

**AMENDMENT AND RESTATEMENT - AGREEMENT  
AND ESCROW INSTRUCTIONS**

This Amendment and Restatement - Agreement and Escrow Instructions ("Agreement") is entered into as of April \_\_, 2004, by and between MOUNTAINS RECREATION AND CONSERVATION AUTHORITY, a California joint powers authority established pursuant to California Government Code Section 6500, *et seq.* ("MRCA"), and PRESIDIO CHATSWORTH PARTNERS, LLC, a California limited liability company ("PCP"), as successor in interest to CHATSWORTH RIDGE ESTATES, LLC, a California limited liability company ("CRE LLC"), CHATSWORTH RIDGE ESTATES, INC., a California corporation ("CRE Corp."), and CALMONT PROPERTIES, INC., a California corporation ("Calmont"). PCP's predecessors in interest are referred to in this Agreement collectively as "CRE."

**RECITALS**

A. MRCA and CRE previously executed that certain Agreement Re Acquisition of Real Property dated as of December 30, 1997 (collectively with the First Amendment thereto as set forth herein, "CRE Agreement"), and caused to be recorded in the Los Angeles County Official Records that certain Memorandum of Agreement with respect thereto as of January 20, 1998 as Instrument Number 98-85347 ("CRE Memorandum"). The CRE Agreement was amended by MRCA and PCP pursuant to the First Amendment to Agreement Re Acquisition of Real Property entered into as of April 23, 2003.

B. MRCA and certain affiliated agencies, CRE, and PCP as successor in interest to CRE, have each performed certain of the obligations under the CRE Agreement, and certain obligations of the parties have not yet been fully performed.

C. PCP is currently seeking approval of PCP's proposed Vesting Tentative Tract Map No. 53138 dated March 24, 2004 ("Map") from the County of Los Angeles ("County") relating to the real property shown on the Map (the "Map Property"), and PCP owns certain other real property in the vicinity of the real property subject to the Map (collectively, the "PCP Property").

D. MRCA and certain affiliated agencies currently own various parcels of real property adjacent to or near the PCP Property (collectively, "MRCA Property"), and the parties now desire to set forth certain rights and obligations relating to or affecting their respective properties, for the benefit of each of the parties' properties.

E. The parties also desire to acknowledge the performance of certain obligations under the terms of the CRE Agreement, where applicable, and to incorporate the parties' respective obligations under the CRE Agreement which have not yet been fully performed into the term of this Agreement, and to amend, restate, and supersede the CRE Agreement in its entirety, effective as of the date of this Agreement. Notwithstanding the foregoing, nothing contained herein shall be construed to alter or affect the record priority of the CRE Memorandum.

be in substantially the locations indicated on the Map ("Bridge Easements"), provided, however, that such locations may be modified by PCP, or its successors in interest, based upon County requirements associated with approval of the Map or any development of the PCP Property, or upon specific site conditions and engineering constraints in the construction of the Bridges, and provided further, that if the final location of either or both Bridges is more than one hundred feet from the location shown on the Map, such locations shall be subject to MRCA's reasonable review of such modified locations after written notice thereof by PCP. Any Bridge Easement granted to PCP pursuant to this Agreement shall be in substantially the form of attached Exhibit "A." The Bridge Easements shall each be one hundred (100) feet in width during the construction of the Bridges, in order to accommodate such construction. Within a reasonable time after completion of the construction of the Bridges, and issuance by the County of all certifications necessary to open the Bridges to vehicular and pedestrian traffic, PCP shall, at its sole expense, obtain a final survey of the as-built locations of the Bridges, and shall provide a final legal description for the as-built location of the Bridges, with the Bridge Easements for the Property not to exceed sixty (60) feet in width. Within two (2) months after PCP has completed the survey and specification of the final legal descriptions for the Bridge Easements, PCP will, at its sole expense, prepare amendments to the Bridge Easements limiting them as required by this Agreement and, upon their execution by MRCA and PCP, shall record such amendment with the County Recorder.

(b) MRCA shall, concurrently with the execution of this Agreement, deliver the executed and acknowledged Bridge Easements to Escrow, together with irrevocable Escrow Instructions to record the Bridge Easements upon satisfaction of the conditions set forth in this Section 5.

(c) Prior to recordation of the Bridge Easement to PCP for a Bridge over the southeast portion of the PCP Property connecting B Street as shown on the Map, PCP shall deposit the sum of Sixty Thousand Dollars (\$60,000) in Escrow with Escrow Instructions requiring the delivery of such sum to MRCA concurrently with the recordation of such Bridge Easement.

