

Appendix M: Potential Future Fire District Parcel Agreements

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CONTINGENT OFFER OF LAND DEDICATION

This Contingent Offer of Land Dedication ("**Agreement**") is made and entered into on December 2, 2015 ("**Effective Date**") by and between FT LAND LLC, a California limited liability company ("**Optionor**"), and SAN RAMON VALLEY FIRE PROTECTION DISTRICT, a California special district ("**Optionee**"). Optionor and Optionee may be referred to collectively in this Agreement as the "Parties" and individually as a "Party."

RECITALS

A. Optionor is the proponent of the Tassajara Parks Project, which is situated on approximately 771 acres of land on two sites located in the Tassajara Valley area of unincorporated County of Contra Costa ("**County**"). The land on which the Project would be implemented is located east of the City of San Ramon and Town of Danville and outside of and adjacent to the Contra Costa County Urban Limit Line. Approximately 155 acres of the above-referenced land is commonly known as the "**Northern Site**," and approximately 616 acres is commonly known as the "**Southern Site**." The Northern Site and Southern Site are located less than 0.5 mile apart and are separated by intervening properties along Camino Tassajara Road. The Northern Site and the Southern Site are collectively referred to herein as the "**Project Site**" or the "**Real Property**."

B. The Tassajara Parks Project would consist of the construction of approximately 125 single-family homes on a semi-flat, 30-acre portion of the Northern Site, along with Project-related improvements and infrastructure to serve the residential uses ("**Development Area**"). The Project would develop nonurban uses, including two staging areas, a detention basin, and a pump station, on approximately 7 acres of the Northern Site. Optionor proposes to convey the remaining approximately 118 acres of the Northern Site ("**Northern Preservation Area**") and approximately 609 acres of the Southern Site ("**Southern Preservation Area**") to the East Bay Regional Park District (collectively, "**Preservation Areas**") to ensure that the Preservation Areas are preserved in perpetuity only for nonurban uses such as parks, recreation, open space, grazing, wetlands, and habitat mitigation. As set forth more fully herein, Optionor also proposes to donate an approximately 7-acre parcel to Optionee for Optionee's potential future use in a manner consistent with the Contra Costa County Urban Limit Line (collectively, the features described in this recital shall be referred to as the "**Tassajara Parks Project**" or "**Project**"). Under the proposed "Tassajara Parks P-1 Planned Unit District" zoning, any such use would be subject to a land use permit issued by the County, in its discretion.

C. Optionee owns certain property located at 6100 Camino Tassajara, Contra Costa County, California identified as Assessor Parcel Number 223-020-013-7, ("**District Existing Property**"), which is directly adjacent to the Real Property and is depicted in yellow on Exhibit A attached hereto and incorporated by this reference.

D. Optionor and Optionee are currently Parties to that certain "**Option**

Agreement” made and entered into on April 16, 2010, pursuant to which Optionee desired to acquire the exclusive right to purchase, without becoming obligated to purchase, an approximately 4.5-acre portion of the Real Property at an agreed price and under the specified terms and conditions set forth therein (“**Option Agreement**”).

E. The Option Agreement required Optionee to pay Optionor the sum of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) (“**Option Consideration**”). The payment of the Option Consideration was a condition precedent to the effectiveness of the Option Agreement.

F. The Option Agreement further required Optionee to prepare and submit to Optionor, at Optionee’s sole cost and expense, a fire training facility plan within one hundred (100) days of execution of the Option Agreement and required Optionor to pay all costs, fees, and expenses for the processing and approval of the former New Farm Project, including Optionee’s fire training facility plan. Optionee never prepared or submitted a fire training facility plan to Optionor, and Optionor ceased processing the New Farm Project.

G. As part of the Tassajara Parks Project, Optionor now desires to make a contingent donation to Optionee of an approximately 7.0-acre portion of the Real Property (the “**Property**”) described and depicted in blue on Exhibit A under the terms and conditions set forth herein.

H. Together, the District Existing Property and Property is referred to herein as the “**Expanded Property**” and the Expanded Property shall be approximately square in shape running approximately 600 feet in a southerly direction along Tassajara Road from the northeast corner of the District Existing Property and from the same northeast corner approximately 600 feet west along a line parallel with the existing northern edge of the District Existing Property. When these boundary lines are connected by parallel lines the resulting Expanded Property is comprised of an area of approximately 8.0 acres. The Expanded Property is depicted in red on Exhibit A.

I. Given Optionor’s processing of the Tassajara Parks Project, which seeks to permanently protect the vast majority of the Project Site for nonurban uses such as parks, recreation, open space, grazing, wetlands, and habitat mitigation, the Parties have terminated the Option Agreement and desire to replace it with this Agreement.

NOW THEREFORE, in consideration of the mutual covenants of the Parties contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows.

AGREEMENT

1. Definitions.

“**Agreement**” is defined in the preamble.

“**Contingent Offer**” is defined in Section 4 hereof.

