

RESOLUTION NUMBER 4384

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS,
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, MODIFYING
RESOLUTION NO. 4114**

WHEREAS, Portezuelo Partners, LLC, a California limited liability company ("Portezuelo") was, and County Lands (Riverside) PIP IV (Owner) L.L.L.P., a Delaware limited liability limited partnership ("Owner") is, the current owner and developer of record for Tentative Tract Map 33973 (the "Project" or "TTM 33973"), a project consisting of a 384 single-family residential development, public park and San Jacinto Corridor Open Space, on a 153.7 acre site, located North of San Jacinto River, West of McPherson Road, South of Ethanac Road, and East of Sophie Street in the City of Perris (the "Property"); and

WHEREAS, on May 27, 2008, the City of Perris ("City") approved TTM 33973 through the adoption of Resolution No. 4114 subject to certain engineering conditions; and

WHEREAS, on August 22, 2008, Portezuelo filed a petition for writ of mandate against the City challenging, inter alia, the terms of Resolution No. 4114; and

WHEREAS, the City, Owner and County Lands (Riverside) PIP IV, L.L.L.P, a Delaware limited liability limited partnership ("Lender") wished to avoid the disruption, inconvenience, uncertainty and costs associated with continued claims, disputes or litigation arising out of or related to the lawsuit and, therefore, the City entered into a Settlement Agreement and Limited Mutual Release with Portezuelo, Owner and Lender; and

WHEREAS, attached hereto as Exhibit A, and by this reference incorporated herein, is a copy of the Settlement Agreement and Limited Mutual Release ("Settlement") that was approved after a public hearing by the City Council on September 28, 2010; and

WHEREAS, conditions precedent to Portezuelo's, Owner's and Lender's obligations under the Settlement are a six (6) year extension to the expiration date of TTM 33973, extending the expiration date of TTM 33973 to May 27, 2019 and elimination of Engineering Condition No. 2; and

WHEREAS, the City has duly noticed these adjustments to Resolution No. 4114 that were previously approved after a public hearing by the City Council on September 28, 2010; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. The City Council has fully considered this matter that was approved after a public hearing by the City Council on September 28, 2010 and has:

- A. Reviewed the submittal, notice and the information submitted herewith regarding the proposed extension and engineering modification and the reasons and basis for the adjustments.
- B. The proposed adjustments will promote and encourage the development of the previously approved project under Resolution No. 4114 by providing a realistic timeframe in which to complete the project and adherence to the engineering requirements.
- C. The proposed adjustments will not adversely affect the orderly development of the property or the preservation of the property values.
- D. The proposed adjustments will not be detrimental to the health, safety and general welfare.
- E. The proposed amendments are in conformity with and will promote public convenience, general welfare and good land use practice.

Section 3. That based on these facts and circumstances presented and the information received during the public hearing, the City Council finds that the modifications to Resolution No. 4114 are hereby approved.

Section 4. Modifications to Resolution No. 4114.

- A. A grant of a six (6) year extension of TTM 33973, extending the expiration date of TTM 33973 to May 27, 2019; and
- B. A modification of the Engineering Conditions of TTM 33973 to eliminate Engineering Condition No. 2 therein.

Section 5. All other provisions of Resolution No. 4114 and TTM 33973 shall remain in full force and effect.

Section 6. Any resolution or portion thereof in conflict herewith relating to the adjustments described herein is hereby repealed to the extent such conflict and of no further effect to the extent of such conflict.

Section 7. This resolution shall be effective upon adoption.

Section 8. The City Clerk shall certify as to the adoption of this Resolution.

ADOPTED, SIGNED and APPROVED this 29th day of March, 2011.

Daryl R. Busch, Mayor

ATTEST:

Judy L. Haughney, C.M.C., City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Resolution Number 4384, was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 29th day of March, 2011, and that it was so adopted by the following called vote:

AYES: EVANS, LANDERS, YARBROUGH, BUSCH

NOES: NONE

ABSENT: ROGERS

ABSTAIN: NONE

Judy L. Haughney, C.M.C, City Clerk

SETTLEMENT AGREEMENT AND LIMITED MUTUAL RELEASE

This SETTLEMENT AGREEMENT AND LIMITED MUTUAL RELEASE (this "Agreement") dated September 30, 2010 is entered into by and between the City of Perris, California, a municipal corporation, which includes, without limitation, the City Council of the City of Perris, a municipal corporation (collectively, the "CITY"), on the one hand, and Portezuelo Partners, LLC, a California limited liability company ("PORTEZUELO"), County Lands (Riverside) PIP IV (Owner), L.L.L.P., a Delaware limited liability limited partnership ("OWNER"), and County Lands (Riverside) PIP IV, L.L.L.P., a Delaware limited liability limited partnership ("LENDER") (collectively "PETITIONERS"), on the other hand.