(d) Prior to recordation of the Bridge Easement to PCP for a Bridge over the southwest portion of the PCP Property connecting A Street as shown on the Map, PCP shall deposit the sum of Seventy-Five Thousand Dollars (\$75,000) in Escrow with Escrow Instructions requiring the delivery of such sum to MRCA concurrently with (1) the recordation of such Bridge Easement, and (2) the recordation of a duly executed and acknowledged full reconveyance of the deed of trust encumbering a portion of the PCP Property securing the payment to MRCA of such Seventy-five Thousand Dollars (\$75,000) obligation, recorded June 18, 2003 as Los Angeles County Instrument No. 03-1731931.

## **6. Future Financial Support for MRCA.**

(a) Santa Susana Mountains CFD. The parties have agreed that it is in their mutual best interests to provide a perpetual funding source in the amount of Sixty Thousand Dollars (\$60,000.00) per year to enhance MRCA's current level of providing open space maintenance and safety services ("MRCA Service Costs") to a portion of the MRCA Property

comprising the Santa Susana Mountains open spaces adjacent to or in the vicinity of the PCP Property in a manner by which the Map Property will be directly and indirectly benefited by the MRCA providing such enhanced services. PCP agrees to deliver the sum of Two Hundred Thousand Dollars (\$200,000.00) (the "CFD Deposit") to MRCA concurrently with the execution of this Agreement. MRCA and PCP shall cooperate to take all actions necessary to form a maintenance-only community facilities district ("CFD") over the PCP Property pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") as follows:

(i) PCP agrees to engage legal counsel of PCP's choice at PCP's expense to prepare all documentation necessary to form the CFD, including, without limitation, all documents necessary for MRCA to fulfill its obligations set forth in sub-clause (ii), below ("CFD Documents") and will deliver the CFD Documents to MRCA and MRCA's legal counsel within ten (10) business days after completion of the RMA (defined below), and shall, after delivery of the CFD Documents, cooperate in a commercially reasonable manner with MRCA to finalize the CFD Documents in a manner which is deemed reasonably necessary by MRCA or MRCA's legal counsel. PCP also agrees to engage, at PCP's expense, a special tax consultant to create the rate and method of apportionment of special tax (the "RMA"), which RMA will be limited to financing the annual CFD Costs (defined below).

(ii) MRCA staff will request from its governing board approval for MRCA to take all steps necessary, and if such approval is obtained MRCA will take all steps necessary, to form the CFD and authorize the levy of special taxes (Special Taxes") on the PCP Property in aggregate amounts sufficient to finance the annual MRCA Service Costs and the annual MRCA Support Fee (defined below) together with any and all additional levies or charges sufficient to pay all annual or other charges and costs associated with the formation, operation, maintenance, collection, and enforcement of the CFD (collectively, the "CFD Costs"), including, without limitation, the following:

- (A) Approving a resolution of intention to form the CFD, in the manner described in the Act;
- (B) Holding a public hearing on the formation of the CFD, as required by the Act;
- (C) Approving a resolution of formation which establishes the CFD, as required by the Act;
- (D) Holding an election of the qualified electors within the PCP Property on the propositions to form the CFD and authorize the levy of special taxes pursuant to the RMA;
- (E) Approving a resolution declaring the results of the election;
- (F) Approving and recording a Notice of Special Tax Lien pursuant to the Act;

- (G) Approving an ordinance levying the special taxes pursuant to the RMA ("CFD Ordinance"); and
- (H) Taking all commercially reasonable steps necessary to secure the enactment of the CFD Ordinance by the relevant governmental authority, provided, however, that the failure or refusal of such relevant governmental authority to enact the properly prepared and presented CFD Ordinance shall not constitute a default of MRCA under this Agreement.

(iii) Upon the later to occur of (A) the recordation of the Notice of Special Tax Lien, and (B) the expiration of all applicable statutory periods for the challenge of the formation of the CFD and/or the imposition of the Special Taxes with no challenge having been made or, if challenged, a final adjudication upholding the CFD and the imposition of the Special Taxes in all material respects, MRCA shall promptly release any security held by MRCA for the payment of the MRCA Service Costs, as set forth in Section 6(a), including without limitation, delivering to PCP the original of the secured promissory note previously executed by PCP in favor of MRCA in the original principal amount of One Million Dollars ("Note"), the original of the deed of trust executed by PCP in favor of MRCA and recorded in the County Recorder's Office on June 20, 2003 as Instrument No. 2003-1761599 ("Deed of Trust"), and an executed and acknowledged substitution of trustee and full reconveyance of the Deed of Trust in form and substance reasonably acceptable to PCP.

(iv) If, for any reason, including the failure of MRCA's Board of Directors to take all actions necessary to authorize MRCA to complete the formation of the CFD, the CFD is not, or cannot be, formed and the special tax is not, or cannot be, authorized in an amount necessary to finance the CFD Costs, as set forth in a written certificate to PCP from MRCA, MRCA shall promptly remit to PCP an amount equal to the CFD Deposit, less any actual third-party out-of-pocket expenses incurred by MRCA in reviewing or preparing any CFD Documents or otherwise directly related to the formation of the CFD, as shown by invoices for any such out-of-pocket expenses.