“County” is defined in Recitals paragraph A.

“Development Area” is defined in Recitals paragraph B.

“District Existing Property” is defined in Recitals paragraph C.

“Effective Date” is defined in the preamble.

“Environmental Laws” means all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance (as later defined), or pertaining to occupational health or industrial hygiene (and only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Property), occupational or environmental conditions on, under, or about the Property, as now or may at any later time be in effect, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C.A. § 9601 *et seq.*); the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. § 6901 *et seq.*); the Clean Water Act (also known as the Federal Water Pollution Control Act) (33 U.S.C.A. § 1251 *et seq.*); the Toxic Substances Control Act (15 U.S.C.A. § 2601 *et seq.*); the Hazardous Materials Transportation Authorization Act (49 U.S.C.A. § 5101 *et seq.*); the Insecticide, Fungicide, Rodenticide Act (7 U.S.C.A. § 136 *et seq.*); the Superfund Amendments and Reauthorization Act (42 U.S.C.A. § 96901 *et seq.*); the Clean Air Act (42 U.S.C.A. § 7401 *et seq.*); the Safe Drinking Water Act (42 U.S.C.A. § 300f *et seq.*); the Solid Waste Disposal Act (42 U.S.C.A. § 6901 *et seq.*); the Surface Mining Control and Reclamation Act (30 U.S.C.A. § 1201 *et seq.*); the Emergency Planning and Community Right to Know Act (42 U.S.C.A. § 11001 *et seq.*); the Occupational Safety and Health Act (29 U.S.C.A. § 655 and 657 *et seq.*); the California Underground Storage of Hazardous Substances Act (Health & Saf. Code § 25280 *et seq.*); the California Hazardous Substances Account Act (Health & Saf. Code § 25300 *et seq.*); the California Hazardous Waste Control Act (Health & Saf. Code § 25100 *et seq.*); the California Safe Drinking Water and Toxic Enforcement Act (Health & Saf. Code § 25249.5 *et seq.*); the Porter-Cologne Water Quality Act (Wat. Code § 13000 *et seq.*), together with any amendments of or regulations promulgated under the statutes cited above and any other federal, state, or local law, statute, ordinance, or regulation now in effect or later enacted which pertains to occupational health or industrial hygiene, and only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Property, or the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use.

“Environmental Permits” means all permits, consent, certifications, permission, agreements or other authorizations required by or from any state, federal, or local regulatory entity or agency, including all Authorities, to enable, permit and/or authorize development of the Real Property for the Project along with required environmental mitigation and related on-site and off-site

improvements. Environmental Permits includes, without limitation, those issued by the United States Army Corp of Engineers, United States Fish & Wildlife Service, California Regional Water Quality Control Board, and California Department of Fish & Wildlife.

“Final Action” shall mean (1) the County’s final approval, conditional approval, or denial of all applications, permits, certifications, or entitlements for the Project, including but not limited to General Plan Amendment, Rezoning, Vesting Tentative Map, Final Map, Preliminary and Final Development Plans, tree removal permit, and Urban Limit Line change, and (2) compliance with CEQA.

“Final Approval” or “Final Approvals” shall mean:

- (i) certification of an Environmental Report (“EIR”) under the California Environmental Quality Act (“CEQA”) (Cal. Pub. Res. Code § 21000 *et seq.*);
- (ii) final approval or conditional approval by the County of all applications, permits, certifications, or entitlements for the Project, including but not limited to General Plan Amendment, Rezoning, Vesting Tentative Map, Final Map, Preliminary and Final Development Plans, tree removal permit, and Urban Limit Line change;
- (iii) issuance of all **“Environmental Permits”**;
- (iv) annexation of the Development Area by the Contra Costa Local Agency Formation Commission (“LAFCO”) pursuant to the Cortese-Knox-Hertzberg Act of 2000 (Cal. Gov’t Code § 56000 *et seq.*);
- (v) approval of a water supply for the Project by a retail water purveyor such as the East Bay Municipal Utility District (“EBMUD”); and
- (vi) either the expiration of all applicable appeal periods, petition periods, reconsideration periods, or statutes of limitation for challenging such Final Approvals without an appeal, petition, request for reconsideration, or legal challenge having been filed, or, in the event any such challenge is filed, such challenge is fully resolved or settled in favor of the Project (as determined in Optionor’s sole and absolute discretion).

