

TERMINATION
OF
DEVELOPER CONTRACT &
CLOSE-OUT AGREEMENT

This Termination of Developer Contract & Close-Out Agreement (“**Termination Agreement**”) is made as of June __, 2021 (“**Effective Date**”), by and between LDC GREENSPOT, LLC, a Delaware limited liability company (hereinafter referred to as “**LDC Greenspot**”) and the ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic (hereinafter referred to as “**District**”). District and LDC Greenspot are hereafter collectively referred to as the “**Parties**” and individually as “**Party**.”

RECITALS

A. District and Lewis Investment Company LLC, a California limited liability company (“**LIC**”), entered into that certain Developer Contract dated November 18, 2010 and, pursuant to an Assignment and Assumption of Contract of the same date, which was approved by District, LIC assigned all of its right, title, interest and obligations under such Developer Contract to LDC Greenspot. Pursuant to an Amendment No. 1 to Developer Contract effective October 31, 2017, LDC Greenspot and District subsequently amended the Developer Contract and the Developer Contract, as amended, is hereinafter collectively referred to as the “**Developer Contract**.” The purpose of the Developer Contract was to obtain entitlements (“**Entitlements**”), and related obligations as more fully described in the Developer Contract, for a predominantly residential master planned community (“**Project**”) located on approximately 1,658 acres of vacant real property owned by the District located in the City of Highland as more particularly depicted and described in the Developer Contract’s Exhibit A (“**Property**”), the contents of which are incorporated by this reference.

B. The Parties now desire to terminate the Developer Contract and to settle any outstanding obligations or claims related thereto by entering into this Termination Agreement for that purpose.

C. The Parties understand and agree that the District will pursue disposition of this Property through a public request for proposals (“**RFP**”). LDC Greenspot agrees to cooperate with the District in this disposition and RFP as set forth herein.

AGREEMENT

NOW, THEREFORE, notwithstanding anything in the Developer Contract to the contrary, and, in consideration of the foregoing recitals, which are incorporated by reference as if fully set forth below, the mutual covenants herein contained, and other consideration, the receipt and adequacy of which is hereby acknowledged, the undersigned Parties hereby agree as follows:

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1. Termination of Developer Contract and Payment of Outstanding Invoices. District and LDC Greenspot hereby agree that the Developer Contract is terminated and of no further force and effect.
2. Payment to LDC Greenspot. Notwithstanding anything to the contrary in the Developer Contract, including but not limited to its Article 3, upon the first to occur of (i) the close of escrow of a sale of all or any portion of the Property to a third party buyer pursuant to the RFP (“**Close of Escrow**”) or (ii) December 31, 2022, District shall pay LDC Greenspot as compensation for the Tasks (as defined in the Developer Contract) the sum of Two Million One Hundred Twenty-Two Thousand Seven Hundred Forty-Nine Dollars (\$2,122,749), hereinafter referred to as the “**Initial Payment**.” In the event that the Initial Payment is paid at the Close of Escrow, such Initial Payment shall be disbursed to LDC Greenspot from the escrow proceeds due to Seller.
3. In addition to the Initial Payment, in consideration of the services provided by LDC Greenspot in connection with the sale of the Property, as more particularly described in Section 4 below, upon the Close of Escrow for the sale of all or any portion of the Property, LDC Greenspot shall receive the following compensation, hereinafter referred to as the “**Sale Proceeds Payment**”:
 - For a sale price of the Property between \$10,000,000 to \$30,000,000, calculated after deduction for broker commission, title and escrow fees (“**Adjusted Sale Price**”), LDC Greenspot shall receive 1% of the Adjusted Sale Price between \$10,000,000 and \$30,000,000, or \$200,000, whichever is less; or
 - For an Adjusted sales price of the Property over \$30,000,000, LDC Greenspot shall receive \$200,000, plus 0.5% of the Adjusted Sale Price for that portion above \$30,000,000 (with no limit).
 - LDC Greenspot shall not receive any Sale Proceeds Payment for an Adjusted Sale Price below \$10,000,000.

The Sale Proceeds Payment shall be paid to LDC Greenspot from the escrow proceeds due to District at the Close of Escrow. In the event that the Property is sold on terms which include financing by the District (e.g., a promissory note secured by a deed of trust), the full amount of the Sales Proceeds Payment shall be paid in cash to LDC Greenspot upon the Close of Escrow for the Property. In the event that the Property is sold in phases, the full amount of the Sales Proceeds Payment shall be paid in cash to LDC Greenspot upon the Close of Escrow of the first phase of the Property, based upon the Sales Price of the entire Property. Neither LDC Greenspot nor any entity affiliated with LDC Greenspot shall be eligible to extend a bid in the RFP process or to purchase the Property.