RECITALS:

A. PORTEZUELO was, and OWNER is, the owner and developer of Tentative Tract Map 33973 (the "Project" or "TTM 33973"), a project consisting of a 384 single-family residential development, public park and San Jacinto Corridor Open Space, on a 153.7 acre site, located north of San Jacinto River, west of McPherson Road, south of Ethanac Road, and east of Sophie Street in the City of Perris (the "Property"). LENDER holds, and at all relevant times held, a secured interest in the Property. The Property bears the following assessor parcel numbers: 345-310-001, 005, 006, 014 and 345-320-001.

B. On or about December 15, 2005, PORTEZUELO filed an application for approval of TTM 33973 with the CITY.

C. On May 27, 2008, the CITY adopted Resolution No. 4114 approving TTM 33973, subject to, inter alia, certain engineering conditions of approval ("Engineering Conditions").

D. Engineering Condition No. 2 of Resolution No. 4114 ("Engineering Condition No. 2") requires construction of a temporary five-year crossing over the San Jacinto River at Ethanac Road ("Temporary Crossing") with the option of providing the ultimate 100-year regional crossing (the "Ultimate Crossing"). Engineering Condition No. 2 states as follows:

Ethanac Road from westerly property line to McPherson along the south side shall be improved with concrete curb, gutter, located 67' south of centerline and minimum of 58' of new pavement within 92', ½ width dedicated right-of-way including 14' wide landscape median.

Ethanac Road, along the north side within the same reach shall be improved to provide for a minimum 30' of new pavement including a minimum 150' long left turn pocket at L & McPherson Road within dedicated right-of-way. Ethanac Road from easterly boundary to existing improvements east of San Jacinto River. Shall be improved within dedicated right-of-way with a minimum of 40' of new pavement including construction of 5 year crossing over the San Jacinto River. At the option of developer,

construction of the 100-year ultimate crossing with appropriate DIF/TUMF credit shall be accepted.

E. Unless this Agreement is entered into by the Parties, due to amendments to the State Subdivision Map Act (the "Act"), TTM 33973 is currently set to expire on May 27, 2013.

F. On or about August 22, 2008, after pursuing its administrative remedies, PORTEZUELO filed a Verified Petition For Writ Of Mandate and Complaint For Damages and Declaratory Relief against the CITY in the Riverside County Superior Court (Case No. RIC506695), entitled Portezuelo Partners, LLC v. The City of Perris, et al. (the "Action").

G. On or about December 30, 2008, PORTEZUELO conveyed its interest in the Property to OWNER pursuant to an Agreement for Deed in Lieu of Foreclosure. At all relevant times, LENDER held -- and continues to hold -- a deed of trust encumbering the Property.

H. On or about January 6, 2009, PETITIONERS filed a Verified First Amended Petition For Writ Of Mandate and First Amended Complaint For Damages and Declaratory Relief in the Action.

I. On or about April 15, 2009, the CITY certified the administrative record for this matter.

J. On or about May 19, 2009, the CITY filed its Answer to PETITIONERS' Verified First Amended Petition for Writ of Mandate and First Amended Complaint for Damages and Declaratory Relief.

K. The CITY, on the one hand, and PETITIONERS, on the other hand, wish to avoid the disruption, inconvenience, uncertainty and costs associated with continued claims, disputes or litigation arising out of or related to the Action and desire to settle their claims on the following terms.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Recitals set forth above which are incorporated herein by this reference, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT:

1. Engineering Condition No. 2. Subject to the conditions precedent in Section 3 hereof, Engineering Condition No. 2 is hereby removed as an Engineering Condition of Approval of TTM 33973. The CITY agrees not to re-impose Engineering Condition No. 2 or impose any other condition, exaction, regulation, impact fee, or any other requirement or standard of any kind or nature upon the Project related to Engineering Condition No. 2, the Temporary Crossing, the Ultimate Crossing, or the San Jacinto River Project, or withhold issuance of any approval in connection with the Project based in any way upon any matter of any kind or nature related to the Temporary Crossing, the Ultimate Crossing, or the San Jacinto River Project, or in any other manner concerning, regarding or involving the subject matter of Engineering Condition No. 2.