“Hazardous Substances” include without limitation:

- (i) Those substances included within the definitions of “hazardous substance,” “hazardous waste,” “hazardous material,” “toxic substance,” “solid waste,” or “pollutant or contaminant” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C.A. § 9601 *et seq.*); the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. § 6901 *et seq.*); the Clean Water Act (also known as the Federal Water Pollution Control Act) (33 U.S.C.A. § 1251 *et seq.*); the Toxic Substances Control Act (15 U.S.C.A. § 2601 *et seq.*); the Hazardous Materials Transportation Authorization Act (49 U.S.C.A. § 5101 *et seq.*) or under any other Environmental Law;
- (ii) Those substances listed in the United States Department of

Transportation Table (49 C.F.R. 172.101), or by the Environmental Protection Agency, or any successor agency, as hazardous substances (40 C.F.R. Part 302);

(iii) Other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and

Any material, waste, or substance that is:

- (a) a petroleum or refined petroleum product,
- (b) asbestos,
- (c) polychlorinated biphenyl,
- (d) designated as a hazardous substance pursuant to 33 U.S.C.A. §§ 1321 et seq. or listed pursuant to 33 U.S.C.A. §§ 1317 et seq.,
- (e) a flammable explosive, or
- (f) a radioactive material.

“Memorandum of Contingent Offer” is defined in Section 5 hereof.

“Northern Site” is defined in Recitals paragraph A.

“Northern Preservation Area” is defined in Recitals paragraph B.

“Offer of Dedication and Grant Deed” is defined in Section 4 hereof.

“Option Consideration” is defined in Recitals paragraph E.

“Optionee” is defined in the preamble.

“Optionor” is defined in the preamble.

“Option Agreement” is defined in Recitals paragraph D.

“Preservation Area” is defined in Recitals paragraph B.

“Prevailing Party” is defined in Section 18 hereof.

“Project” or **“Tassajara Parks Project”** is defined in Recitals paragraph B.

“Project Site” or **“Real Property”** is defined in Recitals paragraph A.

“Property” is defined in Recitals paragraph F.

“Purchase Price” is defined in Section 7 hereof.

“Quitclaim Deed” is defined in Section 5 hereof.

“Real Property Taxes” includes all real property taxes and assessments, general, special, ordinary, or extraordinary, and improvement bond or bonds imposed or assessed on the Property. Optionee has received a copy of a current tax bill for the Property.

“Southern Preservation Area” is defined in Recitals paragraph B.

“Southern Site” is defined in Recitals paragraph A.

2. Recitals. The recitals above are true and correct and are incorporated herein by this reference.

3. Refund. Within thirty (30) days of the County's "**Final Action**" on the Project, but in no event later than thirty (30) days after the first anniversary of the Effective Date, Optionor shall refund the Option Consideration to Optionee.

4. Dedication. After the County's issuance of a final subdivision map for the Project, under Article 4 of Chapter 3 of the Subdivision Map Act (Cal. Gov't Code § 66410 *et seq.*), but prior to transmittal of such map to the county recorder, Optionor shall execute and deliver in recordable form to Optionee an "**Offer of Land Dedication and Grant Deed**" substantially in the form attached hereto as Exhibit B. Notwithstanding anything in this Agreement to the contrary, the Parties understand and agree that Optionor's obligation to execute and deliver such Offer of Land Dedication and Grant Deed is expressly contingent upon the receipt of all "**Final Approvals**" for the Project ("**Contingent Offer**").

5. Execution of Agreement/Memorandum of Contingent Offer/Quitclaim Deed. Following execution of this Agreement by all Parties hereto, Optionor shall execute and deliver in recordable form to Optionee a "**Memorandum of Contingent Offer**" substantially in the form attached hereto as Exhibit C. Concurrent with receipt of the Memorandum of Contingent Offer, Optionee shall execute and deliver in recordable form to Optionor a "**Quitclaim Deed**" substantially in the form attached hereto as Exhibit D.

5.1 Recording of Memorandum. Upon receipt of the executed Memorandum of Contingent Offer, and only after execution and delivery of the Quitclaim Deed to Optionor, Optionee shall have the right to record at Optionee's expense the Memorandum of Contingent Offer in the official records of the County in order to give third parties notice of the existence of the Contingent Offer. Under no circumstance shall this Agreement be recorded.

5.2. Recording of Quitclaim Deed. In the event the Contingent Offer terminates for any reason without being exercised, Optionor shall have the right, without notice to or consent from Optionee, to record the Quitclaim Deed in the official records of the County thereby extinguishing official notice of the existence of the Contingent Offer.

6. Optionee Cooperation. Optionee shall provide reasonable and good faith cooperation to Optionor and shall not publicly criticize or oppose the Project. Notwithstanding the foregoing or anything else in this Agreement to the contrary, Optionee shall not be expected to publicly support or endorse the Project.

7. Legal Parcel. The Parties acknowledge and agree that, pursuant to Government Code sections 66426.5 and 66428(a)(2), Optionor's conveyance of the Property to Optionee is exempt from the provisions of the California Subdivision Map Act (Government Code section 66410 *et seq.*).

8. Notice of Intent to Sell. If, at any time, Optionor elects to sell the

Real Property to a Non-Affiliated Party, then prior to selling the Real Property to such Non-Affiliated Party Optionor shall give Optionee written notice of such decision to sell the Real Property (“**Notice of Intent to Sell**”). The term “**Non-Affiliated Party**” means a person or entity that is not owned or controlled, in whole or in part, by FT Land LLC or any of its members or managers.

