

Introduced by: _____

ORDINANCE NO. _____

AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PASADENA AND PPF OFF 100 WEST WALNUT, LIMITED PARTNERSHIP, RELATED TO THE DEVELOPMENT OF A MIXED-USE OFFICE CAMPUS AND RESIDENTIAL COMMUNITY IN THE AREA BOUNDED BY WEST WALNUT STREET, FAIR OAKS AVENUE, WEST UNION STREET AND NORTH PASADENA AVENUE

WHEREAS, California Government Code Section 65864 provides, in pertinent part:

“The Legislature finds and declares that:

- (a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning, which would make maximum efficient utilization of resources at the least economic cost to the public.
- (b) Assurance to the applicant for a development project that upon approval of a future project, the applicant may proceed with a future project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development”; and

WHEREAS, California Government Code Section 65865 provides, in pertinent part:

“(a) Any city...may enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property as provided in this article...”; and

WHEREAS, California Government Code Section 65865.2 provides, in pertinent part:

“A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement...”; and

WHEREAS, consistent with state law, the City of Pasadena provides a process for the adoption of development agreements pursuant to the Pasadena Municipal Code, Title 17, Chapter 17.66, which sets forth specific findings that must be made before a development agreement may be approved; and

WHEREAS, PPF OFF 100 WEST WALNUT, L.P. (“Developer”) proposes to enter into a development agreement with the City of Pasadena (“Development Agreement”), which is attached to this Ordinance as Exhibit “A,” in connection with the development of a mixed-use office campus and residential community consisting of: up

to approximately 612,500 square feet of office uses, of which up to 22,500 square feet could be used for ancillary retail uses; ground floor retail along the Fair Oaks Avenue frontage with a minimum depth of 40 feet, and totaling approximately 15,000 square feet of retail uses; up to approximately 2,500 square feet of restaurant uses, and up to 475 residential uses, in the City of Pasadena, and described in the legal description attached hereto as Exhibit B, and incorporated herein by reference (the "Project"); and

WHEREAS, the Project, including this Ordinance and the Development Agreement, has been reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* ("CEQA")), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City's Local CEQA Guidelines. The City prepared an initial study and, based on the information contained in the initial study, concluded that the Project had the potential to cause significant impacts on the environment, and prepared an Environmental Impact Report (EIR). On January 15, 2015 and February 25, 2015, the City's Planning Commission considered Project and Final EIR for the Project and recommended certification of the Final EIR and approval of the Project and Development Agreement. The documents and other materials that constitute the record are located in the City's Planning and Community Development Department and are in the custody of David Sanchez, 175 N. Garfield Avenue, Pasadena, California 91101; and

WHEREAS, on January 15, 2015 and February 25, 2015, the Planning Commission conducted a duly noticed public hearing to consider the Project, including the Development Agreement. Notice of the time, place and purpose of the public hearing was duly provided in accordance with California Government Code Sections 65867, 65090, and 65091, and the City's ordinances. The Planning Commission considered the Project and Final EIR, and recommended certification of the Final EIR and approval of the Project and development agreement; and

WHEREAS, on March 30, 2015, and April 27, 2015, the City Council conducted a duly noticed public hearing to consider the Development Agreement and the Project. Notice of the time, place and purpose of the public hearing were duly provided in accordance with California Government Code Sections 65867, 65090 and 65091, and the City's ordinances. The City Council considered the Final EIR in conjunction with consideration of this Ordinance, and adopted Resolution No. _____, certifying the Final EIR, and approved the Project. The City Council finds and determines that there are no changes to the Project or its circumstances, or other new information that require further environmental analysis pursuant to the California Environmental Quality Act and hereby finds the Final EIR as certified sufficient for taking action on the Development Agreement. Further, the mitigation measures set forth in the Final EIR are made applicable to the Project through conditions of approval; and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and the corresponding cost of publication, will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

