

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL**

**TO:**

City of El Monte  
City Hall - West  
11333 Valley Boulevard  
El Monte, California 91731  
Attn: Office of the City Attorney

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(Space above Line for Use by Recorder)

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payment of a recording fee pursuant to  
Government Code Section 27383

**DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF EL MONTE  
AND  
[DEVELOPER]**

This **DEVELOPMENT AGREEMENT** (“Agreement”) is dated as of June 1, 2018 by and among the CITY OF EL MONTE (“City”) and [ENTITY NAME], a [DEVELOPER ENTITY TYPE, E.G. LIMITED LIABILITY COMPANY] (“Developer”) and \_\_\_\_\_ (the “Property Owner”). This Agreement shall take effect on the “Effective Date,” as this term is hereafter defined. City, Developer and the Property Owner may each be referred to herein individually as a “Party” or collectively as the “Parties.”

### **RECITALS**

WHEREAS, in 1996, the California Legislature approved Proposition 215, also known as the Compassionate Use Act (“CUA”), which was codified under Health and Safety Code Section 11262.5 et sec. and was intended to enable persons in need of medical marijuana for specified medical purposes, such as cancer, anorexia, AIDS, chronic pain, glaucoma and arthritis, to obtain and use marijuana under limited circumstances and where recommended by a physician. The CUA provides that “nothing in this section shall be construed or supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.”;

WHEREAS, in 2004, the California Legislature enacted the Medical Marijuana Program Act (Health & Saf. Code, § 11362.7 et seq.) (“MMP”), which clarified the scope of the CUA, created a state-approved voluntary medical marijuana identification card program, and authorized cities to adopt and enforce rules and regulations consistent with the MMP. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances;

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”). MCRSA establishes a statewide regulatory system for the cultivation, processing, transportation, testing, manufacturing, and distribution of medical marijuana to qualified patients and their primary caregivers;

WHEREAS, in September 2015, the California State Legislature enacted, and Governor Brown signed into law three bills – Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 – which together comprise the Medical Marijuana Regulation and Safety Act (the “MMRSA”). The MMRSA created a comprehensive dual state licensing system for the cultivation, manufacture, retail, sale, transport, distribution, delivery, and testing of medical cannabis;

WHEREAS, on July 19, 2016, the City Council of the City (the “City Council”) adopted Interim Urgency Ordinance No. 2889 to establish a temporary moratorium on medical “Commercial Cannabis Activities,” as defined under the MMRSA and in Section 1.4 of this Agreement, for a period of 45 days and extended such moratorium for an additional period of 22 months and 15 days under Interim Urgency Ordinance No. 2894, on August 16, 2016;

WHEREAS, on August 2, 2016 the City Council adopted Ordinance No. 2890 to reinforce existing permanent prohibitions on medical marijuana dispensaries and cultivation;

WHEREAS, the MMRSA was renamed the Medical Cannabis Regulation and Safety Act

(the “MCRSA”), under Senate Bill 837 in June 2016, which also made included substantive changes to the applicable state laws, which affect the various state agencies involved in regulating cannabis businesses as well as potential licensees;

WHEREAS, On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”) was approved California voters as Proposition 64 and became effective on November 9, 2016, pursuant to the California Constitution (Cal. Const., art. II, § 10(a)). Proposition 64 legalized the nonmedical use of cannabis by persons 21 years of age and over, and the personal cultivation of up to six (6) cannabis plants. On November 15, 2016, the City Council adopted Urgency Ordinance No. 2902 to prohibit outdoor personal marijuana cultivation and establish regulations and a permitting process for indoor personal marijuana cultivation;

WHEREAS, AUMA also created a state regulatory and licensing system governing the commercial cultivation, testing, and distribution of nonmedical cannabis, and the manufacturing of nonmedical cannabis products. On December 6, 2016, Urgency Ordinance No. 2905 was adopted by the City Council to establish a temporary moratorium on nonmedical Commercial Cannabis Activities for a period of 45 days and extended such moratorium for an additional period of 22 months and 15 days under Urgency Ordinance No. 2907, on January 10, 2017;

WHEREAS, on June 27, 2017, Governor Brown signed the Legislature-approved Senate Bill 94. SB 94 combined elements of the MCRSA and AUMA to establish a streamlined singular regulatory and licensing structure for both medical and nonmedical cannabis activities given that there were discrepancies between the MCRSA and AUMA. The new consolidated provisions under SB 94 is now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) to be governed by the California Bureau of Cannabis Control. MAUCRSA refers to medical cannabis as “medicinal cannabis” and nonmedical/recreational cannabis as “adult-use cannabis”;

WHEREAS, on September 16, 2017, Governor Brown signed Assembly Bill 133 into law, which provided cleanup and substantive to MAUCRSA, including the removal of the requirement that licensed premises remain “separate and distinct” for each license type;

WHEREAS, MAUCRSA grants local jurisdictions discretion over whether businesses engaged in Commercial Cannabis Activity may operate in a particular jurisdiction and, if authorized, where within such jurisdiction;

WHEREAS, on November 8, 2017, the City Council approved Ordinance No. 2824 to: (i) prohibit all adult-use Commercial Cannabis Activities in the City; (ii) prohibit medicinal commercial cannabis retailers, dispensaries, microbusinesses, and deliveries; (iii) establish regulations and a discretionary review process for medicinal-only Commercial Cannabis Activities, including cultivation, distribution, manufacturing, and laboratory testing in portions of the M-1 (light manufacturing), M-2 (general manufacturing), and O-P (professional office) zones;

WHEREAS, Ordinance No. 2924 allows persons to engage in permissible medicinal Commercial Cannabis Activities upon the City’s issuance of a “Commercial Medicinal Cannabis Business Permit,” which requires City approval of a conditional use permit, development

agreement, and other applicable approvals for each proposed Commercial Cannabis Activity project;