2. Monetary Settlement.

- (a) Subject to the conditions precedent in Section 3 hereof, and subject to the occurrence of the events set forth below that cause each payment described below to become due and payable, OWNER shall pay to the CITY (by checks made payable to the order of the "CITY OF PERRIS"), a total sum (the "Settlement Proceeds") of ONE MILLION ONE HUNDRED FIFTY-TWO THOUSAND DOLLARS (\$1,152,000), based upon the Project's consisting of 384 single-family residential lots (i.e., \$3000 per single-family residential lot in the Project)(the "Per Unit Settlement Fee"). If the number of single-family residential lots in the Project is decreased due to changes in the Project, then the Settlement Proceeds shall be decreased accordingly, with the revised amount of the Settlement Proceeds to be based upon the revised decreased number of single-family residential lots, multiplied by the Per Unit Settlement Fee. Any reduction in the Settlement Proceeds due to decreases in the number of single-family residential lots in the Project shall be applied against the last due installments of the Settlement Proceeds. The Settlement Proceeds shall be due and payable as follows:
- (1) FIVE HUNDRED SEVENTY-SIX THOUSAND DOLLARS (\$576,000) within thirty (30) days after PETITIONERS' receipt of confirmation of the recordation of the final map for the Project, or the last phase thereof, if the final map for TTM 33973 is recorded in phases;
 - (2) ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) within thirty (30) days after the CITY's issuance of the 100th certificate of occupancy for the Project;
 - (3) ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) within thirty (30) days after the CITY's issuance of the 200th Certificate of Occupancy for the Project;
 - (4) ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) within thirty (30) days after the CITY's issuance of the 300th Certificate of Occupancy for the Project; and
 - (5) ONE HUNDRED TWENTY SIX THOUSAND DOLLARS (\$126,000) within thirty (30) days after the CITY's issuance of the final Certificate of Occupancy for the Project.
- (b) As to each installment of the Settlement Proceeds, OWNER shall have the right, at the time of payment or prepayment, or at any time thereafter, to designate the specific single-family residential lots in the Project to which such installment payment applies and for which the Per Unit Settlement Fee shall be deemed paid. Upon such designation, such single-family residential lots and the owners thereof shall be released from and relieved of any further obligation for payment of the Settlement Proceeds.
- (c) OWNER may request the CITY to create a Community Facilities District ("CFD"), pursuant to California Government Code Section 53311 et seq. or an assessment district, pursuant to Streets and Highways Code Section 5000 et seq. or Section 10000 et seq. to allow OWNER to finance the payment of the Settlement Proceeds. If CITY receives such a request, the

CITY will process such a request in accordance with California law. OWNER acknowledges that the CITY has the discretion whether to approve the creation of such a district. Notwithstanding the foregoing, the CITY shall not, and cannot create a CFD, assessment district or bridge and thoroughfare district affecting the Project that in any way relates to and/or involves the Temporary Crossing, the Ultimate Crossing, or the San Jacinto River Project, or subject the Project to any other pre-existing CFDs or assessment districts that in any way relates to and/or involves the Temporary Crossing, the Ultimate Crossing, or the San Jacinto River Project, without the written consent of OWNER, in OWNER'S sole discretion.

3. Conditions Precedent to PETITIONERS' Obligations Under this Agreement. PETITIONERS' obligations and covenants created in this Agreement are expressly conditioned upon satisfaction, within forty-five (45) days after the date hereof, of all of the following conditions precedent, either of which may only be waived in the sole discretion of PETITIONERS, as these conditions precedent are solely for the benefit of the PETITIONERS:

- (a) The CITY's taking all action required to grant a written six (6) year extension of TTM 33973, extending the expiration date of TTM 33973 to May 27, 2019; and
- (b) The CITY's taking all action required to modify the Engineering Conditions, eliminating Engineering Condition No. 2.