9. Notice of Intent to Abandon Project. If, at any time, Optionor elects to permanently abandon the Project, which Optionor may elect to do in its sole and absolute discretion, without liability to Optionee, then Optionor shall give Optionee written notice of such election (“**Notice of Intent to Abandon Project**”). Optionor may decide to delay, resubmit, alter, change, or modify the Project, and such decision shall not constitute permanent abandonment of the Project.

10. Failure to Exercise Option/Termination. If Optionee fails to accept the Offer of Land Dedication and Grant Deed within one hundred eighty (180) days of receipt thereof from Optionor, then this Agreement shall automatically expire and terminate, Optionor shall have no further obligations to Optionee, and Optionee shall have no further right or interest in the Contingent Offer. In such event, Optionor shall be authorized, without notice to or consent from Optionee, to record the Quitclaim Deed in the official records of the County thereby extinguishing official notice of the existence of the Contingent Offer.

11. Title.

11.1 Title Report. Prior to accepting the Offer of Land Dedication and Grant Deed from Optionor, Optionee shall request a current preliminary report on the Property from Title Company (“**Preliminary Title Report**”).

11.2. Permitted Exceptions. If the Offer of Land Dedication and Grant Deed is accepted, Optionor shall promptly deliver title to the Property to Optionee, subject to (i) all matters of record as stated in the Preliminary Title Report to the extent applicable to the Property; (ii) then current and non-delinquent Real Estate Taxes; (iii) the standard printed exceptions of the Title Company; (iv) all matters that an accurate survey or physical inspection of the Property would show; (v) all land use, zoning, and other laws, rules, or regulations affecting the Property; and (vi) all other matters consented to in writing or caused by Optionee.

11.3. AS-IS Transaction. Optionor’s donation of the Property to Optionee is on an “as-is, where-is” basis. Notwithstanding anything in this Agreement to the contrary, except for the express representations set forth in Section 12, Optionor expressly disclaims any express or implied warranties or representations with respect to the Property or any matter relating thereto, including without limitation, the acreage of the Property, the size or shape of the Property, the existence or status of any assessments with respect thereto, the condition of any improvements thereon, the existence of any Hazardous Substances on, in, under or about the Property, and the existence of any government approvals with

respect to the Property or any anticipated use thereon, the suitability of the Property for Optionee's potential future use in a manner consistent with the Contra Costa County Urban Limit Line, soils, geology, any entitlements that may be obtained or any other physical or legal condition affecting the Property. Optionee shall have the sole and exclusive responsibility for determining the status of the above and satisfying itself of such matters and issues and will have, in fact, investigated the physical and legal condition of the Property to its entire satisfaction prior to accepting the Offer of Land Dedication and Grant Deed.

12. Optionor's Representations and Warranties. Representations made to Optionor's knowledge are without duty of inquiry or investigation. Any representation of Optionor shall survive Optionee's acceptance of the Offer of Land Dedication and Grant Deed for 12 months.

12.1. To the best of Optionor's knowledge, as of the Effective Date there are not presently any actions, suits, or proceedings pending or, to the best of Optionor's knowledge, threatened against or affecting the Property or the interest of Optionor in the Property or its potential future use in a manner consistent with the Contra Costa County Urban Limit Line or that would affect Optionor's ability to donate the Property as contemplated in this Agreement.

12.2. To the best of Optionor's knowledge, as of the Effective Date there are not presently any pending or threatened condemnation, eminent domain, or similar proceedings affecting the Property.

12.3. Except as otherwise stated in this Agreement, as set forth in Section 11.3 the Property shall be donated by Optionor "AS IS" and Optionee shall accept the Property solely on the basis of Optionee's own investigations and not in reliance on any representations by Optionor or Optionor's agents that are not contained in this Section 12.

13. Joint Representations and Warranties. Each of the Parties to this Agreement makes the following representations and warranties to the other Party:

13.1. The persons who have executed this Agreement have been authorized to do so by the Party on whose behalf the Party is signing, and any resolutions required to execute this Agreement has been properly obtained. All documents to be delivered under this Agreement will be executed by an authorized person. Each Party has a good and legal right to enter into this Agreement and to perform all covenants of that Party contained in this Agreement.

13.2. None of the warranties, representations, or statements made by any Party in this Agreement contain any untrue statements of material fact or omit a material fact necessary in order to make the statements not misleading.

14. Default.

14.1. If Optionee fails to deliver the executed Quitclaim Deed to Optionor as and when required hereunder or if Optionee fails to timely accept the Offer of Land Dedication and Grant Deed as required hereunder, then this Agreement shall terminate and Optionor shall have no obligation or liability to Optionee.

14.2 In the event that the County has not taken Final Action on the Project by the first anniversary of the Effective Date, then Optionor shall refund the Option Consideration to Optionee within thirty (30) days thereafter.

