

ORDINANCE NO. 2025-8

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A SECOND AMENDMENT TO DEVELOPMENT AGREEMENT NO. DA 2007-002, ENTITLED ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT FOR THE PROJECT LOCATED AT 100 AND 190 NEWPORT CENTER DRIVE AND VARIOUS ADDRESSES WITHIN THE NORTH NEWPORT CENTER PLANNED COMMUNITY (PA2024-0173)

WHEREAS, Section 200 of the City of Newport Beach (“City”) Charter vests the City Council with the authority to make and enforce all laws, rules, and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, California Government Code Section 65580 *et seq.* (“State Housing Element Law”) requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, an application was filed by Irvine Company (“Applicant”) concerning properties located at 100 and 190 Newport Center Drive and within the North Newport Center Planned Community (PC-56) Zoning District (“PC-56 Development Plan”), as described in Exhibit “A” (“Properties”), which is attached hereto and incorporated herein by reference, requesting approval of amendments to the PC-56 Development Plan that would incorporate 1,500 dwelling units from the development limit established through the HO-4 (Newport Center Area) Subarea (“HO-4 Subarea”) of the Housing Opportunity (HO) Overlay Zoning Districts set forth in Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) of the Newport Beach Municipal Code (“NBMC”) and derived from the City’s 6th Cycle Housing Element;

WHEREAS, the Applicant maintains ownership interest and control over several properties within the HO-4 (Newport Center Area) Subarea and requests the following approvals (collectively, the “Project”):

- Amendments to the PC-56 Development Plan ("PC-56 Amendment") to allocate 1,500 of the 2,439 dwelling units from the development limit identified in Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) of the NBMC for the HO-4 (Newport Center Area) Subarea to the Properties within the PC-56 Development Plan along with other amendments including increased building height limits for Fashion Island, Block 100, and San Joaquin Plaza, modifying open space requirements, incorporating additional objective design standards, modifying parking standards for residential use, updating sign standards and changing the zoning of 100 and 190 Newport Center Drive from Office-Regional (OR) to PC-56 Development Plan;
- Amendment to Development Agreement No. DA 2007-002, entitled Zoning Implementation and Public Benefit Agreement ("Second Amendment to DA") between the City and the Applicant to vest development rights for 1,500 dwelling units created by the HO-4 Subarea in exchange for public benefits;
- Affordable Housing Implementation Plan ("AHIP") that specifies how the Applicant will assist the City in furthering the production of affordable housing; and
- Water Supply Assessment ("WSA") to evaluate the water supply availability for a project including more than 500 dwelling units pursuant to Section 21151.9 of the Public Resources Code ("PRC") and Section 10910 *et seq.* of the Water Code and as contemplated in the City's Housing Implementation Program Final Program Environmental Impact Report ("EIR");

WHEREAS, the Properties are categorized as Mixed Use Horizontal (MU-H3), Commercial Regional Office (CO-R), Regional Commercial (CR), Multiple Residential (RM), Open Space (OS), Medical Commercial Office (CO-M) by the General Plan Land Use Element and are located within the PC-56 Zoning District except the properties at 100 and 190 Newport Center Drive which are located within the Office-Regional (OR) Zoning District;

WHEREAS, the Properties are not located within the coastal zone;

WHEREAS, the Project does not propose the construction of housing, only the reallocation of 1,500 dwelling units from the development limit established through the HO-4 Subarea of the Housing Opportunity (HO) Overlay Zoning Districts and derived from the City's 6th Cycle Housing Element into the PC-56 Development Plan;

WHEREAS, a public hearing was held by the Planning Commission on March 6, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 (Public Hearings) of the NBMC, and Section 15.45.050 (Public Hearing-Notice) of the NBMC. Evidence, both written and oral, was presented to and considered by, the Planning Commission at this hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. 2025-006 by a unanimous vote (5 ayes, 0 nays, 2 recusals) recommending the City Council approve the Project;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Project to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, on April 17, 2025, the ALUC determined the Project is consistent with the AELUP by a unanimous vote;

WHEREAS, the City and Applicant entered into the Zoning Implementation and Public Benefit Agreement in 2007, amended in 2012, which was amended and restated in 2013 ("DA"), attached hereto as Exhibit "B," and incorporated herein by reference, that provide development rights within North Newport Center in exchange for significant public benefits over a term of 20 years;

WHEREAS, the Second Amendment to DA is required by Chapter 15.45 (Development Agreements) of the NBMC in that the Project would add more than 50 dwelling units within Statistical Area L1 (Newport Center);

WHEREAS, Section 15.45.040 (Contents) of the NBMC requires the development agreement to include the permitted use of the properties, density or intensity of use, maximum height, and size of proposed building into a development agreement;

WHEREAS, the Second Amendment to DA satisfies the mandatory elements of Section 15.45.040 (Contents) of the NBMC as it incorporates all land use approvals required for the Project consistent with the PC-56 Development Plan;

WHEREAS, the Second Amendment to DA provides further non-mandatory elements, including a term of ten additional years (until 2042) for completion of the Project along with providing public benefits that are appropriate to support conveying the vested development rights consistent with the Newport Beach General Plan, relevant provisions of the NBMC, and Government Code Sections 65864 *et seq.*; and

WHEREAS, a public hearing was held by the City Council on April 29, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with the Ralph M. Brown Act, Chapter 20.62 (Public Hearings) of the NBMC, and Section 15.45.050 (Public Hearing - Notice) of the NBMC. Evidence, both written and oral, was presented to and considered by, the City Council at this hearing.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: The City Council has considered the recommendation of the Planning Commission and determined that modifications to the Project made by the City Council, if any, are not major changes that require referral back to the Planning Commission for consideration and recommendation.

Section 2: The City Council finds the Second Amendment to DA is consistent with provisions of California Government Code Sections 65864 *et seq.* and Chapter 15.45 (Development Agreements) of the NBMC that authorize binding agreements that: (i) encourage investment in, and commitment to, comprehensive planning and public facilities financing; (ii) strengthen the public planning process and encourage private implementation of the local general plan; (iii) provide certainty in the approval of projects in order to avoid waste of time and resources; and (iv) reduce the economic costs of development by providing assurance to the property owners that they may proceed with projects consistent with existing policies, rules, and regulations.

Additionally, the City Council finds the Development Agreement is entered into pursuant to, and constitutes a present exercise of, the City's police power and is in the best interest of the health, safety, and general welfare of the City, residents, and the public.

The City Council finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

Section 3: The Second Amendment to Development Agreement No. DA2007-002, which is attached hereto as Exhibit "C" and incorporated herein by reference, is hereby approved.

Section 4: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 5: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: Pursuant to the California Environmental Quality Act ("CEQA") as set forth in California Public Resources Code Section 21000 *et seq.* and its implementing guidelines set forth in California Code of Regulations, Title 14, Division 6, Chapter 3 ("CEQA Guidelines"), the City Council adopted Resolution No. 2024-50, on July 23, 2024, certifying Final Program Environmental Impact Report SCH No. 2023060699 ("PEIR"), approving a Mitigation Monitoring and Reporting Program ("MMRP"), and adopting Findings and a Statement of Overriding Considerations related to the implementation of the Housing Element involving amendments to the General Plan, Coastal Land Use Plan, and Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC which is available in Exhibit "D," and incorporated herein by reference.

1. The Project is not subject to further environmental review pursuant to Section 21083.3 of the PRC and Section 15183 of the CEQA Guidelines because, inasmuch as the Properties involved are all within the HO-4 Subarea, the Project does not change the underlying land use or zoning designations; and would not result in new significant impacts or a substantial more adverse impact than addressed in the PEIR.

