REIMBURSEMENT AGREEMENT
FOR CONSULTANT PLANNING SERVICES
FOR THE TASMAN EAST SPECIFIC PLAN

PREAMBLE

This Reimbursement Agreement ("Agreement") is by and between Tasman East Parcel 56 Owner, LLC, a Delaware limited liability company and Tasman East Parcel 57 Owner, LLC, a Delaware limited liability company (the "Applicants") and the City of Santa Clara, California, a chartered California municipal corporation ("City"). City and Applicants may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. The City has initiated a Specific Plan and related General Plan Amendment and environmental review pursuant to the California Environmental Quality Act ("CEQA") for the Tasman East Specific Plan.

B. The Applicants desire to develop various projects within the Tasman East Specific Plan area (Proposed Projects).

C. The City expects to incur various costs and expenses including planning consultant fees to provide entitlement review services for planning applications of the Proposed Projects. City intends to retain planning consultants with expertise in development review and urban design matters ("Planning Consultants") to assist in the reviewing of development planning applications for conformance to relevant codes and policies, project management and coordination of development applications with City departments and other applicable agencies, analysis of environmental clearance documents for conformance to CEQA, preparation of reports and presentations, and attendance at relevant meetings, associated with the Proposed Projects.

D. Applicants are willing to reimburse City for certain Eligible Costs to be incurred by City in connection with the utilization of Planning Consultants to provide entitlement review services for planning applications within the Tasman East Specific Plan area, as set forth herein.

In consideration of the recitals and mutual promises contained herein, the Parties agree as follows:

AGREEMENT PROVISIONS

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to provide for payment by Applicants of all Eligible Costs (defined below) directly or indirectly incurred by City in connection with the Proposed Projects.

DRAFT

2. REIMBURSEMENT OBLIGATION

A. The Applicants shall reimburse the City for Planning Consultant fees associated with the technical review, project management, environmental review, report and presentation preparation of the Proposed Projects, including Planning Consultant fees and costs incurred in connection with the review of Planning Applications for the Proposed Projects (collectively, the "Eligible Costs") in accordance with this Agreement.

B. The total amount of Eligible Costs is estimated to be $30,000 per development project for a total of $30,000 to cover planning applications for one development project ("Estimated Budget"). City agrees to use its best efforts to stay within the Estimated Budget. In the event that additional services are required that would exceed the Estimated Budget, City shall give the Applicants 10 business days' advance written notice prior to authorizing any work that would cause the Eligible Costs to exceed the Estimated Budget, which notice shall document the budget for additional services that would exceed the Estimated Budget ("Additional Budget"). If City and Applicants cannot agree to the scope and cost of said additional services in writing, this Agreement may be terminated or extended pursuant to Section 6. Applicants shall provide an amount to cover additional costs prior to the commencement of additional services, unless the Parties agree to an alternate funding allocation as part of the review and approval of the scope and cost of said additional services.

C. City reserves the right to seek reimbursement for costs incurred by City from any parties who submit development applications for properties within or in the vicinity of the Tasman East Specific Plan in the future.

3. PAYMENT OF ELIGIBLE COSTS

A. Upon execution of this Agreement, Applicants shall deposit with City the Estimated Budget in cash or other immediately available funds ("Payment") in satisfaction of Applicants' obligation to pay the Eligible Costs.

B. If the City provides notice pursuant to Section 2.B of this Agreement that additional services are required that would cause the Eligible Costs to exceed the Estimated Budget, the Applicants shall deposit with City the [Additional Budget] in cash or other immediately available funds ("Additional Payment") in satisfaction of Applicants' obligation to pay Eligible Costs.

C. City shall withdraw from the Payment and Additional Payment, if any, as necessary to cover the Eligible Costs. On a monthly basis, City shall provide written notice to all Applicants documenting: (1) the amount of Eligible Costs incurred to date; (2) the amount of Payments and Additional Payments, if any, that the City has used to pay Eligible Costs incurred to date; and (3) the remaining balance of the Applicant's Payment and Additional Payments, if any.