15. No Assignment / Transfer. No assignment or transfer of Optionee's rights under this Agreement shall be made, and any attempt to transfer or assign this Agreement or any rights of Optionee hereunder shall be void and shall automatically terminate the Option. In the event of a final action of LAFCO affecting a change of organization as a successor-in-interest to Optionee, Optionee shall have the right to assign this Agreement to such successor-in-interest to Optionee.

16. Notices. All notices, demands, requests, exercises, and other communications under this Agreement by either Party shall be in writing and:

16.1. Sent by United States Certified Mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States mail; or

16.2. Sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier; or

16.3. Sent by telecopy or similar means if a copy of the notice is also sent by United States Certified Mail; in which case notice shall be deemed delivered on transmittal by telecopier or other similar means, provided that a transmission report is generated that reflects the accurate transmission of the notices, as follows:

Notice to Optionor must be addressed as follows:

FT LAND LLC.
Attn.: Mike Bonnifield, Esq.
2300 Clayton Road #500
Concord, CA 94520
Telephone: (925) 602-1400
Facsimile: (925) 825-0143

And copy to:

Nadia L. Costa, Esq.
Miller Starr Regalia
1331 North California Boulevard
Walnut Creek, CA 94596
Telephone: (925) 935-9400

Facsimile: (925) 933-4126

Notice to Optionee must be addressed as follows:

San Ramon Valley Fire Protection District
Attn.: Paige Meyer, Fire Chief
1500 Bollinger Canyon Road
San Ramon, CA 94583
Telephone: (925) 838-6600
Facsimile: _____

And copy to:

William D. Ross, Esq.
Law Offices of William D. Ross
520 South Grand Avenue, Suite 300
Los Angeles, CA 90071

These addresses may be changed by written notice to the other Party, provided that no notice of a change of address shall be effective until actual receipt of that notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

17. Waivers. Failure of either Party at any time to require performance of any provision of this Agreement shall not limit that Party's right to enforce the provision. Waiver of any breach of a provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or of any other provision.

18. Litigation Costs. If any legal action or any other proceeding, including arbitration or an action for declaratory relief, is brought for the enforcement or interpretation of this Agreement or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and other costs incurred in that action or proceeding, in addition to any other relief to which the prevailing party may be entitled. "**Prevailing Party**" shall include without limitation:

18.1. A Party who dismisses an action in exchange for sums allegedly due;

18.2. The Party who receives performance from the other Party of an alleged breach of covenant or a desired remedy where that is substantially equal to the relief sought in an action; or

18.3. The Party determined to be the prevailing party by a court of law.

19. Integration. This Agreement contains the entire agreement between the Parties, and expressly supersedes all previous or contemporaneous agreements, understandings, representations, or statements between the Parties respecting the option for the Property.

20. Survival of Covenants. Any covenants and agreements that this Agreement does not require to be fully performed prior to Optionee's acceptance of the Offer of Land Dedication and Grant Deed shall survive and shall be fully enforceable after the Optionee's acceptance of the Offer of Land Dedication and Grant Deed in accordance with their terms.

21. Changes in Writing. This Agreement and any of its terms may be changed, waived, discharged, or terminated only by a written instrument signed by the Party against whom enforcement of the change, waiver, discharge, or termination is sought.

22. Indemnified Parties. Any indemnification contained in this Agreement for the benefit of a Party shall extend to the elected or appointed officials, officers, employees, and agents of the Party.

21.1 Optionee agrees to indemnify, defend and hold Optionor, its officers, members, employees, or agents harmless from and against any and all injury, loss, cost, expense, charge, damage, or liability (or any claims in respect of the foregoing), (including reasonable attorneys' fees and court costs) arising directly or indirectly from Optionee's use and/or occupation of the Property, the actions or failure to act of Optionee or its elected officials, officers, employees, independent contractors, or agents, or Optionee's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Optionor, its officials, officers, employees, independent contractors, or agents.

21.2 Optionor agrees to indemnify, defend and hold Optionee and its elected or appointed officials, officers, employees, or agents harmless from and against any and all injury, loss, damage, or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the Optionor's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Optionee, its elected or appointed officials, officers, employees, agents, or independent contractors.

21.3 Notwithstanding anything to the contrary in this Agreement, Optionor and Optionee each waive any claims that each may have against the other with respect to consequential, incidental, or special damages.

23. Counterparts. This Agreement may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

24. Invalidity of Provisions. If any provision of this Agreement or any instrument to be delivered by Optionee at closing pursuant to this Agreement is declared invalid or is unenforceable for any reason, that provision shall be deleted from the document and shall not invalidate any other provision contained in the document.

25. Successors. This Agreement shall be binding on and inure to the benefit of the Parties, and their respective heirs, personal representatives, successors, and assigns, except as otherwise stated in this Agreement, as set forth in Section 15.

26. No Third-Party Rights. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties and their respective successors and assigns, except as otherwise stated in this Agreement, as set forth in Section 15, any rights or remedies under or by reason of this Agreement.

