Period, as defined below, the District shall negotiate exclusively and in good faith with the Developer with respect to the Ground Lease Option and the Ground Lease for the Peralta Site, which Ground Lease Option and Ground Lease shall include provisions relating to the development of the Peralta Site. During the ENA Period, the District shall not solicit or entertain offers or proposals from other parties concerning any ground leasing of, development of, or other disposition of the Peralta Site.

- 1.4 Costs. Except as set forth in Article III below, each Party hereto shall be responsible for its own costs and expenses relating to the negotiations contemplated hereunder, including, without limitation, all costs and expenses relating to attorneys' fees, consultant fees, and architectural and engineering fees, costs and expenses.
- 1.5 Ground Lease. The Developer understands and acknowledges that if negotiations culminate in a Ground Lease Option and Ground Lease, such Ground Lease Option and Ground Lease shall be effective only after the Ground Lease Option and the Ground Lease have been considered and have received final approval from the District's Governing Board of Education. In the event that the terms of the Ground Lease Option and the Ground Lease are finalized and the Parties are merely awaiting approval or denial thereof by the District's Governing Board of Education, the ENA Period shall automatically be extended to that date on which the District's Governing Board of Education renders its final approval or disapproval of the Ground Lease Option and the Ground Lease.
- 1.6 Community Outreach. During the ENA Period, Developer shall coordinate community and neighborhood outreach efforts as it reasonably deems appropriate. All community outreach efforts by Developer shall clearly identify that the District's Governing Board has not approved a specific project for the development of the Peralta Site nor entered into a Ground Lease or Ground Lease Option.
- 1.7 Communication. With respect to the proposed development of the Peralta Site, each Party agrees that it shall fully cooperate with and keep fully informed the other Party to the extent practicable regarding any communications with the City or any other governmental entity having jurisdiction over the Peralta Site, or any community representatives.
- 1.8 Work Product. In the event that this Agreement is terminated due to Developer's default, Developer shall deliver to the District at no charge, in an "as is, where is" condition, non-proprietary, site-specific third-party generated reports relating to the condition of the Peralta Site (e.g., surveys, soils reports, environmental assessments) generated during the ENA Period by or on behalf of the Developer in connection with the Peralta Site to which the Developer has rights to transfer. The District acknowledges that any such documents, reports, or instruments shall be delivered to the District without any representation or warranty whatsoever by the Developer or any preparer of such documents, reports, or instruments as to the accuracy, completeness, or utility of the same, but shall be delivered and assigned solely for informational purposes only, and any reliance on the same by the District or any other third party shall be at the District's or other third party's sole and absolute risk.

ARTICLE II
Term of Negotiation

- 2.1 Term. The term of this Agreement shall commence on the Effective Date and shall end on the earlier of: (i) six (6) months from the Effective Date, subject to extension as provided in Section 1.5 above (the "ENA Period"), or (ii) the date on which this Agreement terminates as provided in Section 4.1 below. The ENA Period may be extended by the mutual written agreement of the Developer and the District as approved by the Board of Education.

ARTICLE III
Bid Security

- 3.1 Bid Security. The District acknowledges that, as of April 30, 2012, it has received a cashier's check in the amount of Fifty Thousand Dollars (\$50,000) (the "Bid Security") from the Developer and payable to the District. Twenty-Five Thousand Dollars (\$25,000) of the Bid Security shall be used for the purpose of covering the District's costs to negotiate this Agreement and the remaining Twenty-Five Thousand Dollars (\$25,000) of the Bid Security shall be credited without interest against the Minimum Rent due under the Ground Lease. Twenty-Five Thousand Dollars (\$25,000) of the Bid Security shall be nonrefundable to Developer under any circumstances, unless otherwise stated herein and except upon default by the District, and the other Twenty-Five Thousand Dollars (\$25,000) of the Bid Security shall immediately be refunded to Developer in the event that, prior to the expiration of the ENA Period, the parties have not entered into the Ground Lease Option. The District hereby acknowledges and agrees that the aforesaid Bid Security constitutes good, adequate, and valid consideration on the part of the Developer for the District's entering into this Agreement and complying with the terms and conditions of the same.

ARTICLE IV
Termination

- 4.1 Right to Terminate.
- (a) Notwithstanding anything to the contrary herein, either Party may terminate this Agreement by providing written notice to the other Party at any time during the ENA Period if (1) the other Party is in default under this Agreement. Neither the District nor the Developer shall be deemed to be in default of its respective obligations under this Agreement unless the non-defaulting Party shall deliver written notice of any alleged default which the defaulting Party fails to cure within ten (10) business days after delivery of such notice, and if such breach is capable of cure, but cannot reasonably be cured within such ten (10) business day period, then within such longer period (not to exceed forty-five (45) days from the delivery of the original notice), provided that the defaulting Party promptly

undertakes to cure within the initial ten (10) business day period and thereafter diligently prosecutes such cure to completion.