“Summary

Ordinance No. _____ is an uncodified ordinance through which a Development Agreement between the City of Pasadena and PPF OFF 100 WEST WALNUT, L.P. is approved. The purpose of the Development Agreement is to provide for the orderly development of the property at 100 West Walnut Ave, more commonly known as the parking lots surrounding the Parson's Engineering building, with a mixed-use office campus and residential community consisting of: up to approximately 612,500 square feet of office uses, of which up to 22,500 square feet could be used for ancillary retail uses; ground floor retail along the Fair Oaks Avenue frontage with a minimum depth of 40 feet, and totaling approximately 15,000 square feet of retail uses; and up to approximately 2,500 square feet of restaurant uses, and up to 475 residential uses. The Development Agreement (including legal descriptions of all affected parcels) and findings in support of the Development Agreement are on file in the City Clerk's Office.

Ordinance No. _____ shall take effect upon publication.”

SECTION 2. As required by Chapter 17.66 of the Pasadena Municipal Code, the City Council finds the following with respect to the Development Agreement:

A. The Development Agreement would be in the best interests of the City in that the City would enjoy many benefits memorialized in development agreement. The Development Agreement requires that the developer construct the Holly Street extension, beautify Leonard Pieroni Street and reconfigure the Fair Oaks/Union Street intersection. The Development Agreement also formalizes the use of the Parsons parking lot as an auxiliary parking lot for shuttling people to and from the Rose Bowl for events. The Development Agreement also eliminates uncertainty in the planning process and provide for the orderly future development of the property. The lack of certainty can result in a waste of resources, escalate the cost of housing and other development and discourage investment and a commitment to comprehensive planning. All of this would be considered a benefit to the City and community making the proposed development agreement in the best interest of the City.

B. The Development Agreement is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan, and this Zoning Code. The Development Agreement is consistent with the General Plan's Guiding Principle stating that "Economic vitality will be promoted to promote jobs, services, revenues and opportunities." The Development Agreement is also consistent with General Plan Objective #12 relating to the need to encourage a business climate that contributes to the City's fiscal health. The Project, and the economic benefits

from the proposed uses, further Objective #12. Further, General Plan Policy 12.1 states “Retail: encourage retail and sales-producing businesses to remain, expand in, or come to, Pasadena and promote healthy retail areas.” The proposed retail areas generate significant revenues to the City through sales taxes and other taxes and revenues. The Project and the Development Agreement are consistent with the General Plan.

The property is proposing to create a Planned Development district for the project site. Planned Developments are intended for sites where the applicant proposed and the City desires to achieve a particular mix of uses, appearance, land use compatibility, or special sensitivity to neighborhood character. The Project is in conformance with the purpose and intent of the Planned Development district.

C. The Development Agreement would not be detrimental to the health, safety, and general welfare of persons residing in the immediate area, nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City. The Development Agreement would be beneficial to the public interest and general welfare of the City because it would help facilitate a project that would include pedestrian-oriented retail uses along the Fair Oaks Avenue frontage, open spaces and linkages which would provide a connection from the project site to Old Pasadena. The Parsons Corporation towers will remain and continue to

serve as a key employment center for the Central District. Furthermore, the addition of 612,500 square feet of office uses will further the objectives of the Northwest Gateway/Parsons Precinct as a regional employment center. The Project, including the 475 residential units along with retail and restaurant uses, will support the objectives of the Old Pasadena Sub-district to “protect the numerous historic resources in the area, and to support the long term viability of its core as a regional retail and entertainment destination through the development of nearby complementary uses, including urban housing near light rail stations and parks.”

The Development Agreement requires that the project comply with the Conditions of Approval, all applicable Fire Department standards, Building and Safety Division standards, the Zoning Code, the approved Planned Development Plan, and the certified Final Environmental Impact Report and Mitigation Monitoring Reporting Program to ensure that the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

D. The Development Agreement is consistent with the provisions of State law (Government Code Sections 65864 through 65869.5.). These Government Code Sections outline requirements related to the contents of agreements, the applicability of an agreement and on the public hearing and approval process. In addition, the Development Agreement complies with Chapter

17.66 of the Zoning Code, which outlines the procedures and requirements for the review, approval and amendment of development agreements. The Development Agreement meets or exceeds the standards outlined by the State and City. The Development Agreement specifies the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of property buildings (as all development standards are all outlined in Planned Development 34). In addition, the Development Agreement does not allow a use that would not be permitted by the Zoning Code, nor does it constitute a rezoning of the property or permit a variance to a specific standard. The Development Agreement was presented to the City's Planning Commission as the recommending body and the City Council for final decision.