Collectively, the Initial Payment and Sale Proceeds Payment shall be referred to as the “**Close-Out Payment**.” The Close-Out Payment shall serve as full remuneration from

District to LDC Greenspot to fulfill any and all financial obligations owed by District to LDC Greenspot under the Developer Contract and this Termination Agreement and, upon the timely payment thereof, LDC Greenspot hereby waives any possible claim to additional payment from District. Any outstanding debt owed by LDC Greenspot for any "Consultant Fees" or "Third Party Costs" as those terms are defined in section 6.11.2 of the Developer Contract remain the responsibility of LDC Greenspot.

4. Cooperation to Sell Property. District covenants that it shall use its best efforts to sell the Property and shall not enter into any lease or other agreement which may adversely affect the District's ability to sell the Property. LDC Greenspot agrees to cooperate with District and to assist District with completing a sale of the Property. Such cooperation and assistance will include, but not necessarily be limited to, the following: (i) providing input and information to assist with marketing the Property, (ii) coordinating with any of District's employees, representatives, or agents including any District retained listing broker, (iii) cooperating on the transfer of any reimbursement agreements and any entitlement rights to the buyer if necessary, (iv) meeting with prospective purchasers to help facilitate this sale, and (v) good faith participation in achieving the sale of the Property the sale and marketing of the Property by the District's listing broker. District retains the right to approve any sale and disposition of the Property in its sole and absolute discretion. Notwithstanding the foregoing, in the event that the Close of Escrow for the sale of the Property and the Sale Proceeds Payment to LDC Greenspot has not been made on or before the date two (2) years after the Effective Date, LDC Greenspot may, at any time thereafter, elect to cease its cooperation in the sale of the Property as set forth in this Section 4 by delivery of written notice to District ("**Cessation Notice**"), in which event, LDC Greenspot shall, thereafter, have no further obligations under this Section 4 to cooperate with District in the sale of the Property. After delivery of the Cessation Notice to District, District shall have no further obligation to pay to LDC Greenspot the Sale Proceeds Payment unless (a) District enters into an agreement for the sale of the Property within two (2) years after LDC Greenspot's delivery of such Cessation Notice with any person or entity with whom LDC Greenspot has communicated regarding the Property and (b) such person or entity has been identified in the Cessation Notice. District's obligation herein to pay to LDC Greenspot the Initial Payment and any interest accrued thereon if not paid in a timely manner shall not be affected by the delivery of the Cessation Notice by LDC Greenspot to District.
5. Work Product and Documents. LDC Greenspot will use commercially reasonable efforts to preserve and provide the work product it created for the Project to the District or to a recipient designated by District. Further, within thirty (30) days after the full execution of this Termination Agreement, LDC Greenspot will return to District all materials, documents, data or information, including copies, which were obtained by LDC Greenspot from District, as more fully described in section 6.43 in the Developer Contract. All documents owned by District, as more fully described in section 6.33 of the Developer Contract, shall, likewise, be delivered by LDC Greenspot to District or to a recipient designated by District within thirty (30) days after the full execution of this Termination Agreement.