- (b) If the Developer and the District have not fully negotiated and agreed upon the terms of the Ground Lease Option and the Ground Lease prior to the end of the ENA Period, then this Agreement shall automatically terminate and, except as expressly provided herein, neither party shall have any further right or obligation hereunder.
- (c) Upon the execution the Ground Lease Option and the satisfaction and/or waiver of any conditions precedent or contingencies thereto, this Agreement shall automatically terminate and, except as expressly provided herein, neither Party shall have any further right or obligation hereunder.

4.2 Effect of Termination. In the event this Agreement is terminated as provided in this Section 4, no Party shall have any liability hereunder following such termination except as otherwise expressly set forth in this Agreement.

4.3 District's Remedies; Liquidated Damages:

- (a) DISTRICT AND DEVELOPER AGREE THAT IN THE EVENT OF A DEFAULT OR BREACH OF THIS AGREEMENT BY DEVELOPER OR DISTRICT WHICH RESULTS IN THE TERMINATION OF THIS AGREEMENT PURSUANT TO SECTION 4.1 ABOVE, ACTUAL DAMAGES TO THE PARTIES WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN. THEREFORE, (1) IN THE EVENT OF A DEFAULT OR BREACH OF THIS AGREEMENT BY DEVELOPER WHICH RESULTS IN THE TERMINATION OF THIS AGREEMENT BY DISTRICT PURSUANT TO SECTION 4.1 ABOVE, THE PARTIES AGREE THAT, AS DISTRICT'S SOLE REMEDY, IN LIEU OF ALL OTHER REMEDIES THAT MAY BE AVAILABLE TO DISTRICT UNDER THIS AGREEMENT, AT LAW, OR IN EQUITY, DISTRICT SHALL RETAIN THE BID SECURITY (\$50,000) WHICH SHALL CONSTITUTE LIQUIDATED DAMAGES TO DISTRICT, AND NOT AS A PENALTY; AND (2) IN THE EVENT OF A DEFAULT OR BREACH OF THIS AGREEMENT BY DISTRICT WHICH RESULTS IN THE TERMINATION OF THIS AGREEMENT BY DEVELOPER PURSUANT TO SECTION 4.1 ABOVE, THE PARTIES AGREE THAT, AS DEVELOPER'S SOLE REMEDY, DISTRICT SHALL RETURN TO DEVELOPER THE BID SECURITY AND PAY DEVELOPER FIFTY THOUSAND DOLLARS (\$50,000) AS LIQUIDATED DAMAGES TO DEVELOPER, AND NOT AS A PENALTY. IN PLACING THEIR INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE. THE PARTIES AGREE THAT THE AMOUNTS IDENTIFIED ABOVE ARE A FAIR ESTIMATE OF THOSE DAMAGES WHICH WOULD BE SUFFERED BY THE PARTIES IN THE EVENT OF SUCH A TERMINATION OF THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH

LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO THE PARTIES PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

Developer's Initials _____ Date _____

District's Initials _____ Date _____

**ARTICLE V
Compliance with Laws**

- 5.1 The Developer shall comply with all applicable laws (including, without limitation, all applicable ordinances of the City) and all applicable resolutions of the District, and the Ground Lease Option and/or the Ground Lease shall so provide. The Developer acknowledges that prevailing wages might be required to be paid in connection with the development of and construction on the Peralta Site by the Developer (and any transferee of the Developer) and shall be the sole responsibility of the Developer.
- 5.2 The District and the Developer also acknowledge that all applicable CEQA requirements shall be complied with at the Developer's sole cost.

**ARTICLE VI
Right of Entry**

- 6.1 Developer is aware and understands that the Peralta Site is currently occupied pursuant to that certain ground lease ("Current Lease") dated September 14, 1994 between the District, as landlord, and Peralta Golf Partnership ("Tenant"), as tenant. The Current Lease expires on May 31, 2015. Accordingly, the District agrees that, the District shall cooperate with Developer in obtaining the right, on behalf of Developer and its consultants, contractors, agents, employees, partners and lenders (actual or prospective), and other designees (collectively, with Developer, "Developer Parties"), pursuant to the Ground Lease, the right to enter upon the Peralta Site to conduct its due diligence investigations of the Peralta Site. The Ground Lease shall contain commercially reasonable provisions relating to such access rights including, without limitation, provisions substantially conforming to those set forth in Sections 6.2 through 6.5 below.
- 6.2 Prior to access by the Developer onto the Peralta Site, the Developer shall: (a) deliver to the District written evidence that the Developer has procured the insurance required under Section 6.3 below; (b) to the extent practicable, provide the District with prior written or telephonic notice of any intended entry and in any event, give the District twenty-four (24) hours prior telephonic or written notice of any intended access which involves invasive testing or boring on the Peralta Site or which may result in any impairment of the use of any portion of the Peralta Site; (c) access the Peralta Site in a safe manner; (d) conduct no invasive testing or boring without the written consent of the District, not to be unreasonably withheld, conditioned, or delayed; (e) allow no dangerous