If either of the foregoing conditions are not satisfied, PETITIONERS shall have the right, at their option, to terminate this Agreement, in which event all rights and obligations of the parties under this Agreement shall expire, and this Agreement shall be null and void.

4. Subsequent CITY Adoption of a San Jacinto River Impact Fee. Notwithstanding the limitation in Section 2(c) hereof, in the future, the CITY may adopt an impact fee which may be imposed on TTM 33973 if: (i) the impact fee proceeds are used solely for financing public improvements for the Temporary Crossing, the Ultimate Crossing, or the San Jacinto River Project; (ii) the impact fee is adopted and is applicable on a CITY-wide or regional basis; and (iii) the impact fee is adopted in accordance with the provisions of the California Mitigation Fee Act, California Government Code § 66000 *et seq.* (the "Possible Future River Mitigation Fee"). If the Possible Future River Mitigation Fee is adopted, OWNER shall have the right to contest the imposition of the Possible Future River Mitigation Fee in accordance with California law. The Possible Future River Mitigation Fee shall not be payable for any single-family residential lots in the Project for which the Per Unit Settlement Fee has been paid, as described in Sections 2(a) and 2(b) hereof, prior to the effective date of the Possible Future River Mitigation Fee. OWNER shall have the right, in its sole discretion, to pre-pay all or any part of the Settlement Proceeds, and designate the single-family residential lots in the Project for which the Per Unit Settlement Fee has been paid by reason thereof, as described in Sections 2(a) and 2(b) hereof, at any time prior to the effective date of the Possible Future River Mitigation Fee, regardless of whether OWNER is in a position to apply for building permits, certificates of occupancy or other permits. The Possible Future River Mitigation Fee may be imposed only upon those single-family residential lots in TTM 33973 for which OWNER has not paid or pre-paid the Per Unit Settlement Fee, as described in Sections 2(a) and 2(b) hereof, prior to the effective date of the Possible Future River Mitigation Fee. Alternatively, if OWNER chooses to pay the Possible

Future River Mitigation Fee for any single-family residential lots for which OWNER has not paid or prepaid the Per Unit Settlement Fee, as described in Sections 2(a) and 2(b) hereof, OWNER shall not be obligated to pay that portion of the Settlement Proceeds in an amount equal to the Per Unit Settlement Fee multiplied by the number of single-family residential lots in respect of which OWNER elects to pay the Possible Future River Mitigation Fee.

5. Further Extensions of TTM 33973. TTM 33973 may be extended beyond May 27, 2019, if TTM 33973 qualifies for any further extensions, pursuant to the Act, as it exists as of the date of this Agreement or any future amendments which may be made to the Act during the term of this Agreement, or additional extensions which the CITY may grant.

6. Dismissal of Lawsuit.

- (a) Within fifteen (15) days after the CITY's performance and satisfaction of all of the conditions precedent set forth in Section 3 hereof, PETITIONERS shall execute and file with the Riverside County Superior Court the Request for Dismissal of the Action attached hereto as Exhibit "1" and diligently undertake all necessary actions to cause the Action to be dismissed, in its entirety, without prejudice, with each party to bear its own attorneys' fees and costs incurred in connection with the Action.
- (b) If there is a breach of this Agreement, the parties agree that they will apply to the Riverside Superior Court to enforce the terms hereof. The parties agree that they will not re-file or resume prosecution of the Action unless there is: (1) a judicial determination that this Agreement, or any part hereof, is not enforceable and/or the Riverside Superior Court, for any reason, refuses to enforce the terms of this Agreement, and/or (2) any third party commences litigation related to this Agreement and/or the approval process of this Agreement. In such a situation: (i) the CITY shall promptly notify PETITIONERS in writing of any litigation filed and served against the CITY by any third party to challenge, set aside, void, annul, limit or restrict the approval and continued implementation and enforcement of this Agreement or any part hereof, (ii) the parties shall confer and cooperate with respect to such third party litigation, and (iii) the parties shall continue to perform their respective obligations under this Agreement unless/until a judicial determination described in subsection (1) of this Section 6(b) occurs.
- (c) In the event that PETITIONERS resume prosecution of and/or re-file the Action, the CITY agrees and acknowledges that the CITY will not argue that the statute of limitations on any of the claims asserted in the Action has elapsed and/or that PETITIONERS have waived any arguments, rights to remedies, defenses, and/or positions with respect to the matters asserted in the Action.