2. Section 15183 of the CEQA Guidelines provides, in relevant part:
 - a. Projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.
 - b. In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:
 - i. Are peculiar to the project or the parcel on which the project would be located;
 - ii. Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent;
 - iii. Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action; or
 - iv. Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.
 - c. If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, then an additional EIR need not be prepared for the project solely on the basis of that impact.
 - d. This section shall apply only to projects which meet the following conditions:
 - i. The project is consistent with:
 - A. A community plan adopted as part of a general plan;

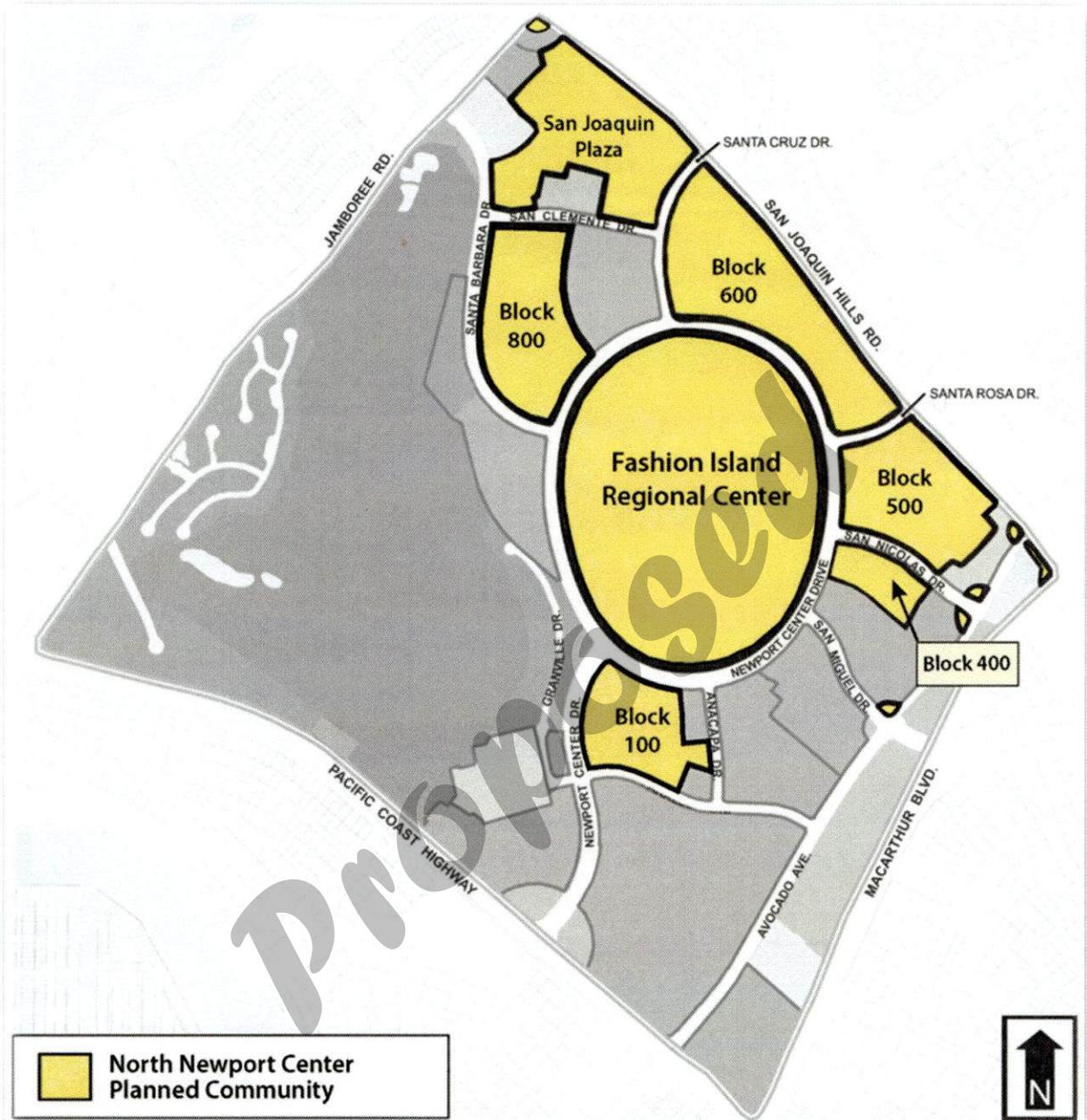
- B. A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development; or
 - C. A general plan of a local agency; and
- ii. An EIR was certified by the lead agency for the zoning action, the community plan, or the general plan.
3. As part of its decision-making process, the City is required to review and consider whether the Project would create new significant impacts or significant impacts that would be substantially more severe than those disclosed in the PEIR. Additional CEQA review is only triggered if the Project's new significant impacts or impacts that are more severe than those disclosed in PEIR such that major revisions to the PEIR would be required. A detailed consistency analysis has been prepared by T & B Planning Inc., dated February, 2025, and peer reviewed by Kimley-Horn & Associates, Inc. which is available at Exhibit "E," and incorporated herein by reference.
4. The PEIR contemplated those future projects meeting the thresholds of Senate Bill No. 610 ("SB 610") would require the preparation of a WSA. As evidence of the Project's compliance with the PEIR and Section 15183 of the CEQA Guidelines, a WSA has been prepared for the Project. Although the PEIR concluded that there would be a potentially significant and unavoidable impact related to water supply for which the City adopted a Statement of Overriding Considerations, the Project specific WSA concluded that adequate and reliable water supplies are and will be available to serve units that are developed through this Project for at least the next 20 years.
5. Although the Project includes a zoning amendment to change the designation of 100 and 190 Newport Center Drive from the Office-Regional (OR) Zoning District to the PC-56 Zoning District, these properties were already identified in the HO-4 Subarea of the Housing Overlay, which would not change as part of the Project. Therefore, the analysis contained in the PEIR would remain applicable to those two sites and the Project would be consistent with the existing zoning that allows 20 to 50 dwelling units per acre of residential development.

6. The Project is consistent with the development density and use characteristics established by the City's General Plan Housing Implementation Program as analyzed by the PEIR, and the required determinations can be made. Therefore, in accordance with Section 21083.3 of the PRC and Section 15183 of the CEQA Guidelines, no additional environmental review is required to approve the Project. The City Council determines:
 - a. The Project is consistent with the development density of 20 to 50 dwelling units per acre established by existing zoning and general plan policies for which the PEIR was certified;
 - b. There are no significant environmental effects that are peculiar to the Project or the parcels on which the Project would be located;
 - c. There are no significant environmental effects of the Project that were not analyzed as significant effects in the PEIR;
 - d. There are no potentially significant off-site impacts or cumulative impacts which were not discussed in the PEIR; and
 - e. There are no previously identified significant effects which, as a result of substantial new information which was not known at the time the PEIR was certified, are determined to have a more severe adverse impact than discussed in the prior PEIR.

Exhibit "A"
Description and Depiction of Properties

Applicable Accessor Parcel Numbers:

442 014 23	442 101 14
442 021 11	442 101 20
442 021 13	442 101 21
442 021 17	442 101 22
442 021 21	442 101 23
442 021 23	442 101 24
442 021 25	442 101 25
442 021 26	442 101 26
442 021 27	442 101 27
442 021 28	442 231 02
442 021 29	442 231 03
442 021 30	442 231 04
442 021 35	442 231 05
442 021 38	442 231 06
442 021 40	442 231 07
442 021 42	442 231 11
442 021 43	442 231 14
442 021 44	442 261 01
442 021 45	442 261 03
442 021 46	442 261 19
442 021 47	442 261 20
442 021 48	442 261 21
442 021 49	442 261 22
442 021 50	442 261 23
442 021 51	442 262 03
442 021 52	442 262 05
442 081 02	442 262 06
442 081 03	442 262 07
442 081 13	442 262 08
442 081 14	442 262 09
442 081 15	442 262 10
442 081 16	442 231 13
442 081 17	442 231 09
442 081 18	
442 082 04	
442 082 05	
442 082 09	
442 101 09	
442 101 11	
442 101 13	