SECTION 3. The City Council hereby approves the Development Agreement and authorizes the City Manager to execute the Development Agreement on behalf of the City.

SECTION 4. No later than ten (10) days after the effective date of this Ordinance, the City Clerk shall record with the County Recorder a copy of the Development Agreement and the notice shall describe the land to which such contract applies.

SECTION 5. The City Clerk is hereby directed to cause a summary of this Ordinance to be published at least once in a newspaper of general circulation published

and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; and shall certify to the adoption of this Ordinance.

SECTION 6. This ordinance shall take effect upon publication.

Signed and approved this ____ day of _____, 2015.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this ____ day of _____ 2015, by the following vote:

AYES:

NOES:


ABSENT:

ABSTAIN:

Date Published:

Mark Jomsky
City Clerk

Approved as to form:



Theresa Fuentes
Assistant City Attorney

EXHIBIT A
DEVELOPMENT AGREEMENT

CITY OF PASADENA

WHEN RECORDED MAIL TO:

City of Pasadena
Attention: City Attorney
100 North Garfield Ave., Room N-210
Pasadena, California 91109

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “Agreement”) is made by and between THE CITY OF PASADENA, a California municipal corporation (the “City”), and PPF OFF 100 West Walnut, L.P., a _____ limited partnership (“PPF”). The City and PPF are individually referred to herein as a “Party” and collectively referred to as the “Parties.”

RECITALS

This Agreement is made and entered into with regard to the following facts, each of which is acknowledged as true and correct by the Parties to this Agreement.

A. PPF is the fee owner of that certain real property located in the City of Pasadena, California and described in Exhibit A attached hereto and incorporated herein by reference (the “PPF Property”).

B. PPF currently operates the portion of the PPF Property north of the extension of West Holly Street (the “North Development Area”) as a commercial office development with surface parking, and the portion of the PPF Property south of the extension of West Holly Street (the “South Area”) as a commercial office development with parking structures.

C. PPF proposes to convert the 22.67 acre PPF Property to a mixed-use office campus and residential community, including adding the following uses and buildings to the North Development Area: 1) up to approximately 612,500 square feet of office uses, of which up to 22,500 square feet could be used for ancillary retail uses; 2) ground floor retail along Fair Oaks Avenue frontage with a minimum depth of 40 feet, and totaling approximately 15,000 square feet of retail uses; 3) up to approximately 2,500 square feet of restaurant uses, and 4) up to 475 residential units. PPF has filed for the following entitlements for the Project: a change of zoning from CD-1 to PD (Planned Development) and a Lot Line Adjustment.

D. PPF has applied to the City for approval of this mutually binding Agreement, pursuant to the provisions of the Development Agreement Act (as hereinafter defined) and other applicable laws, primarily including Pasadena Municipal Code (“PMC”), Zoning Code Chapter 17.66 (Development Agreements).

E. The City Council has specifically considered the benefits of the Project and the advantages and impacts of granting a continued right to develop the PPF Property in the future in accordance with the Applicable Rules (as hereinafter defined) including without limitation the Zoning Code, General Plan, and the Central District Specific Plan, and believes that the execution of this Development Agreement will be in the best interests of the City.

F. This Agreement eliminates uncertainty in planning and provides for the potential orderly development of the PPF Property in the future in a manner consistent with the City's current Applicable Rules including without limitation the Zoning Code, General Plan and the Central District Specific Plan.

G. To provide such certainty, the City desires, by this Agreement, to provide PPF with assurance that PPF can develop the PPF Property pursuant to the uses, density and other land use characteristics specified in the City's Applicable Rules including without limitation the Zoning Code, General Plan, and the Central District Specific Plan, and Planned Development Permit.