7. Limited Release by PETITIONERS. In consideration of this Agreement and the performance by the CITY of its covenants and agreements set forth herein (specifically, and without limitation, the performance and satisfaction of the conditions set forth in Section 3 hereof), PETITIONERS do hereby forever release, acquit, relieve and discharge the CITY, and each of their affiliated or related entities, subsidiaries, parent corporations, partnerships, general partners, limited partners, joint ventures, joint venturers, investors, shareholders, officers, directors, licensees, employees, agents, representatives, accountants, attorneys, consultants,

heirs, benefit plans, predecessors, successors and assigns, and all persons acting by, through, under or in concert with any of them, from any and all known and unknown claims, suits, rights, actions, complaints, obligations, promises, agreements, contracts, covenants, torts, causes of action, demands, costs, losses, damages, debts, taxes, expenses (including attorneys' fees and costs) and liabilities of any nature whatsoever, whether known or unknown, whether suspected or unsuspected, whether disclosed or undisclosed, whether contingent or vested, from the beginning of time to the moment PETITIONERS sign this Agreement, by reason of any act, event, or omission asserted in, or arising out of, the Action.

The CITY hereby acknowledges and agrees that, except as expressly set forth in this Agreement, the above-described limited release does not in any way affect, alter or impair PETITIONERS' other rights and remedies regarding the Project or otherwise including, without limitation, PETITIONERS' audit rights under California's Government Code Section 66023, all of which PETITIONERS hereby expressly reserve.

8. Limited Release by the CITY. In consideration of this Agreement and the performance by PETITIONERS of their covenants and agreements set forth herein (specifically, and without limitation, the payment of the amounts set forth in Section 2 hereof), the CITY does hereby forever release, acquit, relieve and discharge the PETITIONERS, and each of them, and each of their affiliated or related entities, subsidiaries, parent corporations, partnerships, general partners, limited partners, joint ventures, joint venturers, investors, shareholders, officers, directors, licensees, employees, agents, representatives, accountants, attorneys, consultants, heirs, benefit plans, predecessors, successors and assigns, and all persons acting by, through, under or in concert with any of them, from any and all known and unknown claims, suits, rights, actions, complaints, obligations, promises, agreements, contracts, covenants, torts, causes of action, demands, costs, losses, damages, debts, taxes, expenses (including attorneys' fees and costs) and liabilities of any nature whatsoever, whether known or unknown, whether suspected or unsuspected, whether disclosed or undisclosed, whether contingent or vested, from the beginning of time to the moment the CITY signs this Agreement, by reason of any act, event, or omission asserted in, or arising out of, the Action.

PETITIONERS hereby acknowledge and agree that, except as expressly set forth in this Agreement the above-described limited release does not in any way affect, alter or impair the CITY's other rights and remedies regarding the Project or otherwise, all of which the CITY hereby expressly reserves.

9. Waiver of California Civil Code Section 1542. Further, and with respect to the those matters specifically released herein only, the CITY and PETITIONERS, respectively, expressly waive and relinquish any and all rights they may have under California Civil Code section 1542, which reads as follows:

"Section 1542. [General release; extent.] A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

CITY's Initials


PETITIONERS' Initials

10. Agreement Effective Notwithstanding Subsequent Discovery of Different Information. The parties hereto each acknowledge that they may hereafter discover facts different from or in addition to those they now know or believe to be true with respect to the claims, demands, causes of action, obligations, damages, and liabilities of any nature whatsoever that are the subject of the releases set forth in this Agreement, and they each expressly agree to assume the risk of the possible discovery of additional or different facts, and agree that this Agreement shall be and remain effective in all respects regardless of such additional or different facts.

11. Controlling Agreement. To the extent the provisions of any other agreement between the CITY, on the one hand, and any of PETITIONERS, on the other hand, are inconsistent with any provisions in this Agreement, the provisions of this Agreement shall control as between the CITY and PETITIONERS.

