

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Attention: City Clerk

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(Space Above for Recorder's Use)  
Exempt from Recordation Fee per Gov. Code § 6103

**COVENANT AND AGREEMENT TO HOLD PROPERTY AS ONE PARCEL**

**(LOT TIE AGREEMENT)**

THIS COVENANT AND AGREEMENT TO HOLD PROPERTY AS ONE PARCEL (LOT TIE AGREEMENT) (the "Agreement") is made by and between TH VICTORIA VENTURE LLC, a Delaware limited liability company (the "Developer"), and the CITY OF COSTA MESA, a California municipal corporation (the "City") as of the \_\_\_ day of \_\_\_\_\_, 2015. Developer and City may be referred to herein individually as a "Party" or collectively as the "Parties."

**RECITALS**

A. Developer is the owner of that certain real property located in the City of Costa Mesa, County of Orange, State of California, known as 1239 Victoria Street (APN No. 422-322-18), legally described in the legal description attached hereto as Exhibit "A" (the "Property").

B. Developer has obtained, and City has approved, certain land use entitlements to develop the Property with a twenty-eight (28) unit single family detached residential planned development ("Project"), including but not limited to Vesting Tentative Tract Map VT-17779 ("Map"). Developer is processing a final version of the Map to subdivide the Property into eight (8) numbered lots, the airspace of which would be further subdivided to create the twenty-eight (28) owner-occupied units ("Homeowner Units"), and five (5) lettered lots. The Parties intend that the final Map will be reviewed and approved on or before January 19, 2016.

C. The Developer intends to hold the Property as one parcel, both before and after the final Map is approved, until such time as this Agreement automatically terminates, as set forth further herein.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, and for other valuable consideration, the sufficiency of which is hereby acknowledged, City and Developer agree as follows:

1. Lot Tie. Until this Agreement terminates, the Property shall be held as one parcel, and no lot or portion of the Property shall be sold or transferred separately, except for the

following: (1) dedications or transfers to public agencies or utilities in accordance with the Project approvals; or (2) transfers to a homeowners association in accordance with the Project approvals.

2. Termination. Upon completion of construction of all 28 Homeowner Units and sale of each Homeowner Unit thereafter, this Agreement shall automatically terminate and have no further force or effect. The City shall promptly execute, acknowledge and deliver for recordation any documents that may be reasonably necessary or requested by Developer or the Project's homeowners association to remove this Agreement as an encumbrance against title to the Property.

3. No Effect on Homeowner Units. So long as the Property is held as one parcel, this Agreement shall not prohibit or prevent Developer from selling Homeowner Units to homebuyers prior to termination of this Agreement.

4. Covenants Do Not Impair Liens. No violation or breach of covenants, conditions, restrictions, provisions, or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security instrument.

5. Run with the Land. This Agreement and the covenants contained herein shall run with the land for all of the Property and shall be binding upon future owners, successors, heirs or assignees of the Property, until terminated. Subject to section 3 above, all terms, covenants, conditions, restrictions and agreements contained herein are made for the direct, mutual and reciprocal benefit of each and every part of the Property and are intended to be equitable servitudes and burdens on the Property (but not on the Homeowner Units) until this Agreement terminates.

6. Notices, Demands and Communications. Written notices, demands and communications between Developer and City shall be sufficiently given if (i) delivered by hand, (ii) delivered by reputable same-day or overnight courier service that provides a receipt showing date and time delivery, or (iii) dispatched by registered or certified mail, postage prepaid, return receipt requested, as follows:

Developer: TH VICTORIA VENTURES LLC  
c/o Trumark Companies  
Trumark Companies  
450 Newport Center Dr., #300  
Newport Beach, CA 92660  
Attn: Eric A. Nelson

copy to: Jackson DeMarco Tidus Peckenpaugh  
2030 Main Street, 12th Floor  
Irvine, CA 92614  
Attn: Michael L. Tidus, Esq.  
Gregory P. Powers, Esq.

City: City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Attention: City Manager

copy to: Jones & Mayer  
3777 N. Harbor Blvd.  
Fullerton, CA 92835  
Attn: Yolanda M. Summerhill, Esq.

Such addresses for notice may be changed from time to time upon notice to the other party. Any written notice, demand or communication shall be deemed received upon receipt if delivered by hand or by same-day or overnight courier, and shall be deemed received on the third (3rd) calendar day from the date it is postmarked if delivered by registered or certified mail.

7. Assignment. Developer may assign all or any part of its interest in this Agreement to a third party without obtaining the prior written consent of City. Developer shall provide written notice to the City within 15 business days of any such assignment.