6. Mutual Release. This Termination Agreement does not constitute any admission of liability by either Party to the other Party to this Termination Agreement. Effective upon satisfaction of the obligations set forth in this Termination Agreement, the District, on the one hand, and LIC and LDC Greenspot, on the other hand, hereby agree to resolve any claims against each other arising out of the Developer Contract. Each Party hereto releases the other Party and its affiliated entities and agencies (including, without limitation, as to District, its officers, its elected officials, board members, employees, agents, consultants and contractors and, as to LDC Greenspot, LIC and Lewis Management Corp. and their members, shareholders, partners, managers, officers, employees, representatives, attorneys', agents, consultants and contractors, the foregoing being collectively referred to as "**Affiliates**"), from all claims, demands, damages, rights, liabilities, and causes of action of any nature whatsoever, whether at law or equity, known or unknown, suspected or unsuspected, which are related or in any manner incidental to the Developer Contract or its subject matter, including but not limited to the Project. Each Party waives and relinquishes any right or benefit which it has or may have under applicable law regarding waiver of unknown claims to the full extent that it may lawfully waive such rights and benefits. In connection with such waiver and relinquishment, each Party acknowledges that it is aware that it or its attorneys or accountants may hereafter discover facts in addition to or different from those which it now knows or believes to exist with respect to the subject matter of this Termination Agreement or the other Party hereto, but that it is the Parties' intention hereby fully, finally, and forever to settle and release all of the claims, disputes, and differences, known or unknown, suspected or unsuspected, which now exist or may exist hereafter between each Party with regard to the Developer Contract and the Project. This Termination Agreement shall be and remain in effect as a full and complete release even if any such additional or different facts are discovered after this Termination Agreement is entered into. However, this mutual release is not intended to release or offset actions by either Party for claims arising as a result of (i) a breach of this Termination Agreement, or (ii) transactions and occurrences on or after the Effective Date.
- (a) In making this release, each Party intends to and does release, acquit and discharge the other Party and its Affiliates from any liability of any nature whatsoever for any claim, injury, damages, or equitable or declaratory relief of any kind, whether the claim, or any facts on which such claim might be based, is known or unknown to the Party possessing the claim. Each Party expressly acknowledges and waives any and all rights under Section 1542 of the California Civil Code, which the Parties understand provides as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

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Each Party acknowledges the foregoing waiver of the provisions of California Civil Code Section 1542 was separately bargained for and expressly consents that this Termination Agreement shall be given full force and effect in accordance with each and all of its express terms and provisions, including those terms and provisions relating to unknown or unsuspected claims, demands and causes of action, if any, to the same effect as those terms and provisions relating to any other claims, demands and causes of action herein above specified.

- (b) Each Party acknowledges that it may hereafter discover facts or law different from or in addition to those which it now believes to be true with respect to the release of claims. Each Party agrees that the foregoing release shall be and remain effective in all respects despite any such different or additional facts or law or any Party's discovery thereof. The Parties shall not be entitled to any relief in connection therewith, including, but not limited to, any damages or any right or claim to set aside or rescind this Termination Agreement.
- (c) None of the Parties, their Affiliates or their respective agents have made any statement or presentation to the other regarding any fact relied upon in entering into this Termination Agreement and the Parties, and each of them, expressly do not rely upon any statement, representation or promise of any other Party or any Party's agent or related entities in executing this Termination Agreement, except as is expressly set forth herein. Each of the Parties has made such investigation of the facts and law pertaining to the subject matter of this Termination Agreement as it deems necessary, and has consulted with legal counsel of its own choosing concerning these matters.
- (d) LDC Greenspot hereby represents and warrants that, to the best of its knowledge, as of the Effective Date of this Termination Agreement, no entity or person has any right to a lien against the Property arising from or related to the services rendered by LDC Greenspot in connection with the Developer Contract. LDC Greenspot will provide its most recent preliminary title report to the District upon the Effective Date of this Agreement. LDC Greenspot acknowledges that the District has relied and is relying upon such representations and warranties in entering into this Termination Agreement.
- (e) Each Party hereto represents and warrants that it has not assigned, transferred, conveyed or otherwise disposed to any other entity or person any right, title, or interest whatsoever in the released claims described in this Termination Agreement and that it will not make any such assignment, transfer, conveyance or other disposition subsequent to the Effective Date of this Termination Agreement. Each Party acknowledges that the other Party hereto has relied and is relying upon such representations and warranties in entering into this Termination Agreement. LDC Greenspot will hold harmless and defend the District and the County of Orange and their Affiliates from any claims that may arise from LDC Greenspot's nondisclosure of any other interests in the Property arising from any act or omission of LDC Greenspot.

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7. Knowing Release. In executing this Termination Agreement, each Party hereto acknowledges that it has consulted with and received the advice of counsel and that the Parties have executed this Termination Agreement after independent investigation and without fraud, duress, or undue influence.
8. Attorney Fees. If any Party initiates legal proceedings to enforce its rights under this Agreement, then each Party shall bear its own costs, including but not limited to attorney fees, costs, and other expenses.
9. Final and Complete Expression. This Termination Agreement is the final and complete expression of the Parties. This Termination Agreement may not be modified, interpreted, amended, waived, or revoked orally, but only by a writing signed by all of the Parties hereto.
10. Severability. If any provision in this Termination Agreement is deemed invalid, then the remaining provisions thereof will continue in full force and effect and will be construed as if the invalid provision had not been a part of this Termination Agreement.
11. Notices. All notices, requests, demands and other communications required or permitted to be given under this Termination Agreement shall be in writing and shall either be delivered personally or be sent by telegram or by regular or certified first class mail, postage prepaid, deposited in the United States mail, and properly addressed to the Party at its address set forth below, or at any other address that such Party may designate by written notice to the other Party:

To County: County of Orange/CEO Real Estate
333 W. Santa Ana Boulevard, 3rd Floor
Santa Ana, CA 92701
Attention: Thomas A. Miller, Chief Real Estate Officer

With copy to: County of Orange/County Counsel
333 W. Santa Ana Boulevard, 4th Floor
Santa Ana, CA 92701
Attention: Michael Haubert, Senior Deputy

To LDC Greenspot: LDC Greenspot, LLC
c/o Lewis Management Corp.
1156 North Mountain Avenue
Upland, CA 91786-3633
Attention: Bryan Goodman

12. No Release of Obligations and Representations Contained in this Termination Agreement. Nothing contained in this Termination Agreement shall operate to release or discharge the Parties, or their successors, assigns, heirs, executors or administrators, from any claims, rights, or causes of action arising out of, relating to, or connected with the breach of any of the obligations or representations of the Parties contained in this

ATTACHMENT A

Termination Agreement accruing on or after the date hereof. Nothing contained in the Termination Agreement shall affect future obligations of the Parties except as herein expressly provided and this Termination Agreement shall continue in full force and effect, unmodified, in accordance with its terms except only as herein expressly set forth.

13. Headings. The paragraph headings in this Termination Agreement are for the convenience only and shall not be deemed to affect in any way the language of the provision to which they refer.
14. Integration and Modification. This Termination Agreement is the final, entire, and complete agreement of the Parties with respect to the subject matter of this Termination Agreement. No verbal agreement or conversation with any officer or employee of either Party shall effect or modify in any way the terms and conditions of this Termination Agreement.
15. Governing Law. This Termination Agreement shall be construed and enforced in accordance with the laws of the State of California.
16. Authority. The Parties each represent, warrant, and agree that each of them has the full right and authority to enter into this Termination Agreement and that the representative executing this Termination Agreement on behalf of each of them has the full right and authority to bind them fully to this Termination Agreement.
17. Counterparts. This Termination Agreement may be executed in counterparts, with the same force and effect as if executed in a single, complete document. For purposes of this Termination Agreement, a facsimile, Portable Document Format ("PDF"), DocuSign, or any similar technology shall be considered as the equivalent of a wet ink signature, shall be deemed good and valid acceptance of this Termination Agreement, and shall be reasonably relied upon by the Parties.
18. Interest. Any amount not paid by one Party to the other hereunder shall bear interest at the rate of five percent (5%) per annum or the maximum rate allowed by law, whichever is less.

SIGNATURE PAGE FOLLOWS

ATTACHMENT A

IN WITNESS WHEREOF, the Parties hereto have executed this Termination Agreement on the dates shown opposite their respective signature below, effective as of the date first written above.

Date: _____, 2021

LDC GREENSPOT, LLC
a California limited liability company

By: LEWIS MANAGEMENT CORP.
a Delaware corporation
Its Sole Manager

By _____
Name _____
Its _____

Date: _____, 2021

ORANGE COUNTY FLOOD CONTROL
DISTRICT

By _____
Thomas A. Miller
Chief Real Estate Officer
Orange County, California

APPROVED AS TO FORM:
COUNTY COUNSEL

By _____
Senior Deputy

ATTACHMENT A

Exhibit A


LEGAL DESCRIPTION

Santa Ana River Mainstem
Facility No.: E0170
Parcel No.: 1199.01

Those portions of Sections 8, 9, 14, 15, 16 and 17, Township 1 South, Range 2 West, San Bernardino Meridian, in the Unincorporated Territory of the County of San Bernardino, State of California together with those portions of Blocks 14 and 15 according to the Map of Mentone as per plat recorded in book 8, page 81 of Maps, records of said County, as described in Final Order in Condemnation recorded November 1, 1993 as document number 93-469033 and in Amended Final Order in Condemnation recorded January 23, 1998 as Document No. 19980023714, both of Official Records of said San Bernardino County.

EXCEPT that portion described as Parcel 1198 (A, B, and C/E) in the deed to the San Bernardino Valley Municipal Water District recorded November 19, 2001 as Document No. 20010525936 of said Official Records of said San Bernardino County.

APPROVED

 Date: 9/13/10
John D. Pavlik L.S. 5168
Expiration Date: June 30, 2011