or hazardous condition created by the Developer or the Developer's agents to remain following such access; (f) comply with all laws and obtain all permits required in connection with such access; (g) conduct inspections and testing, in such a manner as to minimize interference with the Tenant's use and enjoyment of the Peralta Site pursuant to the Current Lease, to the extent reasonably practical; and (h) restore the Peralta Site to its condition prior to any entry by the Developer, to the extent that the need for such restoration is caused by the acts of any Developer Parties.

6.3 Insurance.

- (a) Prior to entering the Peralta Site, the Developer and/or its representatives shall deliver to the District a certificate or certificates of insurance, together with a copy of the endorsements to the applicable policies naming the District as an additional insured, evidencing policies of commercial general liability insurance on an occurrence basis and automobile liability insurance covering all owned, hired and non-owned vehicles brought onto the Peralta Site, issued by an insurance company licensed to do business in California and having a rating of at least "A: VII" by A.M. Best Company, with limits of at least \$2,000,000 combined single limit per occurrence for bodily or personal injury or death, for property damage and loss of use thereof. Such insurance coverage shall: (i) be primary and any insurance maintained by the District shall be excess and noncontributory, (ii) include contractual liability coverage with respect to the Developer's indemnity obligations set forth in the Ground Lease (it being understood, however, that the availability of such insurance shall not serve to limit or define the scope of the Developer's indemnity obligations under the Ground Lease Option and/or the Ground Lease in any manner whatsoever), and (iii) not contain any exclusion for "insured versus insured" claims as respects any potential claim by the District against the Developer. Such certificate(s) shall also provide that the coverage may not be cancelled, non-renewed or reduced without at least thirty (30) days' prior written notice to the District, or 10 days in the event of non-payment of premium.
- (b) Prior to conducting any tests, examinations, inspections, studies or the like on the Premises which will be of an invasive nature, the Developer shall first obtain the prior written consent of the District, not to be unreasonably withheld, conditioned, or delayed, and shall deliver to the District: (i) a proposal from the engineer who will perform the invasive testing (the "Engineer"), outlining the scope of such tests and studies and (ii) a certificate of insurance evidencing a policy of pollution liability coverage on an occurrence basis naming the Engineer as insured, together with a copy of the endorsement to the corresponding policy naming the District as an additional insured, issued by an insurance company licensed to do business in California and having a rating of at least "A: VII" by A.M. Best Company, with a limit of at least \$1,000,000 per occurrence, a deductible of not more than \$5,000 and a copy of an endorsement to such policy providing that such insurance coverage is primary and that any insurance maintained by the District shall be excess and noncontributory. The Developer shall also maintain statutory Workers' Compensation insurance in the amounts required by applicable statute

and Employers Liability coverage of at least \$1,000,000 per occurrence. In addition to the foregoing evidence of insurance, the Developer shall, upon the District's written request, deliver to the District a copy of any insurance policy required to be maintained by the Developer hereunder.

6.4 Indemnification. The Developer hereby agrees to protect, indemnify, defend and hold the District and the officials, trustees, employees, agents, representatives, consultants and contractors of the District free and harmless from and against any and all claims, costs, expenses, losses, damages, liabilities, fees, fines and penalties (collectively, "Claims") resulting from the Developer's access to the Peralta Site or its exercise of its rights under this right of entry, including any inspections, surveys, tests or studies performed by the Developer or its employees, consultants or contractors, except to the extent such claims result from the gross negligence or willful misconduct of the District or its agents, employees or representatives. The Developer shall keep the Peralta Site free and clear of mechanics' liens and materialmen's liens related to the Developer's inspection of the Peralta Site.

6.5 Environmental Matters.

(a) As of the Effective Date: (1) The Developer shall represent and warrant that it shall not permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Material in, on, under, upon or affecting the Peralta Site in violation of any Environmental Law (as defined below); and (2) the District shall represent and warrant that: (i) it has no knowledge of the presence of any Hazardous Material located in, on, under, upon or affecting the Peralta Site in violation of any Environmental Law; (ii) no notice has been received by or on behalf of the District from, and the District has no knowledge that notice has been given to any predecessor, owner or operator of the Peralta Site by, any governmental entity or any person or entity claiming any violation of, or requiring compliance with any Environmental Law for any environmental damage in, on, under, upon or affecting the Peralta Site; and (iii) it will not permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Material in, on under, upon, or affecting the Peralta Site in violation of any Environmental Law.