H. The City has determined that, as a result of the Development Agreement, substantial benefits will accrue to the public, and that the Development Agreement will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area, nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City.

I. On February 25, 2015, pursuant to the requirements of the Development Agreement Act and PMC Chapter 17.66, the Planning Commission of the City of Pasadena (the "Planning Commission") conducted a hearing on PPF's application for this Agreement, and forwarded its recommendations to the City Council.

J. On March 30, 2015, pursuant to the requirements of the Development Agreement Act and PMC Chapter 17.66, the City Council of the City of Pasadena (the "City Council") conducted a hearing on PPF's application for this Agreement.

K. The City Council has found and determined that the Project, the Project Approvals and this Agreement are consistent with the City's Zoning Code, General Plan, Central District Specific Plan, Planned Development Permit (PD Permit), State Development Agreement Act, and all other plans, policies, rules and regulations applicable to the PPF Property.

L. On March 30, 2015 the City Council considered and certified the Final EIR for the Project, made findings pursuant to CEQA, and adopted a statement of overriding considerations.

M. On March 30, 2015, and pursuant to PMC Section 17.66.040.G(6), the City Council conducted first reading of Ordinance No. _____ approving this Agreement, and on _____ conducted second reading, and such Ordinance became effective on _____.

AGREEMENT

NOW THEREFORE, pursuant to the authority contained in the City's Development Agreement Ordinance and the Development Agreement Act, as it applies to the City, and in consideration of the mutual promises and covenants herein contained and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

1. Definitions. For all purposes of this Agreement, except as otherwise expressly provided herein, or unless the context of this Agreement otherwise requires, the following words and phrases shall be defined as set forth below:

(a) "Applicable Rules" means the rules, regulations, ordinances, resolutions, codes, guidelines, and officially adopted procedures and official policies of the City governing the use and development of real property, including, but not limited to, the City's General Plan, the Central District Specific Plan, the Zoning Code, Planned Development Permit (PD Permit) the Subdivision Ordinance and building regulations, in effect as of the Effective Date. Among other matters, the Applicable Rules set forth and govern the permitted uses of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, parking requirements, setbacks, and development standards, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction guidelines, standards and specifications applicable to the development of the PPF Property.

(b) "Building Permit" means a permit issued by the City pursuant to Title 14 of the Pasadena Municipal Code to authorize construction of a building or other structure.

(c) "Business Day" means any day other than a Saturday, Sunday or California or Federal holiday on which banks in the City are customarily closed.

(d) "Central District Specific Plan" shall mean the Central District Specific Plan applicable to the portion of the City that includes, but is not limited to, the PPF Property in effect as of the Effective Date of this Agreement.

(e) "CEQA" means the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.), as it now exists or may hereafter be amended.

(f) "Developer Fees" shall mean those fees established and adopted by the City pursuant to Section 66000 et seq., of the Government Code of the State of California to offset the impact of development on the City's capital facilities, including, without limitation, parking impact fees, affordable housing fees, traffic fees, infrastructure fee, linkage fees, exactions, assessments or fair share charges or other similar impact fees imposed by the City on or in connection with new development on the PPF Property. Developer Fees do not mean or include Processing Fees.

(g) "Development Agreement" or "Agreement" means this Agreement.

(h) “Development Agreement Act” means Article 2.5 of Chapter 4 of Division 1 of Title 7 (Sections 65864 through 65869.5) of the California Government Code (as the same may be amended and/or re-codified from time to time).

(i) “Discretionary Action(s)” or “Discretionary Approval(s)” means an action which requires the exercise of judgment, deliberation or discretion on the part of the City, including any board, agency, commission or department or any officer or employee thereof, in the process of approving or disapproving a particular activity, as distinguished from a Ministerial Permit or Ministerial Approval (as hereinafter defined).

(j) “Effective Date” shall mean the date this Agreement, fully executed, is recorded in the official records of the Los Angeles County Recorder.