WHEREAS, Developer seeks to improve, develop, and/or use real property to operate a Commercial Medicinal Cannabis, Manufacturing, and Distribution business in the City, in strict accordance with the California Cannabis Laws and the El Monte Municipal Code, as each may be amended from time to time (the "Project");

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature adopted Government Code Section 65864 et seq. (the "Development Agreement Statute"), which authorizes City and an individual with an interest in real property to enter into a development agreement that establishes certain development rights in real property;

WHEREAS, consistent with the requirements of the Development Agreement Statute, City adopted El Monte Municipal Code Chapter 17.84, ("City Development Agreement Ordinance") authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City;

WHEREAS, Government Code Section 65865 requires that an applicant for a development agreement hold a legal or equitable interest in the real property that is the subject of the development agreement;

WHEREAS, Developer has a leasehold interest in that certain real property located at [ADDRESS] in the City of El Monte, County of Los Angeles, State of California, Assessor's Parcel Number [APN], upon which Developer intends to implement the Project (the "Site");

WHEREAS, the Site is more particularly described in the legal description attached hereto as **Exhibit "A,"** the Site Plan attached hereto as **Exhibit "B,"** and the Floor Plan attached hereto as **Exhibit "C";**

WHEREAS, the Site is located within the [TYPE OF ZONE] Zone in the City where Medicinal Cannabis Cultivation, Medicinal Cannabis Manufacturing, and Medicinal Cannabis Distribution are allowed;

WHEREAS, Developer affirms that it has a leasehold interest in the Site pursuant to a lease with the owner of the Site [PROPERTY OWNER] (the "Property Owner") for the purpose of carrying out the Project;

WHEREAS, the legal owner of the Site has provided notarized written consent to: (1) all terms of this Agreement, including, but not limited to, Sections 6.1 and 9.6 of this Agreement; and (2) and recordation of this Agreement against the title of the Site. Such written consent agreement is attached hereto as **Exhibit "D."**

WHEREAS, Government Code Section 65867.5 and the City Development Agreement Ordinance require the El Monte Planning Commission ("Planning Commission") to conduct a public hearing to review a proposed development agreement;

WHEREAS, on [DATE], the Planning Commission, in a duly noticed and conducted public hearing, considered recommendation of approval of this Agreement to the City Council;

WHEREAS, on [DATE], the Planning Commission recommended City Council approval of Ordinance No. [NUMBER] and this Agreement, which would allow Developer to operate the Project at the Site;

WHEREAS, on [DATE], pursuant to Government Code Section 65867.5 and the City Development Agreement Ordinance, and following a duly noticed and conducted public hearing, the City Council reviewed, considered, and adopted a first reading of Ordinance No. [NUMBER], and on [DATE], the City Council approved for second reading and adopted Ordinance No. [NUMBER], authorizing the City's entrance into this Agreement;

WHEREAS, this Agreement is entered into pursuant to the Development Agreement Statute and the City Development Agreement Ordinance;

WHEREAS, the City and Developer desire to enter into this Agreement to (i) facilitate the orderly development of the Site; (ii) create a physical environment that is consistent with and complements City's goals and visions; (iii) protect natural resources from adverse impacts; (iv) improve, upgrade, and create additional community facilities and infrastructure, enhance services, and assist in implementing the goals of the General Plan; and (vi) reduce the economic risk of development of the Site to both City and Developer; and

WHEREAS, the Parties intend through this Agreement to allow Developer to develop and operate the Project in accordance with the terms of this Agreement.

**NOW, THEREFORE,** in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

## AGREEMENT

### ARTICLE 1 GENERAL PROVISIONS

**Section 1.1. Findings.** City hereby finds and determines that entering into this Agreement furthers the public health, safety, and general welfare and is consistent with City's General Plan, including all text and maps in the General Plan.

**Section 1.2. Recitals.** The Recitals above are true and correct and are hereby incorporated into and made a part of this Agreement. In the event of any inconsistency between the Recitals and the provisions of Articles 1 through 9 of this Agreement, the provisions of Articles 1 through 9 shall prevail.

**Section 1.3. Exhibits.** The following "Exhibits" are attached to and incorporated into this Agreement:

Exhibit "A":	Legal Description
Exhibit "B":	Site Plan
Exhibit "C":	Floor Plan
Exhibit "D"	Property Owner Consent

Exhibit "E"	Additional Community Benefits
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**Section 1.4. Definitions.** In this Agreement, unless the context otherwise requires, the terms below have the following meanings:

- a. "Additional Insureds" has the meaning set forth in Section 5.1 of this Agreement.
- b. "Additional City Approvals" means all ministerial and discretionary permits, licenses, or other similar entitlements that must be secured by the Developer in order to develop the Project on the Site, in addition to the Conditional Use Permit and the Commercial Medicinal Cannabis Business Permit.
- c. "Agreement" means this Development Agreement and all Exhibits attached hereto.
- d. "Annual Community Benefits Fees" has the meaning set forth in Section 4.2 of this Agreement.
- e. "AUMA" has the meaning as set forth in the Recitals, above.
- f. "California Building Standards Codes" means the California Building, Mechanical, Plumbing, Electrical, Fire or other similar codes set forth in the California Code of Regulations, as may adopted by the City, with amendments, and set forth in the El Monte Municipal Code.
- g. "California Cannabis Laws" means AUMA, MAUCRSA, CUA, MMP, and the regulations adopted and promulgated by the State Licensing Authorities pursuant to such laws, as such laws and regulations may be amended from time to time.
- h. "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code. Cannabis and the term "marijuana" may be used interchangeably.
- i. "Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Medicinal cannabis.
- j. "Cannabis Distribution" means the procurement, sale, and transport of Medicinal cannabis and/or Medicinal cannabis products between those persons with requisite state and local government licenses to conduct permissible Commercial Cannabis Activities.
- k. "Cannabis Manufacturing" means the production, preparation, propagation, or compounding of Medicinal cannabis or Medicinal cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination

of extraction and chemical synthesis at a fixed location that packages or repackages Medicinal cannabis or Medicinal cannabis products or labels or relabels its container.