 North Newport Center
Planned Community



Exhibit "B"
**Development Agreement No. DA 2007-002, entitled Zoning Implementation
and Public Benefit Agreement**

<https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=28070&dbid=0&repo=CNB&searchid=6f12ffd4-2e51-4865-8dc6-f234770f23a5>

Proposed

Exhibit "C"
Second Amendment to Development Agreement No. DA2007-002, entitled
Zoning Implementation and Public Benefit Agreement

[TO BE INSERTED]

Proposed

SECOND AMENDMENT TO ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT

THIS SECOND AMENDMENT TO ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT ("Second Amendment to DA") is executed on this ___ day of _____, 2025, by and between (1) CITY OF NEWPORT BEACH ("City"), and (2) THE IRVINE COMPANY LLC, VILLAS AT FASHION ISLAND LLC, THE COLONY AT FI LLC, FASHION ISLAND RETAIL LLC, ISLAND HOTEL FINANCE LLC, 660 NEWPORT CENTER DRIVE LLC, 650 NEWPORT CENTER DRIVE LLC, 620 NCD LLC, 610 NEWPORT CENTER DRIVE LLC, 600 NCD LLC, 500/550 NEWPORT CENTER DRIVE LLC, 520 NEWPORT CENTER DRIVE LLC, 190 NCD LLC, MYFORD GATEWAY PORTFOLIO LLC, and 100 NCD LLC, (individually referred to as a Landowner" and collectively as "Landowners") (Landowners and City together shall be referred to as "Parties").

RECITALS

1. City and The Irvine Company LLC entered into Development Agreement No. DA 2007-002, entitled Zoning Implementation and Public Benefit Agreement Between the City of Newport Beach and The Irvine Company LLC Concerning North Newport Center (Block 600, Fashion Island, and Portions of Block 500, and San Joaquin Plaza) ("2007 Development Agreement"), which the City of Newport Beach adopted by Ordinance No. 2007-21 on December 18, 2007. The 2007 Development Agreement provides for the Landowners' entitlement and transfer rights within the North Newport Center Planned Community (PC-56).
2. On August 14, 2012, the 2007 Development Agreement was amended to include 94 new residential units and add Block 800 and portions of Block 100 and 400 into the North Newport Center Planned Community ("2012 Amendment"). Through a clerical error, the 2012 Amendment was recorded without its accompanying exhibits. To correct this clerical error, the City approved and executed an Amended and Restated Amendment to Zoning Implementation and Public Benefit Agreement on February 25, 2013, which was identical in every way to the 2012 Amendment, but for a single recital, new signatures of the Parties, and the attached exhibits on the recorded copy (the "First Amendment"). The 2007 Development Agreement and the First Amendment are collectively referred to herein as the "Development Agreement."
3. Consistent with Section 21.1 of the Development Agreement, The Irvine Company LLC assigned its interest in certain properties governed by the Development Agreement to related entities, which are described in more detail in Exhibit A attached hereto.
4. On November 10, 2015, the North Newport Center Planned Community Development Plan was amended to include two small properties in Block 500 (2071 and 2101 San Joaquin Hills Road, Assessor Parcel Numbers 442-08-102 and 442-08-103). The legal descriptions of 2071 and 2101 San Joaquin Hills Road are attached hereto as Exhibit B.
5. The Newport Beach City Council adopted the General Plan 6th Cycle Housing Element ("Housing Element") in September 2022 covering the planning period from 2021-2029.

As required by state law, the Housing Element was certified by the State Department of Housing and Community Development (“HCD”) in October 2022.

6. On July 23, 2024, the City Council adopted Resolution No. 2024-50 certifying the Housing Element Implementation Program Amendments Final Program Environmental Impact Report (State Clearinghouse No. 2023060699), approving a Mitigation Monitoring and Reporting Program, and adopting Findings and a Statement of Overriding Considerations and related approvals to implement the Housing Element including amendments to the General Plan, Coastal Land Use Plan, and Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code and amending the General Plan Land Use Element, Coastal Land Use Plan and Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
7. On _____, 2025, the City Council approved the Planned Community Development Plan (PC-56) Amendment, and related Affordable Housing Implementation Plan, Water Supply Assessment and California Environmental Quality Act (“CEQA”) consistency determination to allocate 1,500 of the 2,439 dwelling units allocated to Subarea HO-4 Subarea to the North Newport Center Planned Community (PC-56) Development Plan and add 100 and 190 Newport Center Drive, Assessor Parcel Numbers 442-231-13 and 422-231-09, to the North Newport Center Planned Community Development Plan area. The legal descriptions of 100 and 190 Newport Center Drive are attached hereto as Exhibit B.
8. The Parties now desire to amend the Development Agreement to (i) add the [2071 and 2101 San Joaquin Hills Road and] 100 and 190 Newport Center Drive properties and (ii) increase the total allowable residential units in the North Newport Center Planned Community by 1,500 units, consistent with the amendments to the North Newport Center Planned Community Development Plan.
9. This Second Amendment to DA is intended to be an amendment pursuant to California Government Code Section 65868. This Second Amendment to DA has been considered and approved in the same manner as the Development Agreement with public hearings pursuant to California Government Code Section 65867. The City Council has evaluated the potential impacts of this Second Amendment to DA and has determined that any potential impacts are consistent with those analyzed pursuant to the Housing Element Implementation Program Amendments Final Program Environmental Impact Report (State Clearinghouse No. 2023060699). The City has determined that this Second Amendment to DA is not subject to further environmental review pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.
10. On March 6, 2025, the City’s Planning Commission held a public hearing on this Second Amendment to DA and made findings and determinations with respect to this Second Amendment, and recommended to the City Council that the City Council approve the terms of this Second Amendment to DA.
11. On _____, 2025, the City Council held a public hearing on this Second Amendment to DA and considered the Planning Commission’s recommendations and the testimony and

information submitted by City staff, Landowners, and members of the public. On _____, 2025, pursuant to applicable state law (California Government Code sections 65864-65869.5) and local law (City of Newport Beach Municipal Code chapter 15.45), the City Council adopted its Ordinance No. 2025-[__] finding this Second Amendment to DA to be consistent with the City of Newport Beach General Plan and approving this Second Amendment to DA.

12. Capitalized terms used but not defined or modified in this Second Amendment shall have the same meaning as set forth in the Development Agreement.

AGREEMENT

NOW, THEREFORE, City and Landowners agree as follows:

1. Property. The Parties hereby amend the term “Property” in the Development Agreement to add the properties located at [2071 and 2101 San Joaquin Hills Road, Newport Beach, Assessor Parcel Numbers 442-08-102 and 442-08-103, and] 100 and 190 Newport Center Drive, Newport Beach, Assessor Parcel Numbers 442-231-13 and 422-231-09, respectively, which are the parcels of real property that are described in the legal description attached to this Second Amendment to DA as Exhibit B and depicted on the site map attached hereto as Exhibit C (“Added Property”). All of the Added Property is owned by one or more of the Landowners.
2. Development Plan. The Parties hereby acknowledge and agree that the amendments to the North Newport Center Planned Community Development Plan (PC-56) adopted pursuant to Ordinance No. 2025-___ (“PC-56 Amendment”) and related approvals are included within the definition of “Development Plan” in Section 1.8 of the Development Agreement.
3. AHIP. The Parties hereby acknowledge and agree that the amendments to the AHIP adopted pursuant to Resolution No. 2025-___ are included within the definition of AHIP in Section 1.1 of the Development Agreement.
4. Development Regulations.
 - 4.1 The Parties hereby amend the definition of “Development Regulations” in the Development Agreement to add the North Newport Center Planned Community Development Plan, as adopted and amended pursuant to Ordinance No. 2025-[__].
 - 4.2 Newport Center Blocks 600, 800, and the portions of Blocks 100, 400, 500, San Joaquin Plaza, and Fashion Island covered by the Development Agreement shall remain governed by the Development Regulations as set forth in the First Amendment, with the exception that the North Newport Center Planned Community Development Plan, as adopted and amended pursuant to Ordinance No. 2025-[__] shall apply.