(k) “Future Approvals” shall mean all future Discretionary Actions or Discretionary Approvals, Ministerial Permits and Ministerial Approvals required or requested with respect to the PPF Property.

(l) “Future Development” shall mean development of the PPF Property, in whole or in part, consistent with the Applicable Rules in effect as of the Effective Date.

(m) “General Plan” means the General Plan of the City, as it exists as of the Effective Date.

(n) “Ministerial Permit(s),” or “Ministerial Approval(s)” means a permit or approval, including, but not limited to, Building Permits, grading permits, shoring and excavation permits, demolition permits, zone clearances, and certificates of occupancy, which requires the City, including any board, agency, commission or department or any officer or employee thereof, to determine whether there has been compliance with applicable rules, statutes, ordinances, conditions of approval, and/or regulations, as distinguished from an activity which is included in the definition of Discretionary Action or Discretionary Approval.

(o) “Mortgage” means any mortgage, deed of trust, encumbrance, sale leaseback or other security interest encumbering all or any portion of the PPF Property, given by PPF.

(p) “Mortgagee” means the holder of the beneficial interest under any Mortgage.

(q) “Notice of Determination” shall mean the Notice of Determination adopted by the City with respect to the Project and this Agreement pursuant to CEQA.

(r) “Parking Spaces” shall mean Shared Use Parking Spaces that are not the Pod Spaces or Third Party Lease Parking Spaces.

(s) “Pod Spaces” shall mean 140 parking spaces located under the existing Parsons building that are specifically reserved and separately gated.

(t) PPF shall mean PPF OFF 100 West Walnut, L.P., a _____ limited partnership, and its successors and assigns.

(u) “PPF Property” means the real property described in Exhibit “A” attached hereto.

(v) “Project” means the development of the 100 West Walnut into a mixed use project that would consist of new uses, which are in addition to existing uses on site, that are permitted by and in accordance with the Planned Development, including: 1) up to approximately 612,500 square feet of office uses, of which up to 22,500 square feet could be used for ancillary retail uses; 2) ground floor retail along Fair Oaks Avenue frontage with a minimum depth of 40 feet, and totaling approximately 15,000 square feet of retail uses; 3) up to approximately 2,500 square feet of restaurant uses, and 4) up to 475 residential units.

(w) “Project Approvals” means the following land use actions requested by PPF from the City of Pasadena: 1) a zone change from CD-1 (Central District Specific Plan, Old Pasadena) to Planned Development; and 2) approval of Planned Development 33 – 100 West Walnut Planned Development.

(x) “Processing Fees” means all processing fees and charges required by the City that are applied uniformly to all construction or development related activity including, but not limited to, fees for land use applications, Building Permit applications, Building Permits, grading permits, shoring and excavation permits, hauling permits, encroachment permits, demolition permits, subdivision or parcel maps, lot line adjustments, street vacations, inspections, certificates of occupancy and plan check. Processing Fees shall not mean or include Developer Fees.

(y) “Reserved Powers” means the power and authority of the City to enact regulations and/or take Discretionary Action if the same is expressly found by the City to be necessary to protect residents of the City, those employed in the City, or visitors to the City, from a condition that is dangerous to public health or safety or if the same is required to comply with California or federal laws (whether enacted previous or subsequent to the Effective Date of this Agreement).

(z) “Rose Bowl Events” shall mean events held at the Rose Bowl after 6:00pm on weekdays, anytime on weekends or state or federal holidays, and all day on January 1st each year.

(aa) “Shared Use Parking Spaces” means a pool of parking spaces available to office tenants and visitors at the project site that may be used by the public during Rose Bowl Events at market rates.

(bb) “Subdivision Ordinance” shall mean the official Subdivision Ordinance of the City, Title 16 of the Pasadena Municipal Code, in effect as of the Effective Date of this Agreement.