D. The Applicants make this commitment without regard to the City's ultimate decision whether to approve the Proposed Projects.

4. REFUND OF UNEXPENDED BALANCE

A. In the event this Agreement is terminated as provided in Section 6 below, City shall return to each Applicant within 30 days following the effective date of termination that portion of the Payment or Additional Payment, if any, that has not been expended or committed by City as provided herein.

B. Any unexpended funds shall be returned to the Applicant within 45 days after (1) the City approves or denies all relevant planning applications associated with the Proposed Projects. City shall provide copies of invoices and other documents to verify final costs for services.

5. NO COMMITMENT AS TO FUTURE APPROVALS

Nothing in this Agreement shall be construed as a commitment to grant or issue any preliminary or final approvals in connection with the Proposed Projects. Each Applicant acknowledges and agrees that nothing in this Agreement limits City's discretion, in any manner, with respect to any aspect of the Proposed Projects. Each Applicant agrees that it shall remain obligated to pay Applicant's Share of all Eligible Costs, regardless of whether any aspect of the Proposed Projects are approved.

6. TERM; TERMINATION OF AGREEMENT

A. The term of this Agreement shall be from the Effective Date until the date the services identified in Recital C have been fully performed and paid for, unless terminated earlier.

B. Any Party may terminate this Agreement without cause by giving the other Parties written notice ("Notice of Termination") which clearly expresses that Party's intent to terminate the Agreement. Notice of Termination shall become effective no less than ten (10) calendar days after all Parties receive such notice. No Applicant shall have an obligation to pay any Eligible Costs incurred on or after the effective date of the termination, but shall remain responsible for any Eligible Costs incurred prior to the effective date of the termination.

C. In the event of termination of this Agreement, City shall prepare a statement for all services rendered by City. City will refund any unexpended balance of Applicants' funds to Applicants in accordance with Section 4 of this Agreement.

7. ASSIGNMENT

An Applicant may assign its interest in this Agreement with the prior written notice to City and all other Applicants.

DRAFT

8. AMENDMENTS

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

9. INTEGRATED DOCUMENT

This Agreement represents the entire agreement between City and Applicants. No other understanding, agreements, conversations, or otherwise, with any representative of any Party prior to execution of this Agreement shall affect or modify any of the terms or obligations of this Agreement. Any verbal agreement shall be considered unofficial information and is not binding upon any Party.

10. SEVERABILITY CLAUSE

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

11. WAIVER

Waiver of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

DRAFT

12. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara
Attention: Reena Brilliot, Planning Manager
1500 Warburton Avenue
Santa Clara, California 95050

to Tasman East Parcel 56 Owner addressed as follows:

Tasman East Parcel 56 Owner, LLC
c/o Related California
44 Montgomery St., Suite 1300
San Francisco, CA 94104
Attn: Nicholas Vanderboom

to Tasman East Parcel 57 Owner addressed as follows:

Tasman East Parcel 57 Owner, LLC
c/o _____
_____
_____
_____

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

13. CAPTIONS

The captions of the various sections, paragraphs and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

14. LAW GOVERNING CONTRACT AND VENUE

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by any Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

DRAFT

15. COUNTERPARTS AND SIGNATURES

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

[*Signatures on following pages*]

DRAFT

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

APPROVED AS TO FORM:

Dated: _____

BRIAN DOYLE
City Attorney

ATTEST:

JENNIFER YAMAGUMA
Acting City Clerk

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

TASMAN EAST PARCEL 56 OWNER, LLC
a Delaware limited liability company

Dated: _____
By: _____
(Signature)
Name: _____
Title: _____
Local Address: _____
_____
Email Address: _____
Telephone: ( ) _____
Fax: ( ) _____

TASMAN EAST PARCEL 57 OWNER, LLC
a Delaware limited liability company

Dated: _____
By: _____
(Signature)
Name: _____

DRAFT

Title: _____

Local Address: _____

_____

Email Address: _____

Telephone: ( ) _____

Fax: ( ) _____

DRAFT