4.3 The Added Property shall be governed by the Development Regulations in effect as of the Effective Date of this Second Amendment, including without limitation the North Newport Center Planned Community Development Plan, as adopted and amended pursuant to Ordinance No. 2025-[].

5. General Plan. The Parties hereby amend the definition of “General Plan” in Section 1.15 of the Development Agreement to add the Housing Element approved on September 13, 2022, pursuant to Resolution No. 2022-60, Land Use Element updated on July 23, 2024, pursuant to Resolution No. 2024-51, and Circulation Element updated on October 25, 2022, pursuant to Resolution No. 2022-80.
6. Landowners’ Vested Rights. The Parties acknowledge and agree that Section 6.2 of the Development Agreement, which regards Landowners’ vested rights, remains in full force and effect, and applies to the Landowners, Property and the Development Regulations as each definition is amended herein.
7. Affordable Housing Obligation. The Parties agree that a Landowner’s compliance with the amended 2025 Affordable Housing Implementation Plan attached hereto as Exhibit D satisfies any affordable housing obligation of such Landowner to the City, including under Policy Action 1K (Inclusionary Housing Policy) to the 6th Cycle Housing Element, with respect to the 1,500 residential units added to the North Newport Center Planned Community pursuant to this Second Amendment to DA.
8. Public Benefit Fee. As stated in Section 9 of this Second Amendment to DA, the Parties acknowledge and agree that the Public Benefit Fee for existing residential units as required in the Development Agreement has been satisfied. The Parties agree that the Public Benefit Fee payable to the City by any Landowner implementing all or a portion of the 1,500 residential units added to the North Newport Center Planned Community pursuant to this Second Amendment to DA shall be as follows:
 - (a) Any and all Landowners implementing development of all or a portion of the 1,500 residential units in the North Newport Center Planned Community shall not be subject to a Public Benefit Fee for any units that are issued a building permit for such residential units before January 1, 2033.
 - (b) Any and all Landowners implementing development of all or a portion of the 1,500 residential units that are rental units issued a building permit for such units on or after January 1, 2033, shall be subject to a Public Benefit Fee, in the sum of \$17,000 per unit payable at the issuance of the building permit for such units. The Public Benefit Fee shall be adjusted annually commencing on January 1, 2026 based upon a percentage change in the Consumer Price Index (“CPI”) published from time to time by the United States Department of Labor Bureau of Labor Statistics for all urban consumers (all items) for the Los Angeles-Long Beach-Anaheim, California Area, All Urban Consumers, All Items, Base Period (1982-84=100), during the Term of this Second Amendment to DA (each, an “Adjustment Date”) until the Public Benefit Fee

is fully paid. The Parties understand and agree that the Public Benefit Fee shall never be less than \$17,000 per unit.

- (c) Any and all Landowners implementing development of all or a portion of the 1,500 residential units that are for sale units issued a building permit for such units on or after January 1, 2023 shall be subject to an increase in the Public Benefit Fee, as reasonably determined by the City and agreed to by Landowner at the time of issuance of the building permit for such units, but in no event shall the increased Public Benefit Fee be less than \$17,000 per unit.

- 9. Per Unit Public Benefit Fee for Parks (Rental Units). Section 4.1 of the Development Agreement, as amended in Section 7 of the 2012 Amendment and First Amendment, established a Public Benefit Fee for Parks, which the Parties understand and agree applied solely to for sale residential units. The Parties hereby agree that Section 4.1 of the Development Agreement is amended to add the following Public Benefit Fee For Parks for rental units as Section 4.1.1 of the Development Agreement:

“Per Unit Public Benefit Fee for Parks (Rental Units). Commencing with the 800th rental unit of the 1,500 residential units added to the North Newport Center Planned Community pursuant to the Second Amendment to DA, any and all Landowners implementing development of all or a portion of the remaining 700 residential units shall pay to City a per rental unit Public Benefit Fee for Parks in the sum of \$34,000 per unit at the issuance of the building permits for such rental units. This fee is in-lieu of any Park Fee that would otherwise be applicable to the 1,500 residential units added to the North Newport Center Planned Community pursuant to the Second Amendment to DA, including as may be required pursuant to the Newport Beach Municipal Code.”

- 10. Development Fees. During the Term of this Second Amendment to DA, the Development Fees applicable to development of the 1,500 residential units added to the North Newport Center Planned Community pursuant to this Second Amendment to DA shall be the Park Fees and Public Benefit Fee as set forth in Sections [8] and [9] herein and any other Development Fee required for development of the Property as of the Effective Date that is unrelated to public benefits or parks and recreation. Consistent with Section 5.2 of the Development Agreement, during the Term of the Development Agreement as amended hereby, the City shall not increase the amount of the Public Benefit Fee, Park Fees or any other Development Fees applicable to the Property except as set forth in this Second Amendment to DA.
- 11. Master Landscape Plan and Improvements. Following the Effective Date of this Second Amendment to DA, Landowners shall commence design of one Master Landscape Plan for the areas around the Newport Center Ring Road and San Miguel Drive entry shown on Exhibit E attached hereto, which plan may be submitted by any one Landowner, for review and issuance of any required permit(s) by the City. Improvements described in the Master Landscape Plan shall be completed prior to the issuance of the first certificate of occupancy for one of the 1,500 residential units added to the North Newport Center Planned Community pursuant to this Second Amendment to DA. The value of the

improvement shall be equal to or greater than seventeen million dollars (\$17,000,000) in construction costs.

12. Voluntary Payment of Development Impact Fees. Notwithstanding anything in the Development Agreement to the contrary, for projects implementing the 1,500 residential units added to the North Newport Center Planned Community pursuant to this Second Amendment to DA, any and all Landowners implementing development of all or a portion of the 1,500 residential units shall pay the applicable Development Impact Fee consistent with Ordinance No. 202[-]-[] at issuance of the building permit for such residential units.
13. Expiration, Completion, or Exhaustion of Certain Obligations. In addition to the obligations that were acknowledged as completed in the First Amendment, the Parties agree that all applicable obligations of both Parties under the Development Agreement have fully expired or have been fully exhausted or fully completed.
14. No Conflicting Enactments. Except to the extent City reserves its discretion as expressly set forth in the Development Agreement, during the Term of the Development Agreement as amended by this Second Amendment to DA, City shall not apply to the Project any ordinance, policy, rule, regulation, or other measure relating to development of the Project, as contemplated by this Second Amendment to DA, that is enacted or becomes effective after the applicable Effective Date as set forth in Section 4 and 15 of this Second Amendment to DA to the extent it conflicts with this Second Amendment to DA unless specifically mandated by a court of competent jurisdiction as applicable to the Project in a final and non-appealable order or judgment. No City moratorium or other similar limitation relating to the rate, timing, or sequencing of the development or construction of all or any part of the Project and whether enacted by initiative or another method, affecting subdivision maps, building permits, occupancy certificates, or other entitlement to use, shall apply to the Project to the extent such moratorium or other similar limitation restricts a Landowner's vested rights in the Development Agreement including this Second Amendment to DA or otherwise conflicts with the express provisions of the Development Agreement or Second Amendment to DA unless specifically mandated by a court of competent jurisdiction as applicable to the Project in a final and non-appealable order or judgment.
15. Effective Date. "Effective Date" shall mean the latest of all of the following occurring: (i) the date that is thirty (30) days after the date of the adopting ordinance for this Agreement ("Adopting Ordinance") (ii) if a referendum concerning the Adopting Ordinance for this Agreement or the PC-56 Amendment approved on or before the date of the Adopting Ordinance is timely qualified for the ballot and a referendum election is held concerning such Adopting Ordinance or PC-56 Amendment, the date on which the referendum is certified resulting in upholding and approving the Adopting Ordinance and such PC-56 Amendment and becomes effective, if applicable; (iii) if a lawsuit is timely filed challenging the validity or legality of the Adopting Ordinance, this Agreement, and/or the PC-56 Amendment, the date on which said challenge is finally resolved in favor of the validity or legality of the Adopting Ordinance, this Agreement, and/or the applicable PC-56 Amendment, whether such finality is achieved by a final non-

appealable judgment, voluntary or involuntary dismissal (and the passage of any time required to appeal an involuntary dismissal), or binding written settlement agreement. Promptly after the Effective Date occurs, the Parties agree to cooperate in causing an appropriate instrument to be executed and recorded against the Property memorializing the Effective Date.