- (b) Indemnification of District. The Developer and its heirs, successors, assigns, trustees, beneficiaries shall indemnify, defend and hold harmless the District, its officers, directors, shareholders, representatives and their respective successors and assigns from and against all judgments, suits, proceedings, liabilities, losses, costs, judgments, orders, obligations, damages, expenses or claims (whether by third parties or governmental authorities) arising out of or in any way relating to any such claims, costs, remediation, cleanup or damages which are incurred by the District as a result of a release or discharge of Hazardous Materials, as defined below, onto or in the Peralta Site caused by the acts or omissions of the Developer, its agents, representatives or employees during its possession of the Peralta Site.
- (c) Scope of Indemnification. The indemnity obligation includes, but is not limited to, remedial, removal, response, abatement, cleanup, legal, investigative, and monitoring costs, penalties, fines and disbursements, (including, without limitations, reasonable attorneys', consultants', and experts' fees) of any kind whatsoever, which may at any time be imposed upon or incurred by any indemnitee under this Section 6.5 arising, directly or indirectly: (i) from requirements of any federal, state or local environmental law; (ii) in connection with claims by governmental authorities or third parties related to the condition of the demised premises; and/or (iii) from the failure of any indemnitor under this Section 6.5, or any other party connected with such indemnitor, to obtain, maintain, or comply with any environmental permit.
- (d) Hazardous Materials. The term "Hazardous Materials" means any hazardous, toxic or dangerous substance, waste, containment, pollutant, gas or material, including, without limitation, gasoline, waste oil and other petroleum products and constituents thereof, which are now or may become regulated under any federal, state or local statute, regulation, ordinance or other law now or hereafter in effect, including, without limitation, any substance, waste or material which is now or hereafter: (i) designated as a "hazardous substance" under the Federal Water Pollution Control Act and/or the Comprehensive Environmental Response, Compensation and Liability Act; (ii) designated as a hazardous waste or regulated substance pursuant to the Resource Conservation and Recovery Act; (iii) designated or listed as a hazardous material under the Hazardous Material Transportation Act; or (iv) is in any way regulated under the laws of the State of California.
- (e) Environmental Laws. The term "Environmental Laws" means all applicable federal, state, and local environmental health and safety statutes, ordinances, codes, rules, regulations, orders, and decrees regulating, relating to or imposing liability or standards concerning, or in connection with, Hazardous Materials.

ARTICLE VII
Miscellaneous

- 7.1 Brokerage Commission. Other than as disclosed herein, the District and the Developer hereby represent and acknowledge that neither Party has engaged a broker or finder to represent such Party in connection with this Agreement. The District and the Developer hereby indemnify and hold the other free and harmless from and against any and all costs and liabilities including, without limitation attorneys' fees, for causes of action or proceedings which may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying Party in connection with this Agreement. The foregoing representation and indemnity shall survive the termination of this Agreement. Developer hereby discloses to the District that Developer has entered into an agreement with Jones Lang LaSalle pursuant to which Developer shall pay a brokerage fee to such entity, and Developer hereby agrees that the foregoing indemnity by Developer shall cover and include such brokerage fee.
- 7.2 Assignments. Developer may not assign its rights or delegate its obligations hereunder without the prior written consent of the District, which may be given or withheld in the District's sole and absolute discretion. Notwithstanding the foregoing, Developer shall have the right, without the District's consent being required, to assign this Agreement to a parent entity of Developer, a wholly owned subsidiary of Developer, an entity in which Developer or a parent entity of Developer owns a majority economic interest.
- 7.3 Notices. Any notice, consent, approval or disapproval to be given or other document to be delivered by any Party to the other or others hereunder may be delivered in person to an officer of any Party, or may be delivered by Federal Express, other private commercial delivery or courier service for next business day delivery, or may be deposited in the United States mail, duly certified or registered, return receipt requested, with postage prepaid, and addressed to the Party for whom intended, as follows:

If to District:

Orange Unified School District
1401 North Handy Street
Orange, CA 92867
Telephone: (714) 628-4059
Facsimile: (714) 628-4046
Attn: Joe Sorrera, Assistant Superintendent, Business Services
Email: joes@orangeusd.org

With a copy to:

Atkinson, Andelson, Loya, Ruud & Romo
12800 Center Court Drive, Suite 300
Cerritos, California 9070
Telephone: (562) 653-3200
Facsimile: (562) 653-3333
Attn: Constance J. Schwindt, Esq.
Email: cschwindt@aalrr.com

If to Developer:

FF Realty, LLC
5510 Morehouse Drive, Suite 200
San Diego, California 92121
Attn: Mr. Larry Scott
Telephone: (858) 824-6487
Facsimile No.: (858) 625-8828
E-Mail: lscott@ffres.com

With a copy to:

KENNERLY, LAMISHAW, & ROSSI LLP
707 Wilshire Boulevard, Suite 1400
Los Angeles, California 90017
Attention: Robert L. Madok, Esq.
Telephone No.: (213) 312-1250
Facsimile No.: (213) 312-1266
E-Mail: robertmadok@klrfirm.com

And

FF REALTY LLC
5510 Morehouse Drive, Suite 200
San Diego, CA 92121
Attention: Jon A. MacDonald, Esq.
Telephone No.: (858) 626-8216
Facsimile No.: (858) 457-8082
E-Mail: jmacdonald@ffres.com

Notice may also be given by electronic mail ("Email") or by facsimile transmission ("Fax") to any Party at the respective Email address or Fax number given above and, with respect to a Fax, marked "RUSH - PLEASE DELIVER IMMEDIATELY," provided receipt of such transmission shall be confirmed by follow-up notice within seventy-two (72) hours by another method authorized above. Any Party hereto may from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified. Any notice shall be deemed served or delivered upon actual receipt or first attempted

delivery (as shown by the records of the U.S. Postal Service or private delivery service) at the address listed above.

For purposes of the negotiations contemplated by this Agreement, Developer's representative shall be Lawrence Scott. Email: lscott@ffres.com, Phone: ((858) 824-6487); Fax: ((858) 625-8828) and District's representative shall be Joe Sorrera, Assistant Superintendent, Business Services. Email: joes@orangeusd.org Phone: ((714) 628-4059; Fax: (714) 628-4046.

7.4 Confidentiality. The District shall not be liable for use or disclosure of any such Confidential Information if it:

- (a) is or becomes a part of the public knowledge or literature without breach of this Agreement by the District; or
- (b) is known to the District without restriction as to further disclosure when received; or
- (c) is independently developed by the District as demonstrated by written records; or
- (d) becomes known to the District from a third party who had a lawful right to disclose it and without breach of its Agreement; or
- (e) is disclosed to a third party pursuant to the authority of the District hereunder; or
- (f) is required to be disclosed pursuant to any applicable legal requirement or legal process issued by any court or any competent governmental authority or rules or regulations of any relevant regulatory body, including, but not limited to, disclosure under the California Public Records Act, (Gov. Code § 6250 et seq.). It is understood that the District is subject to the California Public Records Act. If a request under the California Public Records Act is made to view the Developer's confidential information, the District shall notify the Developer of the request and the date that such records will be released to the requester unless the Developer obtains a court order enjoining that disclosure. If the Developer fails to obtain a court order enjoining that disclosure, the District will release the requested information on the date specified.

7.5 Purpose of Agreement. It is expressly understood and agreed by the Parties hereto that this is an Agreement regarding the conduct of contract negotiations only and does not convey any interest in the Peralta Site whatsoever. It is further agreed and understood that this Agreement does not imply any obligation on the part of the District or the Developer to enter into any agreement that may result in negotiations contemplated herein.

7.6 Amendment. This Agreement may only be amended by a document in writing signed by the Parties hereto and approved or ratified by the Board of Education.

7.7 Authority. The persons executing this Agreement on behalf of the Parties hereto warrant that: (i) such Party is duly organized and existing; (ii) they are duly

authorized to execute and deliver this Agreement on behalf of said Party; (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound.

7.8 Governing Law; Disputes.

- (a) The Agreement shall be interpreted in accordance with California law, without giving effect to choice of law provisions.
- (b) The Parties agree that in the event of litigation, exclusive venue shall be in Orange County, California.
- (c) In the event of any legal action or other proceeding between the Parties regarding this Agreement or the Peralta Site (an "Action"), the prevailing Party shall be entitled to the payment by the losing Party of the prevailing Party's reasonable attorneys' fees, court costs and litigation expenses, as determined by the court.
- (d) Likewise, the prevailing Party in any Action shall be entitled, in addition to the amounts set forth in Section 7.8 (c) above, to the payment by the losing Party of the prevailing Party's reasonable attorneys' fees, court costs and litigation expenses incurred in connection with: (i) any appellate review of the judgment rendered in the Action; and (ii) any proceeding to enforce a judgment in such Action. It is the intent of the Parties that the provisions of this Section 7.8(d) shall be distinct and severable from the other rights of the Parties, shall survive the entry of judgment and shall not be merged into such judgment.