27. Construction. Headings at the beginning of each section and subsection are solely for the convenience of the Parties and are not a part of and shall not be used to interpret this Agreement. The singular form shall include plural and vice versa. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties have prepared it. Unless otherwise indicated, all references to Sections are to this Agreement.

28. Amendment. This Agreement may not be amended or altered except by a written instrument executed by Optionor and Optionee.

29. Exhibits. All attached exhibits are incorporated in this Agreement by this reference. The exhibits to this Agreement are:

- Exhibit A: Map (Property, District Existing Property, Expanded Property)
- Exhibit B: Offer of Land Dedication and Grant Deed
- Exhibit B: Memorandum of Contingent Offer
- Exhibit C: Quitclaim Deed

30. Venue / Governing Law. This Agreement is entered into in the County of Contra Costa, California and shall be governed and construed in accordance with California law. Any arbitration or litigation arising out of or related to this Agreement shall be brought in Contra Costa County Superior Court.

31. Joint Defense. In the event of a third party challenge of any type to this Agreement, the Parties agree to jointly defend the validity and implementation of the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

OPTIONOR

FT Land, LLC
A California limited liability company

BY: _____ Dated: _____

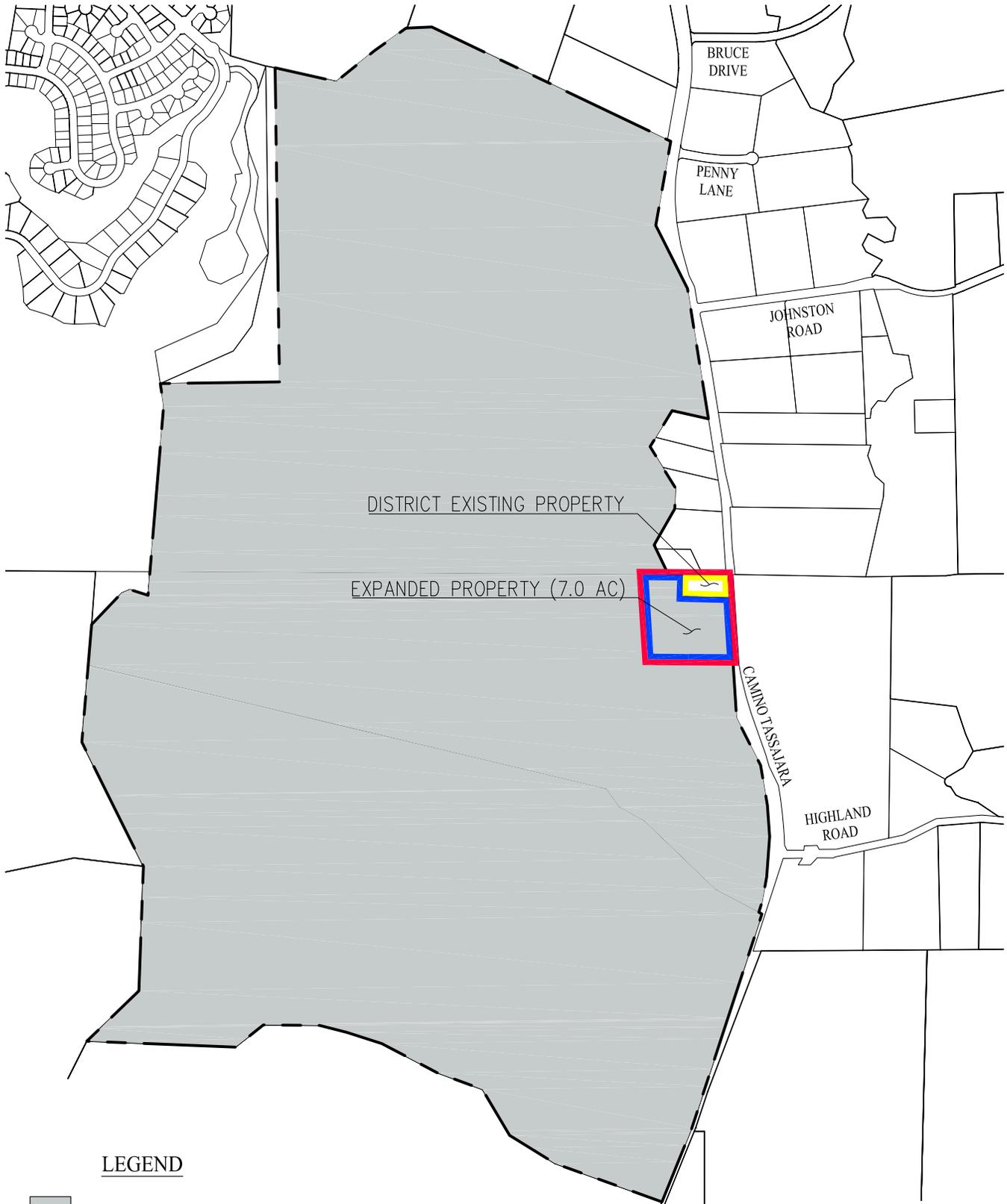
OPTIONEE

San Ramon Valley Fire Protection District
A California special district

BY: _____ Dated: _____

Paige Meyer, Fire Chief

EXHIBIT A



DISTRICT EXISTING PROPERTY

EXPANDED PROPERTY (7.0 AC)