12. No Prior Assignment of Claims. The CITY and PETITIONERS mutually represent and warrant to each other that they have made no assignment as of the date of this Agreement of any of the claims or other matters covered by the releases set forth in Sections 7 and 8 hereof. In the event that such representation is false, and any such claim or other matter is asserted against the CITY or PETITIONERS, or any of them (and/or their respective successors) by any party or entity who is the assignee or transferee of such claim or matter, then the party to this Agreement making such assignment (whether the CITY or PETITIONERS, or any of them) shall fully indemnify, defend and hold harmless the other party (and/or its successors) against whom such claim or other matter is asserted from and against such claims or other matters and from all actual costs, fees (including all attorneys' fees), expenses, liabilities and damages which such other party (and/or its successors) incurs as a result of the assertion of such claim or other matter.

13. No Admission of Liability. The parties to this Agreement acknowledge that this Agreement effects the settlement of disputes which are contested and that nothing contained herein shall constitute or be construed as an admission of liability or as an admission of the truth of the facts and matters asserted. In making this Agreement, no party is admitting the truth of any claims, allegations, assertions, contentions or positions of the other party. The parties hereto desire to resolve their disputes in an amicable fashion and have entered into this Agreement in good faith and with the desire to forever settle between them those matters described in this Agreement.

14. No Action on Released Claims. The CITY and PETITIONERS mutually covenant and agree never to commence, aid in any way, prosecute or cause to be commenced or prosecuted any action or other proceeding based upon any of the claims or other matters covered by the releases set forth in Sections 7 and 8 hereof.

15. Attorneys' Fees. In the event of the bringing of an action, arbitration or suit by a party hereto against another party hereunder by reason of a breach of any of the covenants,

conditions, agreements or provisions by the other party arising out of this Agreement, the prevailing party shall be entitled to have and recover from the other party or parties reasonable attorneys' fees and all costs and expenses of such action, arbitration or suit, including without limitation expert witness fees.

16. No Waiver. Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

17. Representations and Warranties. The parties to this Agreement represent and warrant as follows:

- (a) This Agreement in all respects has been voluntarily and knowingly executed;
- (b) They have had an opportunity to seek and have sought independent legal advice from attorneys of their choice with respect to the advisability of executing this Agreement;
- (c) They have had an opportunity to seek independent tax advice from accountants, attorneys or tax advisors of their own choice with respect to the tax ramifications, if any, which may result from entering into this Agreement;
- (d) They have made such investigation of the facts pertaining to this Agreement as they deem necessary;
- (e) The terms of this Agreement are contractual and are the result of negotiation; and
- (f) They have carefully read this Agreement and the contents hereof are known and understood by them.

18. Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning settlement and supersede any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied, between the parties to this Agreement concerning settlement. The parties to this Agreement each acknowledge that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement, that they have not executed this Agreement in reliance on any such representation, inducement, promise, agreement or warranty, and that no representation, inducement, promise, agreement or warranty not contained in this Agreement including, without limitation, any purported supplements, modifications, waivers or terminations of this Agreement, shall be valid or binding, unless executed in writing by all of the parties to this Agreement.

19. Manner of Construction. The parties to this Agreement, and each of them, acknowledge (a) this Agreement and its reduction to final written form is the result of extensive good faith negotiations between the parties and through their respective counsel, and (b) any statute or rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

20. Captions. The captions of the Sections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction and/or interpretation.

21. Gender and Number. As used in this Agreement, and only if applicable by its context, the masculine gender includes the feminine and neuter, the feminine gender includes the masculine and neuter, the singular number includes the plural, the plural number includes the singular, and the terms "person" or "party" includes, if applicable, a corporation, municipality, or other entity, and/or a natural person, and vice versa.

22. Further Actions. Each of the parties hereto agrees to take any and all actions reasonably necessary to effectuate the intent, and to carry out the provisions, of this Agreement including, without limitation, executing other documents to accomplish the purposes of this Agreement.

23. Warranty of Authority. Any individual signing this Agreement in a representative capacity represents and warrants that s/he is duly authorized to execute this Agreement on behalf of and to bind the entity on whose behalf his/her signature is affixed.