7.9 Superseded by Ground Lease. Following mutual execution by the Parties of the Ground Lease Option and approval or ratification by the Board of Education, this Agreement shall be of no further force or effect, except that the indemnity set forth in Agreement shall remain in effect with respect to claims arising during the term of this Agreement or as otherwise stated in this Agreement. In the event of any conflict between the provisions of this Agreement and the Ground Lease Option and the Ground Lease approved and executed by the Parties, the provisions of the Ground Lease Option and the Ground Lease shall for all purposes prevail.

7.10 Non-liability of Officials and Employees. No member, official, representative, director, staff member, attorney, consultant or employee of either Party (the "Defaulting Party") shall be personally liable to the other Party or any successor in interest thereto (the "Other Party") in the event of any default or breach by the Defaulting Party or for any amount which may become due to the Other Party with respect to this Agreement, the Project or the Peralta Site.

7.11 Ground Lease Approval. If the negotiations hereunder culminate in a Ground Lease Option and a Ground Lease, such Ground Lease Option and Ground Lease will be considered for approval by the District's Board of Education. The concurrence of the

District staff with the terms and provisions of a proposed Ground Lease Option and Ground Lease under any provisions of this Agreement shall not be construed or interpreted as the District approving or accepting such terms. Such concurrence shall be viewed as nothing more than the willingness of the District's staff to recommend to the Board of Education that the District approve such Ground Lease Option and Ground Lease. The Ground Lease Option and the Ground Lease shall only become effective after it has been considered and approved by the Board of Education after notice and, if required by law or required by the Board, the conduct of a public hearing.

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

DISTRICT:	DEVELOPER:
THE ORANGE UNIFIED SCHOOL DISTRICT , a public body, corporate and politic	FF REALTY LLC , a Delaware limited liability company
By: _____	By: _____
Name: Joe Sorrera	Name: _____
Its: Assistant Superintendent, Business Services	Its: _____

Approved on _____ 2012 (Board Minutes dated _____ 2012)

EXHIBIT "A-1"