l. “Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

m. “Canopy Space” means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site. For example, if Developer has a cultivation area of 1,000 square feet located above another cultivation area of 1,000 square feet, Developer’s total Canopy Space shall be 2,000 square feet, even though the total cultivation area may only occupy 1,000 square feet of ground space.

n. “CEQA” means the California Environmental Quality Act, as set forth in Division 13 (Commencing with Section 21000) of the California Public Resources Code, and the CEQA Guidelines as set forth in Title 14 (Commencing with Section 15000) of the California Code of Regulations.

o. “City” means the City of El Monte, a municipal corporation and general law city.

p. “City Council” means the City of El Monte City Council as described in El Monte Municipal Code Chapter 2.04.

q. “City Development Agreement Ordinance” has the meaning set forth in the Recitals, above.

r. “City Manager” means the City Manager of the City of El Monte, or his or her designee.

s. “Commercial Cannabis Activity,” plural, “Commercial Cannabis Activities,” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of cannabis or a cannabis product that requires a state license pursuant to MAUCRSA.

t. “Commercial Medicinal Cannabis Business Permit” means the City permit, as defined in El Monte Municipal Code Section 5.18.050, authorizing permissible Medicinal Commercial Cannabis Activity issued by the City Manager, which can only be issued upon City approval of a conditional use permit, development agreement, and Additional City Approvals for each proposed Medicinal Commercial Cannabis Activity project;

u. “Community Benefits” has the meaning set forth in Section 4.1 of this Agreement.

v. “Community Benefits Fees” has the meaning set forth in Section 4.2 of this Agreement.

w. “Community Benefits Fund” has the meaning set forth in Section 4.2 of this Agreement.

x. “Complaining Party” has the meaning set forth in Section 8.2 of this Agreement.

y. "Conditional Use Permit" means a conditional use permit issued by the City to Developer pertaining to Developer's development of the Project, pursuant to El Monte Municipal Code Chapter 17.24 and Section 17.24.040. In the event that the Conditional Use Permit may not have been issued to the Developer as of the Effective Date, the City hereby reserves its discretion under the police power to approve, conditionally approve, or deny the issuance of the Conditional Use Permit.

z. "CUA" has the meaning set forth in the Recitals, above.

aa. "Defaulting Party" has the meaning set forth in Section 8.2 of this Agreement.

bb. "Developer" means [DEVELOPER NAME], which shall reflect the owner or owners listed on the application for Commercial Medicinal Cannabis Business Permit.

cc. "Development Agreement Statute" has the meaning set forth in the Recitals, above.

dd. "Effective Date" has the meaning set forth in Section 1.6 of this Agreement.

ee. "Exhibits" has the meaning set forth in Section 1.3 of this Agreement.

ff. "Gross Receipts" means total revenue received or receivable by the Developer from any Commercial Cannabis Activity on the Site or from operation of the Project on the Site, including: all sales; the total amount of compensation received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares, or merchandise; and gains realized from trading in stocks or bonds, interest discounts, rents, royalties, fees, commissions, dividends, or other remunerations, however designated. Included in "gross receipts" shall be all receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts allowed and taken on Commercial Cannabis Activity sale;
2. Credit allowed on property accepted as part of the purchase price Commercial Cannabis Activity and which property may later be sold, at which time the payment of the credit balance on such property shall be included as "gross receipts";
3. Any tax required by law to be included in or added to the purchase price Commercial Cannabis Activity and collected from the consumer or purchaser;
4. Such part of the sale price of property returned by purchasers in any Commercial Cannabis Activity upon rescission of a contract of sale as is refunded either in cash or by credit;
5. Receipts of refundable deposits in any Commercial Cannabis Activity, except that such deposits when forfeited and taken into income of the business shall not be excluded.

The intent of this definition is to ensure that in calculating the payments required under Article 4 of this Agreement, all sales related to Commercial Cannabis Activity or any other cannabis and cannabis products at the Site or through the Project are captured. This definition shall therefore be given the broadest possible interpretation consistent with this intent.

gg. “Labor Peace Agreement” means an agreement between the Developer and any bona fide labor organization that, at a minimum, prohibits labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the Developer’s business. This agreement means that the Developer has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the Developer’s employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the Developer’s employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

hh. “Living Wage” means one hundred fifty percent (150%) more than the applicable amount of the hourly minimum wage mandated by California state or federal law, whichever is greater.

ii. “Property Owner” has the meaning as set forth in the Recitals, above.

jj. “Major Amendment” means an amendment that shall have a material effect on the terms of the Agreement. A Major Amendment also has the meaning set forth in Section 1.9 of this Agreement. Major Amendments shall require approval by the City Council.

kk. “Marijuana” has the same meaning as cannabis and those terms may be used interchangeably.

ll. “MAUCRSA” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified as Business and Professions Code Section 26000 et seq., as may be amended from time to time, and as additionally set forth in the Recitals, above.

mm. “MCRSA” has the meaning set forth in the Recitals, above.

nn. “Medicinal” with regard to cannabis or cannabis products means cannabis or cannabis products, respectively, intended to be sold or used pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

oo. “Minor Amendment” means a clerical amendment to the Agreement that shall not materially affect the terms of the Agreement and any amendment described as minor herein. A Minor Amendment also has the meaning set forth in Section 1.9 of this Agreement.

pp. [RESERVED]

qq. “Non-Payment Penalty” has the meaning set forth in Section 4.5 of this Agreement.

rr. “Notice of Non-Payment Penalty” has the meaning set forth in Section 4.5 of this Agreement.

ss. “Planning Commission” means the City of El Monte Planning Commission as described in El Monte Municipal Code Chapter 2.24.

tt. “Project” has the meaning set forth in the Recitals, above.