(cc) “Subsequent Land Use Regulations” means any change in or addition to the Applicable Rules adopted after the Effective Date of this Agreement, including, without limitation, any change in any applicable general or specific plan, zoning, subdivision, or building regulation, including, without limitation, any such change by means of an ordinance, initiative, resolution, policy, order or moratorium, initiated or instituted for any reason whatsoever by the Mayor, City Council, Planning Commission or any other board, agency, commission or department of City, or any officer or employee thereof, or by the electorate, as the case may be, which would, absent this Agreement, otherwise be applicable to the PPF Property.

(dd) “Third Party Lease Parking Spaces” shall mean 500 parking spaces that are leased for use by Third Party Parkers.

(ee) “Third Party Parkers” shall mean users of parking spaces that are not tenants or guests of uses located at the Project Site.

(ff) “Zoning Code” shall mean the official Zoning Code of the City, Title 17 of the Pasadena Municipal Code, in effect as of the Effective Date of this Agreement.

2. Recitals of Premises, Purpose and Intent.

(a) State Enabling Statute. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted the Development Agreement Act which authorizes any city to enter into binding development agreements establishing certain development rights in real property with persons having legal or equitable interests in such property. Section 65864 of the Development Agreement Act expressly provides as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and a commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic cost of development.”

Notwithstanding the foregoing, to ensure that the City remains responsive and accountable to its residents while pursuing the benefits of development agreements contemplated by the Legislature, the City accepts restraints on its police powers contained in development agreements only to the extent and for the duration required to achieve the mutual objectives of the parties.

(b) Future Development. During the term of this Agreement, PPF may seek to develop the PPF Property subject to the Applicable Rules and this Agreement. The Parties hereby agree that, subject to the exercise of the City's Reserved Powers, for the term of this Agreement, the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, parking requirements, setbacks, and development standards, provisions for reservation or dedication of land for public purposes and location of public improvements, and the design, improvement, construction and other guidelines, standards and specifications applicable to the development and use of the PPF Property shall be those set forth in the Applicable Rules, and this Agreement. Subject to the exercise of the City's Reserved Powers, any Future Approvals shall, at the election of PPF, be subject to the Applicable Rules or the rules, regulations, ordinances, resolutions, codes, guidelines, and officially adopted procedures and official policies of the City at the time of such Future Approvals.

3. Property Subject to Agreement. This Agreement shall apply to all of the PPF Property, as described in Exhibit A.

4. Application of Agreement. This Agreement shall apply to the development and use of the PPF Property. Such development and use shall be in accordance with the Applicable Rules and this Agreement.

5. Term of Agreement. The term of this Agreement shall commence on the Effective Date of this Agreement, and shall continue for fifteen (15) years after the Effective Date except that the provisions of Section 10 (h) of this Agreement and the default provisions and remedies shall continue for twenty-eight (28) years, unless said Term is otherwise terminated. However, the 15 year term of the Agreement shall be automatically extended by five (5) years upon issuance of the first building permit for Phase 1 of the Project. Following the expiration of this Term, and except as to the twenty-eight (28) year term applicable to Section 10 (h) and the default provisions and remedies, this Agreement shall terminate and be of no further force and effect, provided, however, if any vested rights associated with any vesting tentative tract map that may be approved for the Project extend beyond the end of the 15th year of this Agreement, or 20th year in the event of the five year extension contemplated above, then the term of this Agreement shall automatically be extended until the expiration of the vested rights that accompany the vesting tract map for the Project, expressly including, but not limited to, the parking provisions in Section 10 (h).

6. Timing of Development.

(a) The Parties acknowledge that PPF cannot at this time predict when or if the PPF Property will be developed. Such decisions depend upon numerous factors that are not within the control of PPF. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal. 3d 465, (the Pardee Case) that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the Parties' intent to cure that deficiency by acknowledging and providing that, except as provided below, PPF shall have the right to develop the PPF Property consistent with the Applicable Rules and this Agreement in such order and at such rate and at such times as PPF deems appropriate within the exercise of its

sole and subjective business judgment during the term of this Agreement. This provision shall be broadly construed to provide PPF the greatest amount of time and flexibility (in light of the *Pardee* Case and/or any other similar or distinguishing cases) as necessary or appropriate to permit PPF to complete development of the PPF Property irrespective of later adopted rules, regulations or initiatives which would otherwise restrict PPF's time to develop the PPF Property, except as provided in Section 10 below.