16. Term. Section 11 of the Development Agreement is amended at paragraph two to read as follows:

“The term of this Agreement (“Term”) shall commence on the Effective Date and shall continue thereafter until the earlier of the following: (i) September [], 2042; or (ii) the date this Agreement is terminated pursuant to Sections 12 or 15.1 of this Agreement.”

17. Amendment or Cancellation of Agreement. In addition to the termination rights provided in Section 12 of the Development Agreement, the Parties agree that with respect to this Second Amendment to DA, if after the Effective Date of the Second Amendment to DA, a court of competent jurisdiction issues a final and non-appealable order or judgment directing the City to set aside the PC-56 Amendment and this Second Amendment to DA, the Second Amendment to DA shall terminate automatically without further notice or action. In event of such termination, the Development Agreement as it existed prior to the Second Amendment to DA shall remain in full force and effect.

18. Events of Default. The Parties hereby agree that Section 15.1 of the Development Agreement is amended to add the following sentence at the end of the paragraph:

“Notwithstanding any of the foregoing or any other provision of this Agreement, and consistent with Section 21.2 of the Agreement that the benefits and burdens of this Agreement constitute covenants that run with the Property, other than The Irvine Company LLC, no Landowner shall be liable under this Agreement for a default by any other Landowner(s) with respect to the defaulting Landowner(s)’ Property, such that default by one Landowner shall not be considered a default by all other Landowners.”

19. Limited Recovery of the Legal Expenses by Prevailing Party in Any Action. The Parties hereby agree that Section 15.4 of the Development Agreement (Limited Recovery of the Legal Expenses by Prevailing Party in Any Action) is deleted in its entirety.

20. Force Majeure. The Parties hereby agree that Section 17 of the Development Agreement is amended to add the following as the last sentence of Section 17:

“In addition, in no event shall the time for performance of a monetary obligation, including without limitation a Landowner’s obligation to pay Public Benefit Fees, be extended pursuant to this Section.”

21. Third Party Legal Challenge. The Parties hereby agree that Section 19 of the Development Agreement is deleted in its entirety and replaced with the following:

“Third Party Litigation. In addition to its indemnity obligations set forth in Section 18 of this Agreement, each Landowner shall indemnify, defend, and hold harmless City and City’s officials, employees, agents, attorneys, and contractors (“City’s Affiliated Parties”) from and against any suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorneys’ fees and costs) (“Claim”) against City or City’s Affiliated Parties seeking to attack, set aside, void, or annul the approval of this Agreement, the Adopting Ordinance for this Agreement, the Development Plan (including any related approvals), any of the Development Regulations for the Project (including without limitation any actions taken pursuant to CEQA with respect thereto), any subsequent discretionary approval, or the approval of any permit granted pursuant to this Agreement with respect solely to such Landowner. Said indemnity obligation shall include payment of attorney’s fees, expert witness fees, City staff costs, and court costs. City shall promptly notify each applicable Landowner of any such Claim and City shall cooperate with such Landowner(s) in the defense of such Claim. If City fails to promptly notify an applicable Landowner of such Claim, such Landowner shall not be responsible to indemnify, defend, and hold City harmless from such Claim until such Landowner is so notified and if City fails to cooperate in the defense of a Claim such Landowner shall not be responsible to defend, indemnify, and hold harmless City during the period that City so fails to cooperate or for any losses attributable thereto. City shall be entitled to retain separate counsel to represent City against the Claim and the City’s defense costs for its separate counsel shall be included in the applicable Landowner’s indemnity obligation, provided that such counsel shall reasonably cooperate with the applicable Landowner in an effort to minimize the total litigation expenses incurred by such Landowner. In the event either City or Landowner recovers any attorney’s fees, expert witness fees, costs, interest, or other amounts from the party or parties asserting the Claim, such Landowner shall be entitled to retain the same (provided it has fully performed its indemnity obligations hereunder). The indemnity provisions in this Section 19 shall survive termination of this Agreement.”

22. Notices. Any required notices to Landowners shall be provided in the manner provided in Section 24 of the Development Agreement, addressed to the City and the applicable Landowner as follows:

TO CITY:

City of Newport Beach
100 Civic Center Drive
Newport Beach, California
92660
Attn: City Manager

With a copy to:

City Attorney
City of Newport Beach
100 Civic Center Drive
Newport Beach, California
92660

TO LANDOWNER: 550 Newport Center Drive
Newport Beach, California 92660-0015
Attn: General Counsel

With a copy to: Latham & Watkins LLP
12670 High Bluff Drive
San Diego, California 92130
Attn: Jennifer K. Roy

23. Monetary Damages. The Parties agree that monetary damages shall not be an available remedy for either Party for a Default hereunder by the other Party; provided, however, that (i) nothing in this section is intended or shall be interpreted to limit or restrict City's right to recover the Public Benefit Fees due from a Landowner as set forth herein; and (ii) nothing in this section is intended or shall be interpreted to limit or restrict Landowner's indemnity obligations set forth herein. In no event shall damages otherwise be awarded against a Party upon an event of default or upon termination of this Second Amendment to DA. The Parties hereby expressly waive any such monetary damages against the other Parties. The sole and exclusive judicial remedy for a Landowner in the event of a Default by the City shall be an action in mandamus, specific performance, or other injunctive or declaratory relief.
24. No Personal Liability. The Parties hereby agree that Section 25.11 of the Development Agreement (Non-Liability of City Officers and Employees) is deleted in its entirety and replaced with the following:
- “No Personal Liability of City Officials, Employees, or Agents. No City official, employee, or agent shall have any personal liability hereunder for a default by City of any of its obligations set forth in this Agreement.”
25. Conflicts. Except as otherwise set forth herein to the contrary, all terms and provisions of the Development Agreement shall remain unamended and continue in full force and effect. This Second Amendment to DA and the Development Agreement, along with any previous or future amendments, shall be construed together and constitute one agreement. In the event of any inconsistency between this Second Amendment to DA and the Development Agreement, the provisions of this Second Amendment to DA shall prevail.
26. Compliance with California Government Code Section 65867.5. California Government Code Section 65867.5 provides that a development agreement is a legislative act that shall be approved by ordinance and subject to referendum. A development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan. These requirements of California Government Code Section 65867.5 have been satisfied by the City's finding that this Second Amendment to DA is consistent with the City's General Plan and the City's approval of this Second Amendment to DA by ordinance.

27. Compliance with California Government Code Section 66473.7. The area subject to the Second Amendment to DA may include a future subdivision, and the City may, in its sole and absolute discretion, approve certain tentative maps for such subdivision. Any such subdivision will comply with all of the provisions of the Subdivision Map Act including, but not limited to, California Government Code Section 65867.5 in that any tentative maps will be approved by the City in compliance with California Government Code Section 66473.7.
28. Section Headings. All section headings are inserted for convenience only and shall not affect construction or interpretation of this Second Amendment to DA.
29. Incorporation of Exhibits. Exhibits A, B, C, D and E are attached to this Second Amendment to DA and incorporated by reference as follows:

EXHIBIT DESIGNATION	DESCRIPTION
A	List of Current Landowners and Properties
B	Legal Description of Added Property
C	Site Map of Added Property
D	2025 Affordable Housing Implementation Plan
E	Master Landscape Plan Area

30. Authority to Execute. The persons executing this Second Amendment to DA warrant and represent that they have the authority to execute this Amendment on behalf of the party for which they are executing this Second Amendment to DA. They further warrant and represent that they have the authority to bind their respective party to the performance of its obligations under this Second Amendment to DA. The City Manager or his/her designee has the authority to implement the terms of this Second Amendment to DA and execute any documents in furtherance of the terms of this Second Amendment to DA and the Development Agreement so long as they have been reviewed and approved as to form by the City Attorney.
31. Recordation. This Second Amendment and any amendment, modification, or cancellation to it or the Development Agreement shall be recorded in the Office of the County Recorder of the County of Orange, by the City of Newport Beach City Clerk in the period required by California Government Code Section 65868.5 and City of Newport Beach Municipal Code Section 15.45.090.