uu. “Quarterly Community Benefits Fees” has the meaning set forth in Section 4.2 of this Agreement.

vv. “Quarterly Report” has the meaning set forth in Section 4.4 of this Agreement.

ww. “Regulatory Fees” mean charges owed by the Developer to the City for the City’s costs incurred in processing applications related to the Project, administering its cannabis-related ordinance with regard to the Project, and monitoring legal compliance of the Project on the Site, including, but not limited to building and safety-related inspections by the City.

xx. “Site” has the meaning as set forth in the Recitals, above.

yy. “State Cannabis Licenses” means licenses to conduct Commercial Cannabis Activities issued by a State Licensing Authority to Developer for the Development of the Project on the Site.

zz. “State Licensing Authority” means the state agency responsible for the issuance, renewal, or reinstatement of State Cannabis Licenses, or the state agency authorized to take disciplinary action against a business licensed under the California Cannabis Laws.

aaa. “Term” has the meaning set forth in Section 1.7 of this Agreement.

**Section 1.5. Project is a Private Undertaking.** The Parties agree that the Project is a private development and that City has no interest therein, except as authorized in the exercise of its governmental functions. City shall not for any purpose be considered an agent of Developer or the Project.

**Section 1.6. Effective Date of Agreement.** This Agreement shall become effective (the “Effective Date”) upon the date when all of the following conditions have been satisfied: (i) the City ordinance approving this Agreement becomes effective; (ii) this Agreement has been fully executed by the Parties; and (iii) the evidence of insurance coverage in favor of the City has been provided to the City as set forth in Article 5 of this Agreement.

**Section 1.7. Term.** The term of this Agreement (the “Term”) shall be five (5) years commencing from the Effective Date. This Agreement may be extended upon the conclusion of such five-year period for a maximum of three (3) one (1) year extension terms, in the sole and absolute discretion of the City, provided that the City issues written notice of its intent to so extend this Agreement no less than thirty (30) days before the expiration of the initial 5-year period or any one-year extension term. Nothing in this Section 1.8 shall prohibit or otherwise restrict the termination of this Agreement in accordance with Section 1.9.

**Section 1.8. Termination.** This Agreement shall terminate upon the occurrence of any of the following events:

- a. the expiration of the Term;
- b. the Developer no longer has a possessory, legal or other equitable interest in the Site;
- c. the Developer has ceased all operations related to the Project on the Site;
- d. mutual written consent of the Parties;

- e. abandonment of Developer's Conditional Use Permit applicable to the Project pursuant to El Monte Municipal Code Section 17.24.090 including the failure of the Developer to commence operation of the Project on the Site within the time presented following the approval of the Conditional Use Permit;
- f. revocation of Developer's Conditional Use Permit pursuant to El Monte Municipal Code Section 17.24.100;
- g. revocation of Developer's Commercial Medicinal Cannabis Business Permit for the Project, if not appealed by Developer;
- h. City Council upholding of the revocation of Developer's Commercial Medicinal Cannabis Business Permit for the Project, if an initial revocation finding by the City Manager is appealed to the City Council by Developer;
- i. unauthorized assignment of interest of the Developer in the Project or n the Site pursuant to Section 9.1 of this Agreement; or
- j. as set forth in Section 8.4 of this Agreement.

The rights and obligations of the Parties set forth in Sections 5.4, 9.2, 9.3, 9.4, and 9.6 of this Agreement and any right or obligation of the Parties in this Agreement, which, by its express terms or nature and context is intended to survive termination of this Agreement, will survive any such termination.

**Section 1.9. Amendment of Agreement.** This Agreement shall be amended only by mutual consent of the Parties. All amendments shall be in writing. The City Council hereby expressly authorizes the City Manager to approve a Minor Amendment to this Agreement, upon notification to the City Council. A Major Amendment to this Agreement must be approved by the City Council in accordance with El Monte Municipal Code Section 17.84.300. The City Manager shall, upon consultation with the City Attorney, have the discretion to determine if an amendment is a Minor Amendment or a Major Amendment. Nothing in this Agreement shall be construed as requiring a noticed public hearing for an amendment of this Agreement, unless required by law.

**Section 1.10. Fees.** Developer agrees to pay all Regulatory Fees, Community Benefit Fees, and any other applicable fees to the City related to Developer's development and operation of the Project on the Site, including, but not limited to those fees referenced in Article 4 of this Agreement.

## **ARTICLE 2 DEVELOPMENT OF THE PROPERTY**

**Section 2.1. Right to Develop.** During the Term, Developer shall have the right to develop the Project on the Site, consistent with California Cannabis Laws, this Agreement, the Conditional Use Permit, Additional City Approvals if any, the Commercial Medicinal Cannabis Business Permit, the El Monte Municipal Code, and State Cannabis Licenses.

**Section 2.2. Permitted Uses and Operational Requirements.** Developer shall be permitted to develop, construct, and use the Site to carry out the Project, including Medicinal

Cannabis Cultivation, Medicinal Cannabis Manufacturing, and Medicinal Cannabis Distribution business activities, consistent with California Cannabis Laws, this Agreement, the Conditional Use Permit, Additional City Approvals, the Commercial Medicinal Cannabis Business Permit, the El Monte Municipal Code, and State Cannabis Licenses.

**Section 2.3. Additional Entitlements, Approvals, and Permits.** Successful implementation of the Project may require the Developer to obtain additional approvals and permits from City and other local and state agencies. In connection with the consideration and issuance of any such Additional City Approval which is not ministerial in nature, the City reserves its discretion under the police power to approve, conditionally approve, or deny the issuance of each City Additional Approval. City shall comply with CEQA in the administration of all Additional City Approvals.

**Section 2.4. Conditional Use Permit.** Pursuant to El Monte Municipal Code Chapter 17.24 and Section 17.24.040, Developer shall not engage in the permitted uses set forth above pertaining to the Project on the Site without first obtaining the Conditional Use Permit for the conduct of Medicinal Cannabis Cultivation, Medicinal Cannabis Manufacturing, and Medicinal Cannabis Distribution business activities.