8. Counterparts. This Agreement may be executed in counterparts each of which, when both Developer and City have signed this Agreement, shall be deemed an original and shall constitute one and same instrument.

IN WITNESS WHEREOF, City and Developer have caused this instrument to be executed on their behalf of their respective officers hereunto duly authorized as of the date set forth above.

“City”

CITY OF COSTA MESA,  
a California municipal corporation

By: \_\_\_\_\_  
Tom Hatch, Chief Executive Officer

Executed at \_\_\_\_\_, California  
this \_\_\_\_ day of \_\_\_\_\_, 2015

Attest:

\_\_\_\_\_  
Brenda Green, City Clerk

APPROVED AS TO FORM  
JONES & MAYER

\_\_\_\_\_  
\_\_\_\_\_, City Attorney

“Developer”

TH VICTORIA VENTURE LLC,  
a Delaware limited liability company

By: TH VICTORIA Investors LLC,  
a Delaware limited liability company,  
Its Managing Member

By: \_\_\_\_\_  
Name: Michael Maples  
Title: Managing Member



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF [COUNTY] )

On \_\_\_\_\_, before me, [Notary Name] , Notary Public, personally appeared [Name of person] , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

Real property in the City of Costa Mesa, County of Orange, State of California, described as follows:

**PARCEL 1:**

THAT PORTION OF LOT 75 OF FAIRVIEW FARMS, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8 PAGE 71 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH LINE OF SAID LOT 75, 108 FEET WEST OF THE SOUTHWEST CORNER OF LOT 74 OF SAID FAIRVIEW FARMS, AND RUNNING THENCE SOUTH 89° 23' WEST ALONG THE SOUTH LINE OF SAID LOT 75, 132 FEET; THENCE NORTH PARALLEL WITH THE WEST LINE OF SAID LOT 74, TO A POINT IN THE CENTER LINE OF VICTORIA STREET, AS CONVEYED TO THE COUNTY OF ORANGE, BY DEED RECORDED DECEMBER 29, 1932 IN BOOK 592 PAGE 190 OF OFFICIAL RECORDS; THENCE NORTHEASTERLY ALONG SAID CENTER LINE TO THE NORTHWESTERLY CORNER OF THE LAND DESCRIBED IN THE DEED TO FLOYD E. ANDRES AND WIFE, RECORDED MARCH 24, 1945 IN BOOK 1314, PAGE 10 OF OFFICIAL RECORDS; THENCE SOUTH ALONG THE WEST LINE OF SAID LAND TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION THEREOF DESCRIBED IN THE DEED TO THE CITY OF COSTA MESA, RECORDED JUNE 28, 1977 IN BOOK 12264 PAGE 1725, OFFICIAL RECORDS.

**PARCEL 2:**

THAT PORTION OF LOT 75 OF FAIRVIEW FARMS, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 71 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 74 OF SAID FAIRVIEW FARMS AND RUNNING THENCE SOUTH 89° 28' WEST ALONG THE SOUTH LINE OF SAID LOT 75, 108 FEET; THENCE NORTH ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID LOT 74, TO A POINT IN THE CENTER LINE OF VICTORIA STREET, AS CONVEYED TO THE COUNTY OF ORANGE, BY DEED RECORDED DECEMBER 29, 1932 IN BOOK 592, PAGE 190 OF OFFICIAL RECORDS; THENCE NORTHEASTERLY ALONG SAID CENTER LINE TO A POINT IN THE WEST LINE OF SAID LOT 74, AND THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 74 TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION THEREOF DESCRIBED IN THE DEEDS TO THE CITY OF COSTA MESA, RECORDED JUNE 28, 1977 IN BOOK 12264, PAGE 1729, OFFICIAL RECORDS, AND JANUARY 10, 1978 IN BOOK 12524 PAGE 659, OFFICIAL RECORDS.

ALSO EXCEPT A PORTION OF SAID LOT 75 AS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY CORNER OF SAID LOT 75, SAID POINT ALSO BEING IN THE CENTERLINE OF SEA BLUFF (FORMERLY HAMILTON STREET, 60.00 FEET IN WIDTH AS SHOWN ON TRACT NO. 3470, FILED IN BOOK 124 PAGES 5 TO 10 INCLUSIVE OF

MISCELLANEOUS MAPS, IN THE COUNTY RECORDER'S OFFICE OF SAID COUNTY; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 75 SOUTH 89° 28' 00" WEST, 12.45; THENCE LEAVING SAID SOUTHERLY LINE NORTH 46° 18' 30" EAST, 17.07 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 75; THENCE ALONG SAID EASTERLY LINE SOUTH 00° 32' 00" EAST 11.67 FEET TO THE POINT OF BEGINNING.

APN: 422-322-18