[SIGNATURE PAGE FOLLOWS]

**LANDOWNER SIGNATURE PAGES TO
SECOND AMENDMENT TO ZONING IMPLEMENTATION
AND PUBLIC BENEFIT AGREEMENT**

THE IRVINE COMPANY, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

VILLAS AT FASHION ISLAND LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

THE COLONY AT FI LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

FASHION ISLAND RETAIL LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

Proposed

ISLAND HOTEL FINANCE LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

660 NEWPORT CENTER DRIVE LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

650 NEWPORT CENTER DRIVE LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

620 NCD LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

PROPOSED

610 NEWPORT CENTER DRIVE LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

600 NCD LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

500/550 NEWPORT CENTER DRIVE LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

520 NEWPORT CENTER DRIVE LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

Proposed

190 NCD LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

MYFORD GATEWAY PORTFOLIO LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

100 NCD LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

Proposed

**CITY SIGNATURE PAGE TO
SECOND AMENDMENT TO ZONING IMPLEMENTATION
AND PUBLIC BENEFIT AGREEMENT**

“CITY”

CITY OF NEWPORT BEACH

Joe Stapleton, Mayor

ATTEST:

Leilani I. Brown, City Clerk

APPROVED AS TO FORM:

Aaron Harp, City Attorney

Proposed

ACKNOWLEDGMENT

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
County of _____ }

On _____, 20____ before me, _____, Notary Public, personally appeared _____, 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 signatures(s) 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.

Signature (seal)

ACKNOWLEDGMENT

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
County of _____ }

On _____, 20____ before me, _____, Notary Public, personally appeared _____, 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 signatures(s) 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.

Signature (seal)

Exhibit A:

LIST OF CURRENT LANDOWNERS AND PROPERTIES

Address	Ownership Entity
1000 San Joaquin Plaza	Villas at Fashion Island LLC
800 San Clemente	The Irvine Company LLC
888 San Clemente	The Irvine Company LLC
875 San Clemente/5100 Colony Plaza	The Colony at FI LLC
800/840/860/880 Newport Center Drive	The Irvine Company LLC
401 Newport Center Drive	Fashion Island Retail LLC
690 Newport Center Drive	Island Hotel Finance LLC
680 Newport Center Drive	The Irvine Company LLC
660 Newport Center Drive	660 Newport Center Drive LLC
650 Newport Center Drive	650 Newport Center Drive LLC
620 Newport Center Drive	620 NCD LLC
610 Newport Center Drive	610 Newport Center Drive LLC
600 Newport Center Drive	600 NCD LLC
500/550 Newport Center Drive	500/550 Newport Center Drive LLC
520 Newport Center Drive and 555 San Nicolas Dr.	520 Newport Center Drive LLC
2071/2101 San Joaquin Hills Rd.	The Irvine Company LLC
450 Newport Center Drive	The Irvine Company LLC
190 Newport Center Drive	190 NCD LLC
110/120/130/140/160/170 Newport Center Drive	Myford Gateway Portfolio LLC
100 Newport Center Drive	100 NCD LLC
Various Corner Monument Sign Parcels	The Irvine Company LLC

Exhibit B:

LEGAL DESCRIPTION OF ADDED PROPERTY

Proposed

2071 San Joaquin

PARCEL I, AS SHOWN ON A MAP FILED IN BOOK 13, PAGE 41 OF PARCEL MAPS FILED IN THE OFFICE OF THE COUNTY RECORDER, OF SAID COUNTY.

EXCEPT ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED JUNE 30, 1992 AS INSTRUMENT NO. 92-441126 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED JUNE 30, 1992 AS INSTRUMENT NO. 92-441126 OF OFFICIAL RECORDS.

APN: 442-081-02

2101 San Joaquin

PARCEL 1, AS SHOWN ON A MAP FILED IN BOOK 21, PAGE 18 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED JUNE 30, 1992 AS INSTRUMENT NO. 92-441126 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED JUNE 30, 1992 AS INSTRUMENT NO. 92-441126 OF OFFICIAL RECORDS.

APN: 442-081-03

100 Newport Center Drive

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 1, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 76, PAGE 32 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, EXCEPTING THEREFROM ALL BUILDINGS AND IMPROVEMENTS SITUATED THEREON AS CONVEYED BY GRANT DEED RECORDED MARCH 25, 2016 AS INSTRUMENT NO. 2016000126026, OF OFFICIAL RECORDS, WHICH BUILDINGS AND IMPROVEMENTS ARE AND SHALL REMAIN REAL PROPERTY.

EXCEPTING THEREFROM ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OF THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED MAY 27, 1992 AS INSTRUMENT NO. 92-352375, OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY

RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED MAY 27, 1992 AS INSTRUMENT NO. 92-352375, OF OFFICIAL RECORDS.

PARCEL B:

NONEXCLUSIVE EASEMENTS AS SET FORTH IN THAT CERTAIN INSTRUMENT ENTITLED "DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS" DATED NOVEMBER 18, 1991 AS INSTRUMENT NO. 91-627003, OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL C:

NONEXCLUSIVE EASEMENT FOR PARKING AS SET FORTH IN THAT CERTAIN INSTRUMENT ENTITLED "DECLARATION OF PARKING RIGHTS AND GRANT OF EASEMENT (CORPORATE PLAZA)", EXECUTED BY THE IRVINE COMPANY, A MICHIGAN CORPORATION, DATED MAY 20, 1992 AND RECORDED MAY 27, 1992 AS INSTRUMENT NO. 92-352361, OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL D:

ALL BUILDINGS AND IMPROVEMENTS, AS CONVEYED BY GRANT DEED RECORDED MARCH 25, 2016 AS INSTRUMENT NO. 2016000126026, OF OFFICIAL RECORDS, SITUATED ON PARCEL 1, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA. AS SHOWN ON A MAP FILED IN BOOK 76. PAGE 32 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. WHICH BUILDINGS AND IMPROVEMENTS ARE AND SHALL REMAIN REAL PROPERTY.

APN: 442-231-13

190 Newport Center Drive

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 9, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 52, PAGE 37 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL B:

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AND VEHICULAR PARKING OVER PARCEL A AND PARCEL B, AS SHOWN ON A MAP FILED IN BOOK 52, PAGE 37 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN. GEOTHERMAL STEAM, AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS. TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF. AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES: WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED APRIL 01. 1992.

ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER, RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN,

OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL: BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY. A MICHIGAN CORPORATION, RECORDED APRIL 01. 1992.