**Section 2.5. Commercial Medicinal Cannabis Business Permit.** Pursuant to El Monte Municipal Code Section 5.18.070(A), no person may engage in Commercial Cannabis Activity in the City without obtaining a Commercial Medicinal Cannabis Business Permit issued upon City approval of a Development Agreement, Conditional Use Permit, and Additional City Approvals.

**Section 2.6. State Cannabis Licenses.** Pursuant to California Cannabis Laws, Developer shall not engage in the permitted uses set forth above pertaining to the Project on the Site without first obtaining State Cannabis Licenses to conduct Medicinal Cannabis Cultivation, Medicinal Cannabis Manufacturing, and Medicinal Cannabis Distribution business activities on the Site.

### **ARTICLE 3 APPLICABLE RULES, REGULATIONS, AND OFFICIAL POLICIES**

**Section 3.1. Rules on Permitted Uses.** Unless otherwise provided in this Agreement, the City's ordinances, resolutions, rules, regulations, and official policies governing the permitted uses of the Site and the maximum height, bulk, and size of proposed buildings related to the Project on the Site shall be those in force and effect at the time of the City's issuance of the Commercial Medicinal Cannabis Business Permit for the development of the Project at the Site.

**Section 3.2. Rules on Design and Construction.** Unless otherwise provided in this Agreement, the ordinances, resolutions, rules, regulations, and official policies governing the design, improvement, improvement, and construction standards and specifications applicable to the Project shall be those in force and effect at the time of the City's issuance of the Commercial Medicinal Cannabis Business Permit for the development of the Project at the Site.

**Section 3.3. Uniform Codes Applicable.** Unless otherwise provided in this Agreement, the Project shall be improved and constructed in accordance with the provisions of the California Building Standards Codes in effect at the time as of the time of the City's consideration of approval of the relevant permit sought by Developer for the Project.

**Section 3.4. Changes mandated by Federal or State Law.** The Site and Project shall be subject to subsequently enacted state or federal laws or regulations that may preempt the El

Monte Municipal Code, or mandate the adoption or amendment of local regulations, or are in conflict with this Agreement or local rules or guidelines associated with the Cannabis Business Pilot Program. As provided in Section 65869.5 of the Development Agreement Statute, in the event state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Upon discovery of a subsequently enacted federal or state law meeting the requirements of this Section, City or Developer shall provide the other Party with written notice of the state or federal law or regulation, and a written statement of the conflicts thereby raised with the provisions of the Patterson Municipal Code or this Agreement. Promptly thereafter, City and Developer shall meet and confer in good faith in a reasonable attempt to modify this Agreement, as necessary, to comply with such federal or state law or regulation provided City shall not be obligated to agree to any modification materially increasing its obligations or materially adversely affecting its rights and benefits hereunder. In such discussions, City and Developer will attempt to preserve the terms of this Agreement and the rights of Developer derived from this Agreement to the maximum feasible extent while resolving the conflict. If City, in its judgment, determines it necessary to modify this Agreement to address such conflict, City shall have the right and responsibility to do so, and shall not have any liability to Developer for doing so or be considered in breach or default of this Agreement. City also agrees to process, in accordance with the provisions of this Agreement, Developer' proposed changes to the Project that are necessary to comply with such federal or state law and that such proposed changes shall be conclusively deemed to be consistent with this Agreement without further need for any amendment to this Agreement.

**Section 3.5. Health and Safety Emergencies.** In the event that any future public health and safety emergencies arise with respect to the development contemplated by this Agreement, City agrees that it shall attempt, if reasonably possible as determined by City in its discretion, to address such emergency in a way that does not have a material adverse impact on the Project. If City determines, in its discretion, that it is not reasonably possible to so address such health and safety emergency, to select that option for addressing the situation which, in City's discretion, minimizes, so far as reasonably possible, the impact on development and use of the Project in accordance with this Agreement, while still addressing such health and safety emergency in a manner acceptable to City.

**Section 3.6. Reservation of Authority.** Any other provision of this Agreement to the contrary notwithstanding, the development of the Project shall be subject to new or modified ordinances, resolutions, rules, regulations, and official policies related to the following:

- a. Regulatory Fees imposed on the Developer by the City, which are charged by the City to cover its actual and reasonable expenses incurred in processing permits, licenses, and other entitlements related to the Project, administering its cannabis-related ordinance with regard to the Project, and monitoring legal compliance of the Project on the Site, including, but not limited to building and safety-related inspections by the City;
- b. Procedural regulations related to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals, and other similar procedural matters; and
- c. Regulations, including, but not limited to, the California Building Standards Codes, necessary to protect the public health and safety so long as such regulations are generally

applicable and do not impose a severe and significant financial burden on the Developer or materially delay the development or carrying out of the Project as contemplated in this Agreement.

**ARTICLE 4  
COMMUNITY BENEFITS, RECORDKEEPING, REPORTING, AND PROCESSING**

**Section 4.1. Intent.** The Parties acknowledge and agree that this Agreement confers substantial private benefits on the Developer that will place burdens on City infrastructure, services, and neighborhoods and that the private benefits provided to the developer should be balanced with commensurate public benefits for the community (“Community Benefits”). The Parties agree that the payment of Community Benefits Fees are proportionate to the amount Developer would pay in the form of an applicable tax on Commercial Cannabis Activities in the City related to the Project.