Site Map

PARCEL MAP

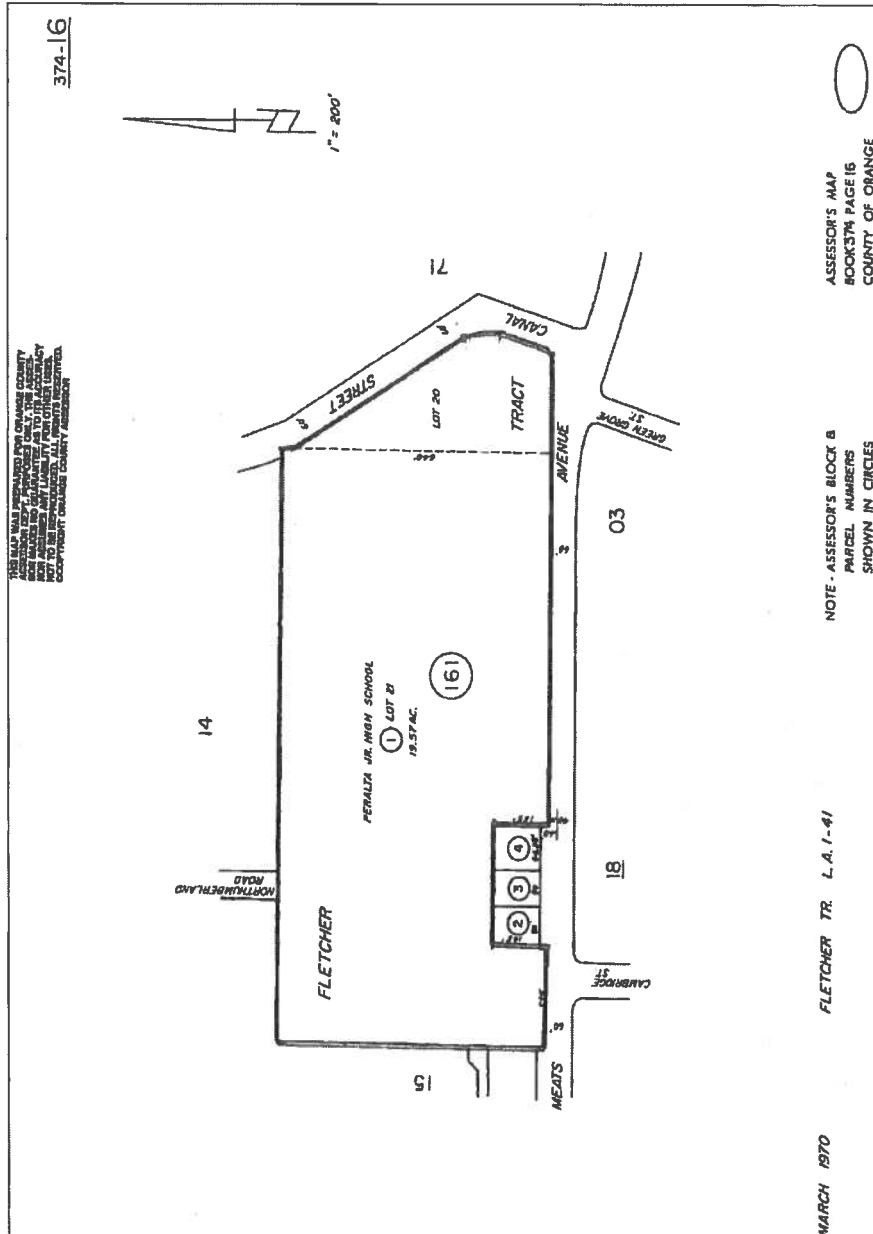


EXHIBIT "A-2"

Legal Description

THAT PORTION OF LOTS 20 AND 21 OF THE FLETCHER TRACT, IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 3 PAGE(S) 320 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT DISTANT EAST 7.52 CHAINS FROM THE SOUTHWEST CORNER OF SAID LOT, SAID POINT BEING THE SOUTHEAST CORNER OF LAND DESCRIBED IN THE DEED TO LLOYD L. SMITH, RECORDED IN BOOK 441 PAGE(S) 370, OFFICIAL RECORDS; THENCE NORTHERLY AT THE EASTERLY LINE OF SAID LLOYD L. SMITH'S LAND, 10 CHAINS TO THE NORTHEAST CORNER THEREOF; THENCE EASTERLY ALONG A LINE PARALLEL TO THE SOUTH LINE OF SAID LOT 21 TO THE NORTHWEST CORNER OF LAND DESCRIBED IN THE DEED TO W. H. SMITH RECORDED IN BOOK 168 PAGE(S) 298 OF DEEDS, SAID NORTHWEST CORNER BEING 10 CHAINS NORTH OF THE SOUTH LINE OF SAID LOT 21; THENCE SOUTH ALONG THE WEST LINE OF SAID W. H. SMITH'S LAND TO THE SOUTHWEST CORNER THEREOF, SAID SOUTHWEST CORNER BEING EAST 15.04 CHAINS FROM THE SOUTHWEST CORNER OF SAID LOT 21; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 21 TO THE POINT OF BEGINNING.

PARCEL 2: BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 21 OF THE FLETCHER TRACT, AS PER MAP RECORDED IN BOOK 3 PAGE(S) 320 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, 15.04 CHAINS EAST FROM THE SOUTHWEST CORNER OF SAID LOT; RUNNING THENCE NORTH PARALLEL TO THE WEST LINE OF SAID LOT, 10 CHAINS; THENCE EAST PARALLEL TO THE SOUTH LINE OF LOT 21 AND OF LOT 20 OF THE SAID FLETCHER TRACT TO THE CENTERLINE OF THE SANTA ANA VALLEY IRRIGATION COMPANY'S PIPE LINE, AS DESCRIBED IN A CERTAIN DEED DATED MAY 22, 1941 AND SHOWN ON A MAP ATTACHED THERETO, EXECUTED BY THOMAS J. HIGHT AND OTHERS IN FAVOR OF THE COUNTY OF ORANGE; THENCE SOUTHERLY ALONG THE CENTERLINE OF SAID SANTA ANA VALLEY IRRIGATION COMPANY'S PIPE LINE TO AN INTERSECTION WITH THE SOUTH LINE OF LOT 20 OF THE SAID FLETCHER TRACT; AND THENCE WEST ALONG THE SOUTH LINE OF LOTS 20 AND 21 OF THE SAID FLETCHER TRACT TO THE POINT OF BEGINNING.

PARCEL 3: THAT PORTION OF LOT 21 OF THE FLETCHER TRACT, IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 3 PAGE(S) 320 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTH 660.00 FEET ALONG THE WEST LINE OF SAID LOT; THENCE EAST 496.32 FEET PARALLEL WITH THE SOUTH LINE OF SAID LOT; THENCE SOUTH 515.00 FEET PARALLEL WITH SAID WEST LINE; THENCE WEST 256.32 FEET PARALLEL WITH SAID SOUTH LINE; THENCE SOUTH 145.00 FEET PARALLEL WITH SAID WEST LINE; THENCE WEST 240.00 FEET TO THE POINT OF BEGINNING.