BRUCE
DRIVE

PENNY
LANE

JOHNSTON
ROAD

CAMINO TASAJARA

HIGHLAND
ROAD

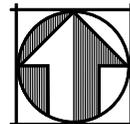
LEGEND



P-1 PLANNED UNIT DISTRICT

SOUTHERN SITE

CONTRA COSTA COUNTY CALIFORNIA
DATE: NOVEMBER 5, 2015 SCALE: 1" = 1,000'



**Carlson, Barbee
& Gibson, Inc.**
CIVIL ENGINEERS • SURVEYORS • PLANNERS

2633 Camino Ramon, Suite 350 • San Ramon, CA 94583
925-865-0322 • fax 925-865-8575
www.cbarg.com

Exhibit B

Recording requested by

When recorded mail to

(Space Above This Line for Recorders Use)
EXEMPT FROM RECORDING FEES
EXEMPT-GOVERNMENT AGENCY
(Government Code Sections 6103 & 27383)

OFFER OF LAND DEDICATION AND GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, FT Land, LLC, a California limited liability company, (the "Grantor"), does hereby make an OFFER OF LAND DEDICATION and GRANTS to the San Ramon Valley Fire Protection District, a California special district ("Grantee"), that certain real property located in the County of Contra Costa, State of California, as more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"), together with all improvements thereon and all rights and privileges appurtenant thereto.

SUBJECT TO all non-delinquent real property taxes, special taxes, and other assessments; all liens, encumbrances, easements, rights-of-way, covenants, conditions, restrictions, limitations, obligations, and liabilities of record.

IN WITNESS WHEREOF, the undersigned has executed this document as of the day and year indicated.

OPTIONOR

FT Land, LLC
A California limited liability company

BY: _____ Dated: _____

Exhibit C

Recording requested by

When recorded mail to

(Space Above This Line for Recorders Use)
EXEMPT FROM RECORDING FEES
EXEMPT-GOVERNMENT AGENCY
(Government Code Sections 6103 & 27383)

MEMORANDUM OF CONTINGENT OFFER

This Memorandum of Contingent Offer is executed in connection with that certain Contingent Offer of Land Dedication dated December 2, 2015, between the undersigned FT Land, LLC, a California limited liability company, (“Optionor”), and the SAN RAMON VALLEY FIRE PROTECTION DISTRICT, a California special district (“Optionee”), relating to the Property described on Exhibit A attached hereto.

Optionor has granted to Optionee a contingent offer to accept the donation of the Property from Optionor under the terms and conditions set forth in the Contingent Offer of Land Dedication.

The contingent offer granted by the Contingent Offer of Land Dedication shall expire:

1. upon termination by the Parties, or
2. automatically no later than one hundred eighty (180) days after Optionee’s receipt of the Offer of Land Dedication and Grant Deed from Optionor, if Optionee has not yet accepted the Offer of Land Dedication and Grant Deed.

OPTIONOR

FT Land, LLC
A California limited liability company

BY: _____ Dated: _____

Exhibit D

Recording requested by

When recorded mail to

(Space Above This Line for Recorders Use)

QUITCLAIM DEED

For valuable consideration, receipt of which is hereby acknowledged, SAN RAMON VALLEY FIRE PROTECTION DISTRICT, a California special district, "Optionee" under that certain Contingent Offer of Land Dedication dated December 2, 2015, and for which a Memorandum of Option Agreement was recorded in Book _____, Page _____, of the Official Records of the County of Contra Costa, does hereby remise, release, and forever quitclaim to FT LAND LLC, a California limited liability company, "Optionor" under that certain Contingent Offer of Land Dedication, all of Optionee's right, title, and interest in the real property located in the unincorporated area of Contra Costa County, California, described and depicted on the attached Exhibit A.

This deed is given to relinquish and release any right, title, and interest the Optionee may have by virtue of the Contingent Offer of Land Dedication.

Assessor's Parcel No. 223-020-018

OPTIONOR

FT Land, LLC
A California limited liability company

BY: _____ Dated: _____

OPTIONEE

San Ramon Valley Fire Protection District
A California special district

BY: _____ Dated: _____

Paige Meyer, Fire Chief

FIRST AMENDMENT TO OPTION AGREEMENT

This FIRST AMENDMENT TO OPTION AGREEMENT ("**First Amendment**") is made and entered into effective as of December 2 2015, by and between FT LAND LLC, a California limited liability company ("**Optionor**"), and SAN RAMON VALLEY FIRE PROTECTION DISTRICT, a California special district ("**Optionee**"), with reference to the following facts. Optionor and Optionee may each be referred to individually as a "**Party**," and collectively as the "**Parties**."