**Section 4.2. Community Benefits Fees.** In addition to Developer’s obligation to compensate the City through its Regulatory Fees, Developer shall be obligated to provide Community Benefits as follows, which shall collectively be referred to as “Community Benefit Fees”:

a. “Quarterly Community Benefits Fees.” Within twenty (20) days following the conclusion of each fiscal year quarter following the City’s issuance of a Commercial Medicinal Cannabis Business Permit for the Project, Developer make payment to the City equivalent to its percentage of Gross Receipts, or other applicable fee metric, pursuant to the following fee schedule:

Cultivation	Twelve Dollars (\$12) per square foot of Canopy Space
Manufacturing	Two Percent (2%) of Gross Receipts
Distribution	One Percent (1%) of Gross Receipts

Should the Developer cease one (1) of the three (3) Commercial Cannabis Activities referenced above, the Developer shall notify the City in writing within five (5) days of such cessation and the Developer shall make payments of Quarterly Community Benefits Fees to the City in accordance with the following schedule:

Cultivation/Manufacturing	Twelve Dollars (\$12) per square foot of Canopy Space/Four Percent (4%) of Gross Receipts
Cultivation/Distribution	Twelve Dollars (\$12) per square foot of Canopy Space/One and One-Half Percent

	(1.5%) of Gross Receipts
Manufacturing/Distribution	Four Percent (4%) of Gross Receipts/One and One-Half Percent (1.5%) of Gross Receipts

Should the Developer cease two (2) of the three (3) Commercial Cannabis Activities referenced above, the Developer shall notify the City in writing within five (5) days of such cessation and the Developer shall make payments of Quarterly Community Benefits Fees to the City in accordance with the following schedule:

Cultivation	Twelve Dollars (\$12) per square foot of Canopy Space
Manufacturing	Six Percent (6%) of Gross Receipts
Distribution	Two and One-Half Percent (2.5%) of Gross Receipts

The City reserves the right to deem the Developer’s cessation of Cannabis Cultivation, Cannabis Manufacturing, or Cannabis Distribution as a default of this Agreement subject to Article 8 of this Agreement, notwithstanding the City’s acceptance of Quarterly Community Benefits Fees.

b. “Annual Community Benefits Fees.” Within thirty (30) days the City’s issuance of a Commercial Medicinal Cannabis Business Permit for the Project, and on the anniversary of such date, Developer shall make a payment to the City in the amount of Fifty Thousand Dollars (\$50,000), which the City shall deposit into a separate City fund (the “Community Benefits Fund”) exclusively dedicated to investment in Community Benefits related to the Project, including, but not limited to those Community Benefits discussed with the Developer in Phase 3 of the City’s approved application process.

**Section 4.3.** Additional Community Benefits.

a. Developer agrees to provide additional Community Benefits as set forth in **Exhibit “E”** to this Agreement, including, but not limited to those Community Benefits discussed with the Developer in Phase 3 of the City’s approved application process; and

b. The additional Community Benefits referenced in Subsection (a) of Section 4.3 and contained in **Exhibit “E”** shall include the following labor and employment-related elements:

1. The Developer’s shall provide a Living Wage (as defined in the Recitals, above) to its employees;

2. If Developer employs ten (10) or more employees, it shall enter into a Labor Peace Agreement, as defined in the Recitals, above; and
3. The Developer shall utilize its reasonable best efforts to ensure that at least fifteen percent (15%) of its employees are persons domiciled in the City, but the Developer warrants that at least ten percent (10%) of its employees shall be persons domiciled in the City.

**Section 4.4. Quarterly Reports.** In addition to the recordkeeping requirements set forth in El Monte Municipal Code Section 5.18.180, within twenty (20) days following the conclusion of each fiscal year quarter following the City’s issuance of a Commercial Medicinal Cannabis Business Permit for the Project, Developer shall submit a so-called “Quarterly Report” to the City showing:

- a. Gross Receipts for the immediate prior fiscal quarter received by the Developer; and
- b. A calculation of Quarterly Community Benefits Fees due to the City from Developer for the immediate prior fiscal quarter.

**Section 4.5. Penalty.** If Developer fails to make a payment concerning Community Benefits Fees, as required by this Agreement, the City may impose a “Non-Payment Penalty.” A Non-Payment Penalty of one percent (1%) shall be applied to all past due Community Benefits Fees. The City shall deliver to Developer a “Notice of Non-Payment Penalty.” Payment of the Non-Payment Penalty shall be in a single installment due on or before a date fifteen (15) days following delivery of the Non-Payment Penalty.

**Section 4.6. Interest on Unpaid Non-Performance Penalty.** If Developer fails to pay the Non-Performance Penalty after City has delivered the Notice of Non-Performance Penalty, then, in addition to the principal amount of the Non-performance Penalty, Developer shall pay City interest at the rate of eighteen percent (18%) per annum, computed on the principal amount of the Non-Performance Penalty, from a date fifteen (15) days following delivery of the Notice of Non-performance Penalty.

**Section 4.7. Recordkeeping.** Records shall be maintained in accordance with El Monte Municipal Code Section 5.18.180 and the California Cannabis Laws.

**Section 4.8. City Cannabis Tax.** Should the City voters enact a tax or taxes applicable to the Developer with regard to its carrying out of Cannabis Cultivation, Cannabis Manufacturing, or Cannabis Distribution business in the City, the parties shall meet and confer in good faith to amend this Article in light of such tax, pursuant to Section 1.9 of this Agreement.

## **ARTICLE 5 INSURANCE AND INDEMNIFICATION**

**Section 5.1. General Liability Insurance.** Developer shall maintain comprehensive general liability insurance issued by a California admitted insurance courier whose Best Insurance Guide, current edition insurance rating is not less than “B+(vii)” with a per-occurrence combined single limit of not less than Two Million Dollars (\$2,000,000) with a claim deduction not more than One Hundred Thousand Dollars (\$100,000) per claim. Such insurance policy shall name the City and City’s elected and appointed councils, boards, commissions, legislative bodies, officials, employees, and representatives as “Additional Insureds” by endorsement with respect

to the performance of this Agreement and shall include either a severability of interest clause or cross-liability endorsement and other customary and reasonable endorsements and provisions approved by the City's risk manager.