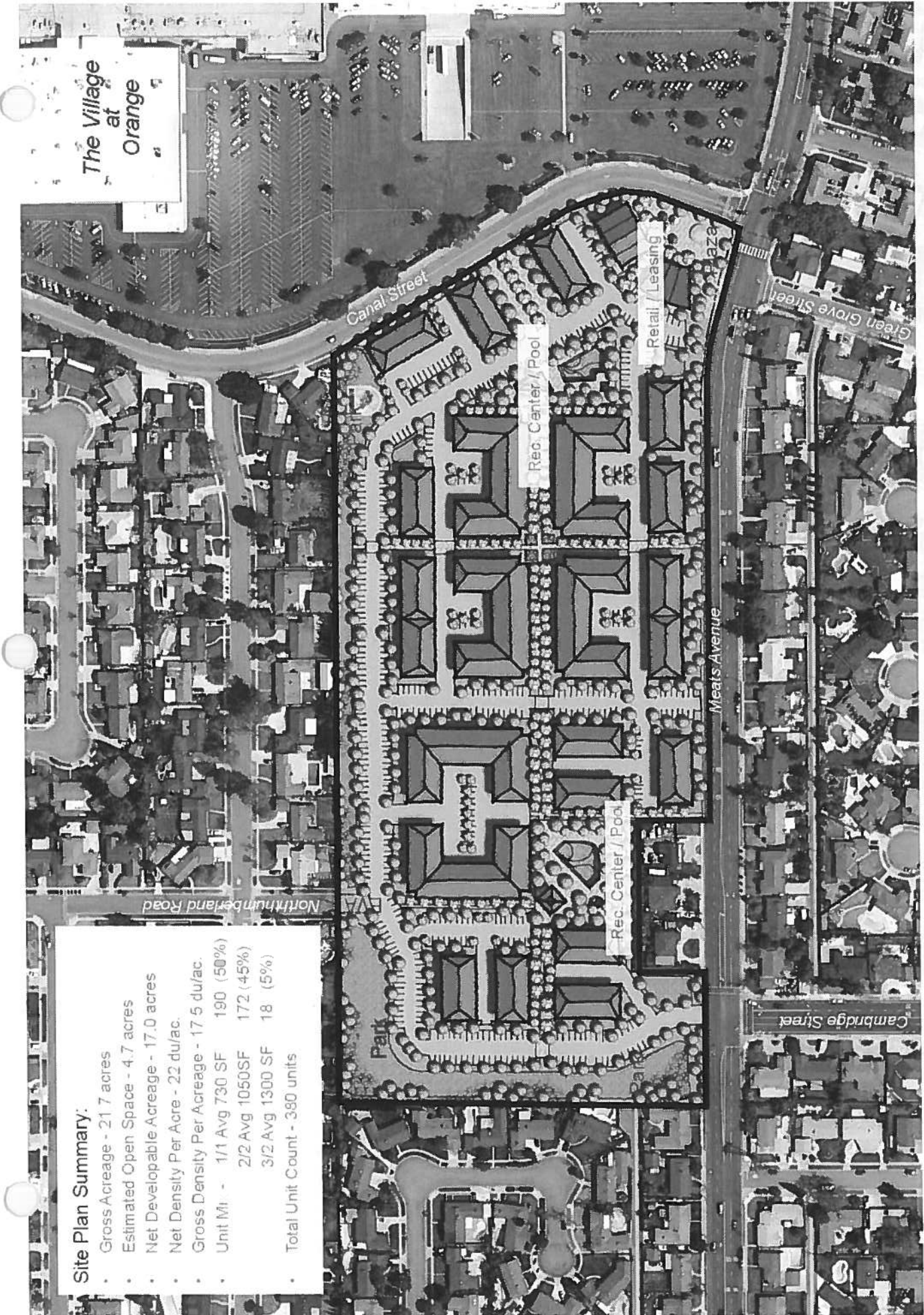
EXHIBIT "B"

Preliminary Conceptual Design of The Project

Site Plan Summary:

- Gross Acreage - 21.7 acres
- Estimated Open Space - 4.7 acres
- Net Developable Acreage - 17.0 acres
- Net Density Per Acre - 22 du/ac.
- Gross Density Per Acreage - 17.5 du/ac.
- Unit Mix - 1/1 Avg 730 SF 190 (50%)
2/2 Avg 1050SF 172 (45%)
3/2 Avg 1300 SF 18 (5%)
- Total Unit Count - 380 units

The Village at Orange



Developer:
FAIRFIELD RESIDENTIAL

Orange USD - The Village at Peralta
Orange, CA