RECITALS

A. Optionor is the proponent of the Tassajara Parks Project, which is situated on approximately 771 acres of land on two sites located in the Tassajara Valley area of unincorporated Contra Costa County ("**County**"). The land on which the Project would be implemented is located east of the City of San Ramon and Town of Danville and outside of and adjacent to the Contra Costa County Urban Limit Line. Approximately 155 acres of the above-referenced land is commonly known as the "**Northern Site**," and approximately 616 acres is commonly known as the "**Southern Site**." The Northern Site and Southern Site are located less than 0.5 mile apart and are separated by intervening properties along Camino Tassajara Road. The Northern Site and the Southern Site are collectively referred to herein as the "**Project Site**" or the "**Real Property**."

B. The Tassajara Parks Project would consist of the construction of approximately 125 single-family homes on a semi-flat, 30-acre portion of the Northern Site, along with Project-related improvements and infrastructure to serve the residential uses ("**Development Area**"). The Project would develop nonurban uses, including two staging areas, a detention basin, and a pump station, on approximately 7 acres of the Northern Site. Optionor proposes to convey the remaining approximately 118 acres of the Northern Site ("**Northern Preservation Area**") and approximately 609 acres of the Southern Site ("**Southern Preservation Area**") to the East Bay Regional Park District (collectively, "**Preservation Areas**") to ensure that the Preservation Areas are preserved in perpetuity only for nonurban uses such as parks, recreation, open space, grazing, wetlands, and habitat mitigation. As set forth more fully herein, Optionor also proposes to convey an approximately 7-acre parcel to Optionee for Optionee's potential future use in a manner consistent with the Contra Costa County Urban Limit Line (collectively, the features described in this recital shall be referred to as the "**Tassajara Parks Project**" or "**Project**"). Under the proposed "Tassajara Parks P-1 Planned Unit District" zoning, any such use would be subject to a land use permit issued by the County, in its discretion.

C. Optionor and Optionee are currently Parties to that certain "Option Agreement" made and entered into on April 16, 2010, pursuant to which Optionee desired to acquire the exclusive right to purchase, without becoming obligated to purchase, an approximately 4.5-acre portion of the Real Property at an agreed price and under the specified terms and conditions set forth therein ("**Option Agreement**").

D. The Option Agreement required Optionee to pay Optionor the sum of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) ("**Option Consideration**"). The payment of the Option Consideration was a condition precedent to the effectiveness of the Option Agreement.

E. Under the Option Agreement, Optionor intended to process a development project known as the "**New Farm Project**" that would have subdivided and developed 187

residential units on the Project Site, 142 of which would have been located on the Southern Site, as well as a church, cemetery, and fire training facility. The Tassajara Parks Project is substantially different than the New Farm Project and, as described herein, does not propose any urban development of the Southern Site.

F. Given Optionor's processing of the Tassajara Parks Project, which seeks to permanently protect the vast majority of the Project Site for nonurban uses such as parks, recreation, open space, grazing, wetlands, and habitat mitigation, the Parties are executing this Agreement to terminate the Option Agreement and to replace the Option Agreement with a "Contingent Offer of Land Dedication" ("**Contingent Offer**"), as set forth in Exhibit A, the form of which is attached hereto and incorporated by this reference, whereby Optionor would "donate" an approximately 7.0-acre portion of the Real Property (the "**Property**") under the terms and conditions set forth in the Contingent Offer.

G. Under the Contingent Offer, Optionor agrees to refund the Option Consideration to Optionee within thirty (30) days of the County's "**Final Action**" on the Project, as described in the Contingent Offer. Optionor further agrees to donate the Property to Optionee within ten (10) days after the "**Final Approval**" of the Project, as described in the Contingent Offer.

NOW THEREFORE, in consideration of the mutual covenants of the Parties contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows.

AGREEMENT

1. Recitals. The recitals above are true and correct and are incorporated herein by this reference.
2. Recording of Quitclaim Deed. Optionor shall have the right, without notice to or consent from Optionee, to record the Quitclaim Deed described in Sections 5, 5.1, and 5.2 of the Option Agreement in the official records of Contra Costa County, thereby extinguishing official notice of the existence of the Option.
3. Termination. The Option Agreement is hereby terminated in its entirety and replaced in full by the Contingent Offer of Land Dedication.
4. Counterparts. This First Amendment may be executed in two or more counterparts, including facsimile or Portable Document Format ("PDF"), each of which shall be deemed an original but all of which, taken together, shall constitute one and the same First Amendment.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the day and year written below.

OPTIONOR:

FT LAND LLC, a California limited liability company

By: _____

OPTIONEE:

SAN RAMON VALLEY FIRE PROTECTION DISTRICT, a
California special district

By: _____