**Section 5.2. Workers' Compensation Insurance.** Developer shall maintain workers' compensation insurance for all its employees employed at or on the Project. Developer shall require each contractor and subcontractor working at or on the Project to provide workers' compensation insurance for its respective employees. Developer indemnification of City set forth in Section 5.4 of this Agreement shall apply to Developer's failure to maintain any such insurance.

**Section 5.3. Evidence of Insurance.** Evidence of the insurance in favor of the City required under Section 5.1 shall be provided to the City as of the Effective Date. Thereafter no Commercial Medicinal Cannabis Business Permit for the Project shall be valid unless and until Developer furnishes satisfactory evidence of the other insurance required in Article 5 of this Agreement. In each case, the evidence of insurance provided to the City shall include satisfactory evidence that the insurance carrier shall give the City at least fifteen (15) days' prior notice of the cancellation or reduction in coverage of each policy of insurance required in Article 5 of this Agreement.

**Section 5.4. Indemnification.** The Developer agrees to indemnify, defend with counsel acceptable to City, and hold harmless the City and City's elected and appointed councils, boards, commissions, legislative bodies, officials, employees, and representatives from any and all claims, costs (including legal fees and costs), or liabilities of any kind arising out of or connected to any act or omission of Developer or Developer's contractor, subcontractor, agent, or representative related to its establishment or operation of the Project or arising out of or related to the approval or issuance of any permit, license, or approval by the City for the Project, except to the extent such claims, costs, and liabilities are caused by the sole negligence or willful misconduct of the City. The Developer agrees that it shall be responsible for all costs incurred by the City in the event of a third-party challenge related to such claims, costs, or liabilities.

**Section 5.5. Failure to Indemnify.** The Developer's failure to indemnify the City, when required by this Agreement, shall constitute a material breach of this Agreement and of any applicable Conditional Use Permit, Commercial Medicinal Cannabis Business Permit, and Additional City Approvals, which shall entitle the City to all remedies available under law, including, but not limited to, specific performance and damages. Failure to indemnify shall constitute grounds upon which the City may rescind its approval of any entitlement, permit, or license related to the Project, or any portion thereof, and a waiver of Developer's right to file a claim, action, or proceeding against the City and City's elected and appointed councils, boards, commissions, legislative bodies, officials, employees, and representatives based upon the City's rescission or revocation of any applicable Conditional Use Permit, Commercial Medicinal Cannabis Business Permit, and Additional City Approvals, or City's failure to defend any claim, action, or proceeding based upon Developer's failure to indemnify the City.

**Section 5.6. Waiver of Damages; Referendum.** Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge that City would not have entered into this Agreement had it been exposed to liability for damages from the Developer and, therefore, the Developer hereby waive all claims for damages against City for breach of this Agreement. The Developer further acknowledge that under the Development Agreement Statute, land use approvals (including development agreements) must be approved by the City Council and that, under law, the City Council's discretion to vote in any particular way may not be constrained by

contract. The Developer therefore waives all claims for damages against City in the event that this Agreement or any Project approval is: (1) not approved by the City Council or (2) is approved by the City Council, but with new changes, amendments, conditions, or deletions to which Developer is opposed. Developer further acknowledge that, as an instrument which must be approved by ordinance, a development agreement is subject to referendum; and that, under law, the City Council's discretion to avoid a referendum by rescinding its approval of the underlying ordinance may not be constrained by contract, and Developer waive all claims for damages against City in this regard.

**Section 5.7. Bankruptcy.** The obligations of this Agreement shall not be dischargeable in bankruptcy.

## **ARTICLE 6 [RESERVED]**

## **ARTICLE 7 ANNUAL REVIEW**

**Section 7.1. Timing of Annual Review.** Pursuant to the Development Agreement Statute, the City shall conduct an annual review of Developer's good faith compliance with this Agreement. The City shall make reasonable efforts to conduct such review in conjunction with any applicable renewal application for a Commercial Medicinal Cannabis Business Permit, as required under El Monte Municipal Code Sections 5.18.090 and 5.18.110.

**Section 7.2. Initiation of Review.** The City Manager, or his or her designee, shall initiate the annual review by providing the Developer with thirty (30) days' written notice that the City intends to undertake such review. The Developer shall provide evidence in support of its good faith compliance with this Agreement to the City Manager, or his or her designee, no less than ten (10) business days prior to the hearing on the annual review. The City shall not waive its right to conduct its right to review this Development Agreement for failure to provide timely notice of the initiation of such annual review.

**Section 7.3. Staff Reports.** To the extent practical, the City shall deliver to the Developer a copy of all staff reports and related exhibits concerning the Developer's performance under the Agreement at least five (5) days prior to any annual review.

**Section 7.4. Fee for Annual Review.** The reasonable cost for the City's annual review of this Agreement shall be paid by Developer, not to exceed the actual costs incurred by the City in connection with such review.

## **ARTICLE 8 DEFAULT, REMEDIES, AND ESTOPPEL CERTIFICATES**

**Section 8.1. Default.** The failure of either Party to perform any obligation or duty under this Agreement within the time required by this Agreement shall be a default and after the giving of notice and the passage of the applicable amount of time, such a default shall constitute an event of default.

**Section 8.2. Notice.** The "Complaining Party" may not assert that an event of default has occurred against the "Defaulting Party" unless the Complaining Party has first given written notice to the Defaulting Party, specifying the nature of the default and the manner in which the

default may be cured, if known to the Complaining Party. Any failure or delay by the Complaining Party in giving such notice shall not waive such default or waive any of the Complaining Party's remedies.