7. Permitted Uses; Density; Building Heights and Sizes; Required Dedications. The City and PPF hereby agree that the permitted uses of the PPF Property, the density and intensity of such uses, the maximum heights and sizes of the buildings and improvements to be constructed on the PPF Property, and the reservation and dedication of land for public purposes, if any, required in connection with the development of the PPF Property shall be as set forth in and consistent with the Applicable Rules, this Agreement, and Future Approvals.

8. PPF's Rights. PPF shall have and is hereby vested with the rights, during the term of this Agreement, including any extensions, to develop the PPF Property as allowed by the Applicable Rules. PPF shall be obligated to pay Developer Fees in connection with the development of the PPF Property as required by the Section 9 (d) of this Agreement.

9. Changes in Applicable Rules.

(a) Non-Application of Changes in Applicable Rules. The adoption of any Subsequent Land Use Regulations after the Effective Date of this Agreement, or any change in, or addition to, the Applicable Rules (other than changes in Developer Fees and Processing Fees as provided in this Agreement), including, without limitation, any changes in the General Plan, the Central District Specific Plan, the Zoning Code, or the Subdivision Ordinance (including any regulation relating to the timing, sequencing, or phasing of development of the PPF Property or construction of all or any part of Future Development), adopted after the Effective Date of this Agreement, including, without limitation, any such change by means of ordinance, initiative, resolution, motion, policy, order or moratorium, initiated or instituted for any reason whatsoever and adopted by any board, agency, commission or department of the City, or by the electorate, as the case may be, which would, absent this Agreement, otherwise be applicable to the PPF Property and which would conflict in any way with or be more restrictive than the Applicable Rules, shall not be applied to the PPF Property or Future Development of the PPF Property during the term of this Agreement unless such changes represent an exercise of the City's Reserved Powers.

(b) Changes in Uniform Codes. Notwithstanding any provision of this Agreement to the contrary, development of the PPF Property shall be subject to changes occurring from time to time in the provisions of the City's building, mechanical, plumbing and electrical regulations which are based on the recommendations of a multi-state professional organization and become applicable throughout the City, including, but not limited to, the California Building Code, and other similar or related uniform codes.

(c) Changes Mandated by California or Federal Laws or Regulations. Changes in, or additions to, the Applicable Rules adopted or made operative on or after the Effective Date shall apply to the PPF Property and Future Development if such changes or

additions are specifically mandated to be applied to such development by applicable California or federal laws or regulations. If the City or PPF believes that such a change or addition required by California or federal law or regulation exists, then that Party shall provide the other Party hereto with a copy of such California or federal law or regulation and a statement of the nature of its conflict with the provisions of the Applicable Rules and/or of this Agreement.

(d) Changes in Developer Fees and Processing Fees Under Applicable Rules.

The PPF Property and Future Development of the PPF Property shall be subject to any increase in Developer Fees and Processing Fees imposed by the City, provided that such a change is applied on a Citywide basis. PPF agrees to pay all Developer Fees and Processing Fees at the rate and amount in effect at the time the fee is required to be paid.

10. PPF's Consideration/Obligation.

(a) Conditions of Approval. PPF shall comply with the Conditions of Approval and mitigation measures imposed by the City upon PD Permit and other the Project approvals.

(b) Reimbursement of Project Approval Costs. No later than sixty (60) days after the Effective Date, PPF shall reimburse the City for all of its costs to process the Project Approvals, including legal and environmental processing costs related to the Project Approvals and preparation of this Agreement, if any, in an amount not to exceed \$100,000.

(c) Development of the Entirety of Phase 1. PPF shall concurrently pull building permits for all buildings in Phase 1 of the project, which consists of up to 475 residential units; ground floor retail along Fair Oaks Avenue frontage with a minimum depth of 40 feet, and totaling approximately 15,000 square feet of ground floor retail uses consistent with the conceptual plan approved as part of the Project Approvals; up to 210,000 square feet but not less than 150,000 square feet of office uses; and up to 2,500 square feet for restaurant uses. PPF shall thereafter diligently pursue to completion concurrent development of all buildings in Phase 1.