APN: 442-231-09

Proposed

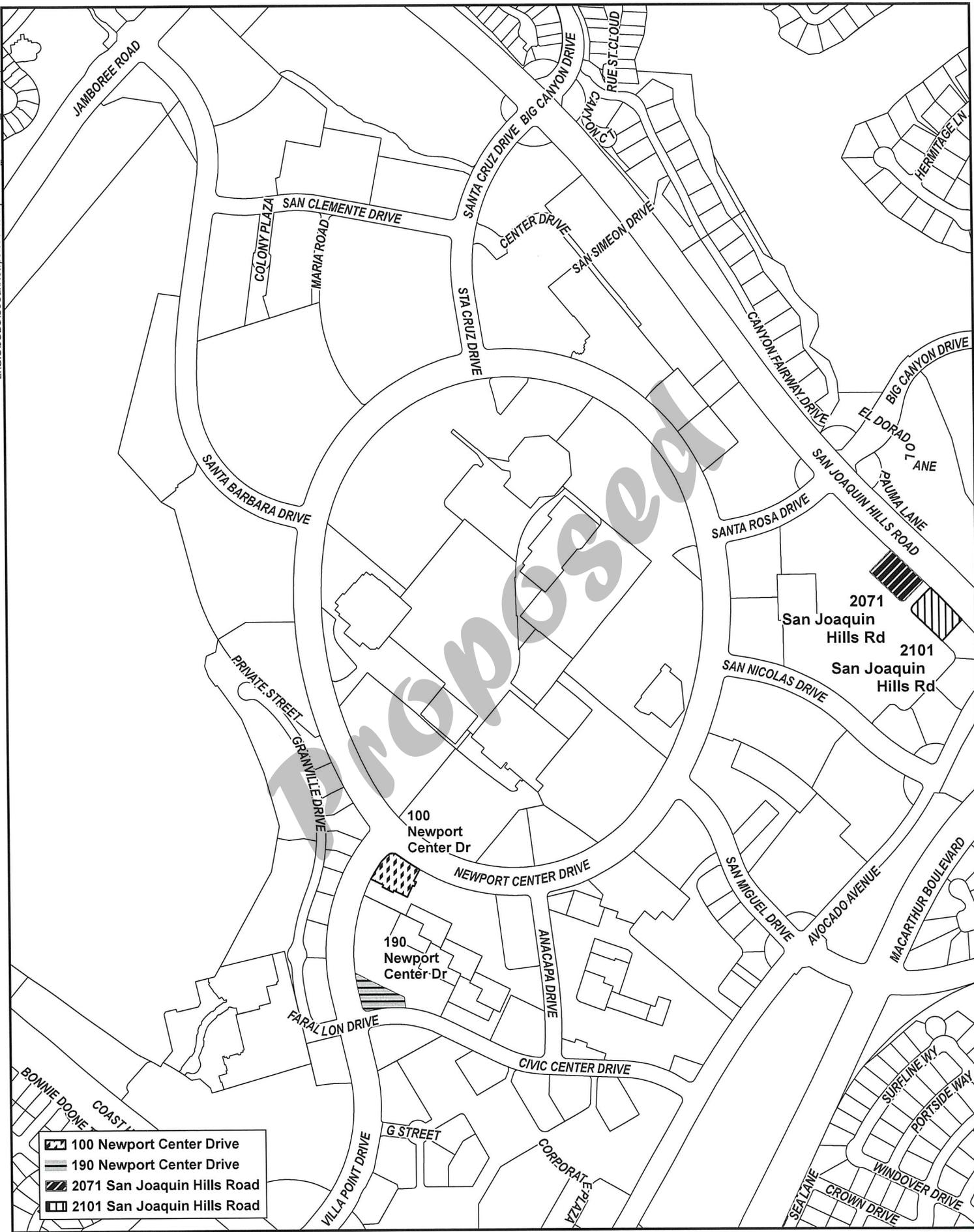
Exhibit C:

SITE MAP OF ADDED PROPERTY

Proposed

Exhibit C

L:\GIS\JOBS\GIS\CallNewportCenter\aprx\NCD_DAINCD_DA.aprx | dehenandez



-  100 Newport Center Drive
-  190 Newport Center Drive
-  2071 San Joaquin Hills Road
-  2101 San Joaquin Hills Road

4/24/2025

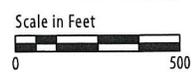


Exhibit D:

2025 AFFORDABLE HOUSING IMPLEMENTATION PLAN

Proposed

**NORTH NEWPORT CENTER
PLANNED COMMUNITY**

**AFFORDABLE HOUSING
IMPLEMENTATION PLAN**

Proposed

**Prepared For:
The City of Newport Beach**

April 2025

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Proposed

I. Introduction

The North Newport Center Planned Community (Planned Community) approval by the City of Newport Beach includes a Planned Community Development Plan that implements the goals and policies of the City's General Plan. The Planned Community, as shown on Exhibit 1, consists of seven sub-areas within North Newport Center, a regional center comprised of major retail, professional office, entertainment, recreation, hotel, and residential development.

Block 500, Block 600, and San Joaquin Plaza are designated in the General Plan as MU-H3, a designation that allows for a mixed-use area combining commercial, office, entertainment, and residential uses. A total of 1,500 residential units may be developed on the Housing Opportunity Sites as identified in Newport Beach Municipal Code Sections 20.80.025 (Housing Opportunity Overlay Zoning Districts maps) and 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) including Fashion Island, Block 100, Block 400, Block 600 and San Joaquin Plaza. The City has not adopted an inclusionary housing policy. However, the City is encouraging new residential development projects to provide affordable housing. This Affordable Housing Implementation Plan (AHIP) outlines how affordable housing will be provided relative to the 1,500 new residential units allowed in the Planned Community.

Background

On September 13, 2022, the Newport Beach City Council adopted the 6th Cycle Housing Element for the 2021-2029 planning cycle in response to the Regional Housing Needs Assessment (RHNA) allocation. The Housing Element identifies moderate income households as those with annual incomes between 81% and 120% of the County median household income. Low-income households are those with annual incomes between 51% and 80% of the County median household income. Very-low income households are those with annual incomes between 31% and 50% of the County median household income. Extremely low-income households are those with annual incomes of 30% or less of the County median household income. While the Housing Element does not require an AHIP, this document has been prepared to outline how the development will meet the City's affordable housing goal.

The Southern California Association of Governments (SCAG) prepares the state-mandated RHNA. The RHNA quantifies the need for housing within each jurisdiction during specified planning periods. The City's General Plan Housing Element must include its "fair share" regional housing needs allocation for all income groups which must be updated periodically. The most recently published SCAG RHNA identifies the City allocation as follows:

- Total allocation between 10/15/2021 and 10/15/2029 – 4,845 units
- Very-low income allocation – 30% (1,456 units)
- Low-income allocation – 19% (930 units)
- Moderate-income allocation – 22% (1,050 units)