**Section 8.3. Cure.** The Defaulting Party shall have thirty (30) days from the receipt of notice to cure the default except as provided in the next sentence. In the case of a monetary default (e.g. failure to make the payments of fees required under this Ordinance), any such default must be cured by the payment of the amount demanded within such thirty (30) day period. In the case of non-monetary defaults, if the default cannot be reasonably cured within such time, the default shall be deemed cured if:

- a. The cure is commenced at the earliest practicable date following receipt of notice;
- b. The cure is diligently prosecuted to completion;
- c. At the earliest practicable date (but in no event later than thirty (30) days after receiving the notice of default), the Defaulting Party provides written notice to the Complaining Party that the cure cannot be reasonably completed within such thirty (30) day period; and
- d. The default is cured at the earliest practicable date, but in no event later than sixty (60) days after receipt of the first notice of default.

**Section 8.4. Remedies.** If the Defaulting Party fails to cure a default in accordance with the foregoing, an event of default shall be deemed to have occurred and the Complaining Party shall have the right to seek all appropriate remedies, at law or in equity, including specific penalty or termination of this Agreement without further or separate notice to the Defaulting Party.

#### **Section 8.5. Estoppel Certificates.**

a. City shall, upon not less than thirty (30) days prior written notice, execute, acknowledge, and deliver to Developer, Developer's lender, potential investors, or assignees an estoppel certificate in writing which certifies that this Agreement is in full force and effect, that there are no breaches or defaults under the Agreement except as described in such estoppel certificate, and that the Agreement has not been modified or terminated and is enforceable in accordance with its terms and conditions.

b. The City may recover its actual and reasonable costs and attorneys' fees in connection with the timely dealing of any such estoppel certificate, in an amount not to exceed \$2,500 per estoppel certificate.

### **ARTICLE 9 ADDITIONAL GENERAL/MISCELLANEOUS PROVISIONS**

**Section 9.1. Assignment.** Developer shall not have the right to sell, assign, or transfer all or any part of its rights, title, and interests in all or a portion of Site, or Project, subject to or a part of this Agreement, to any person, firm, corporation, or entity during the Term of this Agreement without the advance written consent of the City Manager. This assignment prohibition applies to the corporate and business entities of Developer that are a Party to this Agreement. Any assignment or transfer prohibited by this Agreement will be considered an immediate breach of this Agreement and City may elect to immediately terminate this Agreement.

**Section 9.2. Notices.** All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

**DEVELOPER:**

[DEVELOPER INFO]

**CITY:**

City of El Monte  
Economic Development Department  
11333 Valley Boulevard  
El Monte, California 91731  
Attn: Betty Donovanik, Senior Planner  
(626) 580-2056  
bdonavanik@elmonteca.gov

**Section 9.3. Governing Law and Venue.** This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.

**Section 9.4. Severability.** If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any term or provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any term or provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, any provisions that are not invalid or unenforceable shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement. The Parties expressly agree that each Party is strictly prohibited from failing to perform any and all obligations under this Agreement on the basis that this Agreement is invalid, unenforceable, or illegal. By entering into this Agreement, each Party disclaims any right to tender an affirmative defense in any arbitration or court of competent jurisdiction, that performance under this Agreement is not required because the Agreement is invalid, unenforceable, or illegal.

**Section 9.5. Constructive Notice and Acceptance.** Every person who after the Effective Date and recording of this Agreement owns or acquires any right, title, or interest to any portion of the Site is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Site, and all rights and interests of such person in the Site shall be subject to the terms, requirements, and provisions of this Agreement.

**Section 9.6. Joint and Several Liability.** Developer and Property Owner shall be jointly and severally liable for any amount due under this Agreement. Developer and Property Owner agree that the City may impose a lien and seek foreclosure on any parcel of the Site due to any default by Developer. Such consent is additionally set forth in **Exhibit “D”** to this Agreement.

**Section 9.7. Waiver.** A waiver by any Party of any breach of any term, covenant, or condition herein contained or a waiver of any right or remedy of such Party available hereunder, at law or in equity, shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition herein contained or of any continued or subsequent right

to the same right or remedy. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

**Section 9.8. Integration.** This Agreement, together with its specific references, attachments, and Exhibits, constitutes all of the agreements, understandings, representations, conditions, warranties, and covenants made by and between the Parties hereto. Unless set forth herein, no Party to this Agreement shall be liable for any representations made, express or implied.

**Section 9.9. Captions.** The captions of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

**Section 9.10. Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" or "can" are permissive.

**Section 9.11. Counterparts.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

**Section 9.12. Other Documents.** The Parties agree that they shall cooperate in good faith to accomplish the objectives of this Agreement and, to that end, agree to execute and deliver such other instruments or documents as may be necessary and convenient to fulfill the purposes and intentions of this Agreement.

**Section 9.13. Authority.** All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states, or firms and that all former requirements necessary or required by state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, no Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

**Section 9.14. Advice of Legal Counsel.** Each Party acknowledges that it has reviewed this Agreement with its own legal counsel and, based upon the advice of that counsel, freely entered into this Agreement.

**Section 9.15. Attorneys' Fees and Costs.** Unless otherwise provided in this Agreement, if any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

**Section 9.16. Calculation of Time Period.** All time referenced in this Agreement shall be calendar days, unless the last day falls on a legal holiday, Saturday, or Sunday, in which case the last day shall be the next business day.

**Section 9.17. Recordation of Development Agreement.** The City Clerk shall cause a copy of this Agreement to be recorded against title of the Site within ten (10) business days of the Effective Date.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as evidenced by the signatures of the authorized officers of each of them which appear below.

**CITY**

**City of El Monte, a municipal corporation**

By: \_\_\_\_\_  
City Manager

Date: \_\_\_\_\_

**DEVELOPER**

**[DEVELOPER NAME]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**PROPERTY OWNER**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

[NOTARIZED SIGNATURES REQUIRED]

**EXHIBIT "A"**  
**LEGAL DESCRIPTION OF SITE**

**EXHIBIT "B"**  
**SITE PLAN**

**EXHIBIT “C”  
FLOOR PLAN**

**EXHIBIT “D”  
PROPERTY OWNER’S CONSENT AGREEMENT**

**EXHIBIT “E”  
ADDITIONAL COMMUNITY BENEFITS**