(d) Construction of Holly Street Extension. Prior to the issuance of a final Certificate of Occupancy for Phase 1, PPF shall construct the extension of Holly Street westerly from Fair Oaks to Pasadena Avenue substantially as shown in Exhibit B, attached hereto and incorporated herein by reference.

(e) Leonard Pieroni Drive Beautification. Prior to the completion of Phase 1, PPF shall realign and reconfigure Leonard Pieroni Street and provide sidewalks, as well as landscaping, on both sides of the street into order to provide a pedestrian-oriented street that connects to Old Pasadena. All improvements shall be consistent with the Old Pasadena Streetscapes and Alley Walkways Refined Concept and Elements Specifications Plan.

(f) Fair Oaks/Union Street Improvement. Prior to a final Certificate of Occupancy for Phase 1, PPF shall reconfigure the intersection of Fair Oaks Avenue and Union Street to shorten the pedestrian crossing distance along the north leg of the intersection by constructing a curb extension at the northwest corner of the intersection. All improvements shall

be consistent with the Old Pasadena Streetscapes and Alley Walkways Refined Concept and Elements Specifications Plan.

(g) Zoning Parking Credit. Should the City desire to amend the Old Pasadena Parking Credit program to include the subject property and accommodate the project, PPF or its successor or assigns will provide at least 50% of the total number of parking spaces provided above zoning code requirements to be included within the pool of parking credits allocated to the District. PPF shall enter into an agreement to memorialize this commitment. The agreement shall specify the total number of spaces to be provided for zoning credits, the hours of availability of the parking spaces and shall not otherwise restrict PPF's utilization of said parking spaces, provided, however, that such spaces allocated in the District shall not be deducted from the Property's parking count for purposes of determining compliance with Code parking requirements; and, nothing herein shall require PPF to change its customary parking operations.

(h) Rose Bowl Event Parking. PPF has voluntarily made excess on-site parking available for Rose Bowl Events at the prevailing market rate. With respect to the obligations of this paragraph 10 (h), the Parties agree and acknowledge that the Project Site will be a mixed use office campus that consists primarily of office uses, with additional residential and retail uses. The nature of the office uses provides a shared-use parking opportunity because the bulk of these spaces tend to be occupied by office users from 9:00am to 5:00pm on weekdays, with greater vacancy later in the evening on weekdays and even greater typical vacancy on weekends, when Rose Bowl Events are typically held. Nothing herein shall limit the ability of PPF to charge prevailing market rate for Rose Bowl Event parking, nor shall it imply or require tenants or guests of uses on the Project Site to be displaced during Rose Bowl Events in order to make parking available for Rose Bowl or public users.

PPF and all successors and assigns shall make the following parking spaces publicly available for Rose Bowl Events as follows: at least 2,500 Parking Spaces during Phase 1 construction; at least 3,000 Parking Spaces at all other times excluding Phase 1 construction; and at least 3,700 Parking Spaces on weekends or state or federal holidays upon completion of Phase 2. All such Parking Spaces shall be available to the public at the prevailing market rate

PPF shall also ensure that construction activities do not displace the shuttle pick-up/drop off location for Rose Bowl Events is provided along Pasadena Avenue adjacent to the project site consistent with past practice.

The Parties agree and acknowledge that PPF has no relationship or involvement with the operation of the Rose Bowl, or the timing and frequency of events. As noted in Section 5 of this Agreement the obligations set forth in this Section 10 (h) shall have a term of twenty-eight (28) years from the effective date of this Agreement.

On Rose Bowl Event Days, PPF, and its successors and assigns, shall not undertake or allow non-typical business events that would interfere with the ability to provide the required parking spaces under this Agreement.

(i) Public Open Space Easement. The area identified as Holly Plaza and all areas reserved for pedestrian access through the site, as depicted in Exhibit C, attached hereto,