24. Successors and Assigns. All Sections, terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties' respective successors and assigns, including, without limitation, any successors in title to all or any part of the Property to whom OWNER expressly assigns its rights under this Agreement. As appropriate, references to "OWNER" in this Agreement also apply to OWNER's successors and assigns. If and to the extent that any successor in title to all or any part, portion, parcel, and/or lot of the Property assumes OWNER'S payment obligations pursuant to Section 2 hereof, upon written notification (sent by Overnight Mail) to the CITY Clerk, OWNER shall be released, in full, from liability therefor, automatically and without further agreement by the CITY. If there are subsequent multiple owners of the Property, due to conveyance of portions of the Property by OWNER the CITY hereby acknowledges and agrees that the breach of one (or more) subsequent owner(s) will in no way affect the obligations, rights and/or liabilities created by this Agreement, with respect to any of the other owners or the CITY.

25. Counterparts. This Agreement may be executed in one or more counterparts and the counterparts signed in the aggregate shall constitute a single, original instrument.

26. Choice of Law. This Agreement has been made and entered into in the State of California and shall in all respects be interpreted, enforced and governed in accordance with the laws of California.

27. No Other Pending Actions. The PETITIONERS each represent that they have not filed any complaint(s), cross-complaint(s) and/or charge(s) (other than the Action described

herein) against the CITY, arising out of or relating to the matters described herein, with any local, state or federal agency or court; and that if any such agency or court assumes jurisdiction of any complaint or charge against any party, or its predecessors, successors, heirs, assigns, employees, shareholders, officers, directors, agents, attorneys, subsidiaries, divisions or affiliated corporations or organizations, whether previously or hereafter affiliated in any manner, on behalf of PETITIONERS or any other party, whenever filed, that party will request such agency or court to withdraw and dismiss the matter forthwith.

Likewise, the CITY represents that it has not filed any complaint(s), cross-complaint(s) and/or charge(s) against PETITIONERS, or any of them, arising out of or relating to the matters described herein, with any local, state or federal agency or court; and that if any such agency or court assumes jurisdiction of any complaint or charge against any party, or its predecessors, successors, heirs, assigns, employees, shareholders, officers, directors, agents, attorneys, subsidiaries, divisions or affiliated corporations or organizations, whether previously or hereafter affiliated in any manner, on behalf of the CITY or any other party, whenever filed, that party will request such agency or court to withdraw and dismiss the matter forthwith.

28. Modifications. Any alteration, change, or modification of or to this Agreement shall be made by written instrument executed by each party hereto in order to become effective.

[Signatures on Following Page]

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the dates set forth hereinafter.

DATED: Dec 6th ~~5th~~, 2010

APPROVED AS TO FORM:

By: [Signature]
Eric Dunn, City Attorney

ATTEST:

By: [Signature]
Judy Haughney, Clerk

DATED: _____, 2010

DATED: October 15, 2010

DATED: October 15, 2010

"CITY"

CITY OF PERRIS, a municipal corporation

By: [Signature]
Name: Daryl R. Busch
Its: Mayor

"PETITIONERS"

PORTEZUELO PARTNERS, LLC, a California limited liability company

By: _____
Name: _____
Its: _____

COUNTY LANDS (RIVERSIDE) PIP IV (OWNER), L.L.L.P., a Delaware limited liability limited partnership

By: [Signature]
Name: MARVIN SHAPIRO
Its: VICE PRESIDENT

COUNTY LANDS (RIVERSIDE) PIP IV, L.L.L.P. a Delaware limited liability limited partnership

By: [Signature]
Name: MARVIN SHAPIRO
Its: VICE PRESIDENT

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the dates set forth hereinafter.

DATED: _____, 2010

APPROVED AS TO FORM:

By: _____
Eric Dunn, City Attorney

ATTEST:

By: _____
Judy Haughney, Clerk

"CITY"

CITY OF PERRIS, a municipal corporation

By: _____
Name: _____
Its: _____

DATED: _____, 2010

"PETITIONERS"

PORTEZUELO PARTNERS, LLC, a California limited liability company

By: _____
Name: _____
Its: _____

DATED: _____, 2010

COUNTY LANDS (RIVERSIDE) PIP IV (OWNER), L.L.L.P., a Delaware limited liability limited partnership

By: _____
Name: _____
Its: _____

DATED: _____, 2010

COUNTY LANDS (RIVERSIDE) PIP IV, L.L.L.P. a Delaware limited liability limited partnership

By: _____
Name: _____
Its: _____