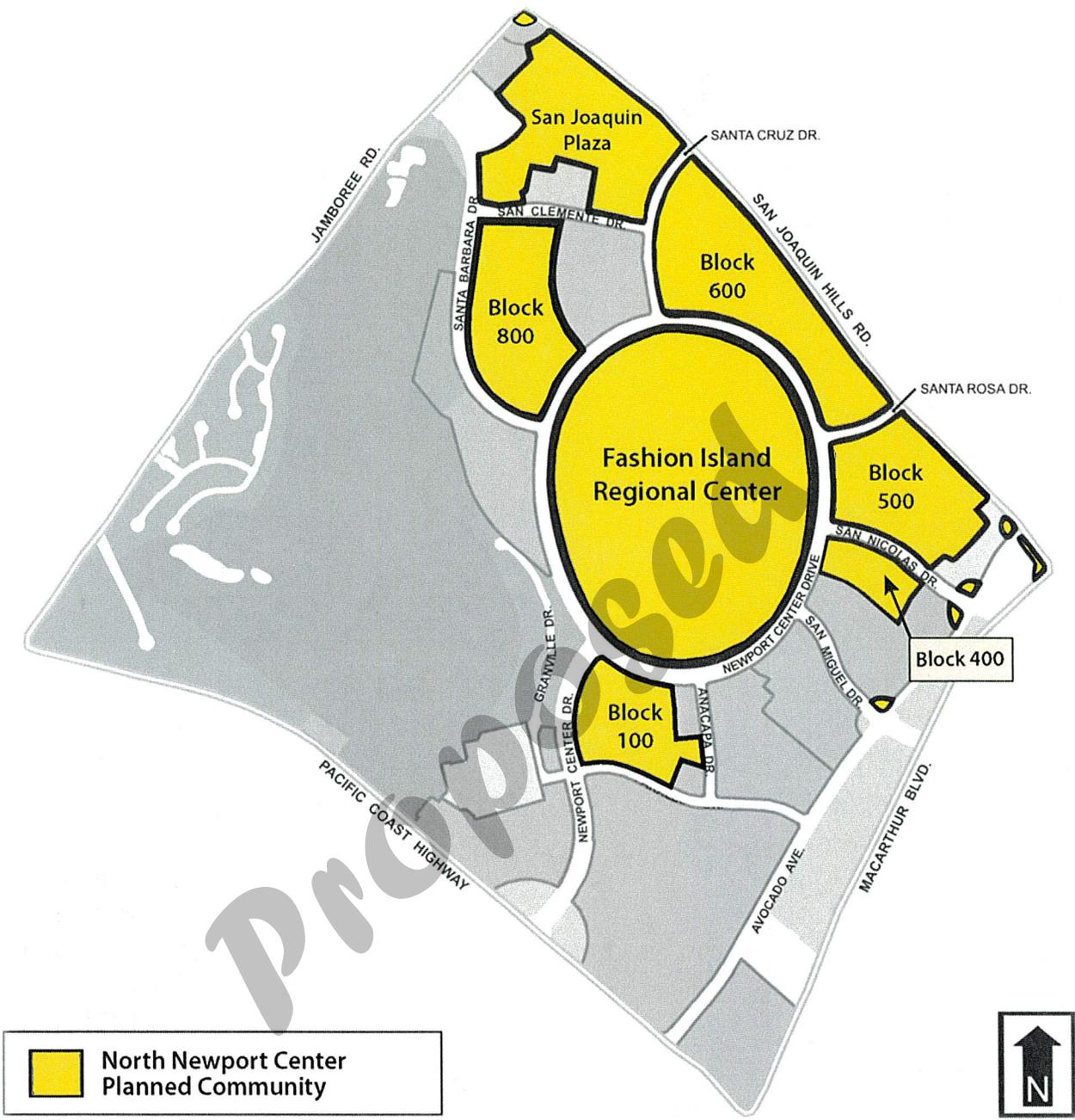


Exhibit 1 - North Newport Center Planned Community

II. Affordable Housing Plan

Proposed Plan

This Affordable Housing Implementation Plan includes the following plan.

A. Construction of New Affordable Housing Units

The Irvine Company owns property within Newport Beach that would allow for the development of new affordable housing. Irvine Company proposes to identify an appropriate site for the development of affordable housing and to develop a new affordable housing project. Due to land costs, the location may be located outside of Newport Center.

The units must be sold or rented to households qualifying as very-low or low-income households. The annualized rents chargeable for occupancy of the Affordable Units shall not exceed thirty percent (30%) of the Very-Low or Low- income limits. The restriction on these units – for example, tenant selection procedures, monitoring – will be included in an affordable housing agreement, which shall be submitted for review and approval by the City Attorney and recorded against the property(ies).

B. Dedication of Property to the City

If Irvine Company is unable to construct new affordable housing units as described in Section II.A above and in a manner consistent with the Implementation terms below, Irvine Company shall dedicate land to the City, which could include land not currently zoned for residential use, for the purpose of future affordable housing development. The site shall be of adequate size to allow for construction of at least 105 affordable housing units at an assumed density of 20-50 dwelling units to the acre. The site shall be free of any restrictions such as easements, covenants, conditions, or other restrictions that would preclude or make financially infeasible the development of the intended affordable housing development as determined by the City. The City shall coordinate with Irvine Company regarding design. Notwithstanding any covenants, conditions or other restrictions, the City shall be the final review authority regarding design of the building(s) and property.

C. Fee Payment

In the event that construction of new affordable housing units as described in Section II.A above, or dedication of property as described in Section II.B above, is not possible, Irvine Company shall pay the City an affordable housing in-lieu fee of \$36,690 per market-rate unit constructed. If the City determines that the conditions in Sections II.A and II.B above cannot be met, the fee for any market-rate unit that has received a building permit shall be paid to the City within 90 days of said determination. For any remaining market-rate units to be constructed, the in-lieu fee shall be paid at the time of building permit issuance.

Number and Type of Affordable Units

The Irvine Company proposes to build new affordable housing units which equate to 7% of new market-rate housing units built in Newport Center or other areas. Irvine Company shall be permitted to construct conventional affordable housing or senior affordable housing. Irvine Company shall be required to build the number of affordable housing units equivalent to 7% of new market-rate residential units. Irvine Company is contemplating the construction of approximately 1,500 new market-rate residential units in Newport Center, which would require construction of 105 new

affordable units. If affordable units are provided (or land is dedicated that will accommodate more affordable housing units) in excess of the 7% requirement, Irvine Company shall be allowed to offset any future residential development against the excess affordable units provided.

Implementation

The new affordable housing units shall be constructed on a single site and may be implemented in a single phase or in multiple phases. Irvine Company shall secure the first approved building permit from the City by January 31, 2029, for the affordable housing units required under this AHIP (Section II.A), unless the deadline is extended by the Director of Community Development upon mutual consent of the parties.

Conclusion

Implementation of this AHIP will result in the availability of affordable housing units as identified above within the City of Newport Beach in accordance with the City's Housing Element.

Proposed

III. Consistency with Housing Element

The City of Newport Beach adopted a Housing Element Implementation Plan in 2024. A Housing Element was included in the General Plan in accordance with state law. The Housing Element was updated in 2022 and amended in 2024. The Housing Element identifies goals and programs for the provision of affordable housing in the City. The AHIP is intended to meet the specific goals of the Housing Element as follows:

Housing Goal #3 A variety of housing types, designs, and opportunities for all social and economic segments.

Housing Policy 3.1 Encourage preservation of existing and provision of new housing affordable to extremely low-, very low-, low-, and moderate-income households.

The AHIP supports the City's requirement for the provision of affordable housing for all new residential development. The Irvine Company has prepared a Development Agreement in accordance with this Policy/Program.

Housing Goal #5 Preservation of the City's housing stock for extremely low-, very low-, low-, and moderate-income households.

Housing Policy 5.1 Continue or undertake the following programs to mitigate potential loss of "at risk" units due to conversion to market-rate units. These efforts utilize existing City and local resources. They include efforts to secure additional resources from public and private sectors should they become available.

The affordable housing provided per the AHIP will increase the City's affordable housing stock. The units will be deed-restricted to remain affordable for a period of 55 years. In addition, the developer will provide periodic reports in the form required by the City. The provision of the affordable housing units will assist the City in meeting Housing Element Goal #1: Provision of adequate sites to accommodate projected housing unit growth needs identified by the 2021-2029 RHNA.

In conclusion, the AHIP is consistent with the relevant goals and programs in the City's 2022 General Plan Housing Element.

IV. Amendments to the AHIP

This AHIP may be amended with the approval of the City Council.

V. Authority

The AHIP has been adopted by the City of Newport Beach per Resolution No. 2025-___ on the 29th day of April, 2025.

Exhibit E:

MASTER LANDSCAPE PLAN AREA

Proposed

PROPOSED STREETScape AND ENTRY LANDSCAPE IMPROVEMENT AREAS



PUBLIC RIGHT OF WAY

- P PARKWAYS
- EM EXISTING MEDIANS
- NM NEW MEDIANS
- C RING ROAD INTERSECTIONS

PRIVATE PROPERTY

- EC ENTRY CORNERS

Exhibit "D"
Housing Implementation Program EIR (PA2022-0245)

File available via link due to size at:

<https://www.newportbeachca.gov/government/departments/community-development/planning-division/projects-environmental-document-download-page/environmental-document-download-page>

Proposed

Exhibit "E"
CEQA Consistency Analysis

File available via link due to size at:

<https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=3116123&dbid=0&repo=CNB>

Proposed