(b) Santa Susana Mountains Support. If the CFD is not, or cannot be, formed for any reason, then PCP shall provide another mechanism for the perpetual funding of the annual MRCA Service Costs and the annual MRCA Support Fee. PCP may, in its sole discretion, satisfy such obligations following completion of development of the Map Property in any combination of one or more of the following manners, any of which may be substituted for any other by PCP, subject to the conditions set forth in this Section:

(i) Establishment of an endowment fund in the amount of One Million Dollars (\$1,000,000.00) in cash deposits delivered to MRCA or an escrow holder or trustee designated by MRCA;

(ii) Providing an irrevocable standby letter of credit in the amount of One Million Dollars (\$1,000,000) in favor of MRCA in substantially the form of attached

Exhibit "B" from a bank headquartered in the United States with a net worth of at least One Hundred Million Dollars (\$100,000,000);

(iii) Acquiring a commercial annuity for MRCA's benefit from an established insurance carrier admitted in the State of California and reasonably acceptable to MRCA which provides for the specified annual payments in perpetuity;

(iv) Forming or causing to be formed, by or through or in conjunction with any party other than MRCA, a community facilities district, one of the obligations of which is the irrevocable undertaking to make such annual payment; or

(v) Recording a covenant running with the land in favor of PCP and MRCA, in a form containing language which is substantially similar to that set forth in attached Exhibit "C", which is binding on each owner of the fee interest of any portion of the PCP Property, other than any portion of the PCP Property owned by a Homeowner's Association (defined below) or any dedicated open space or conservation easement parcels ("Homeowner"), their successors and assigns, and the individual parcels owned by such Homeowners, in perpetuity, requiring each Homeowner to pay the MRCA Service Costs and the MRCA Support Fee, together with all additional costs and fees incurred in the collection, enforcement, and operation of the collection and remittance of such funds ("MRCA Assessment"), with such covenant providing for the imposition of a lien on each such parcel in favor of PCP and MRCA which arises upon the owner of such parcel failing to pay the MRCA Assessment when due, with such covenant and annual assessment enforceable and collectible by PCP or MRCA, at MRCA's election, and with PCP having the right, with MRCA's reasonable consent, to form a Homeowners' Association with the obligation to collect and remit such annual assessments to MRCA, or to require such sums to be remitted by the individual Homeowners directly to MRCA, provided that neither the individual Homeowners nor the Homeowners' Association will have any authority or power under such covenant to amend or revoke the obligations imposed by such covenants or to take any other actions which would materially adversely affect MRCA's rights to enforce such covenant in perpetuity.

(vi) PCP may elect, in its sole discretion and without the consent of MRCA, to satisfy its obligations under this Section 6(b) by implementing options (i), (ii), (iii), or (iv), above, in any combination. If PCP elects to satisfy all or any portion of its obligations under this Section by implementing option (v), above, then: (a) PCP shall provide MRCA with a memorandum setting forth in reasonable detail the legal and operational bases for utilizing such a mechanism for meeting PCP's obligations set forth in this Section; (b) PCP shall reimburse MRCA for their reasonable attorneys' fees in reviewing such memorandum and all documents proposed by PCP to implement such mechanism; and (c) MRCA shall have the reasonable right of approval with respect to such action, and if MRCA approves such action, MRCA shall cooperate with PCP in the implementation of such mechanisms, means and methods, with such approval and cooperation not to be unreasonably withheld or delayed.

(c) MRCA General Fund. PCP shall include in any mechanism created under either Section 6(a) or 6(b) to impose, levy, and collect directly from each Homeowner, their successors and assigns, and their property a general fund support fee in the sum of Fifty-Four

Dollars (\$54.00) per home or other residential dwelling unit per year ("MRCA Support Fee"). If, for any reason, the CFD is not formed, the MRCA Support Fee shall become due and payable only after recordation of the Map.

7. **Open Space Ownership and Management.** The parties acknowledge that a primary purpose of this Agreement is to ensure the continued effective management of certain open space areas located on the PCP Property and contiguous to certain portions of the MRCA Property, with such obligations to extend into perpetuity. Such ownership and management obligations are set forth in this section.

(a) **Property Open Space Areas.** Various types of open space areas associated with the Map Property are shown and depicted on attached Exhibit "D" which the parties acknowledge is a pro forma representation of the open space areas. The parties will cooperate with one another to prepare a final depiction and description of the open space areas subject to the terms of this Section 7 within thirty (30) days after PCP has recorded the Map.

(b) **Conveyance of Undisturbed Open Space Lots.** If PCP records the Map, the open space areas owned by PCP which will remain undisturbed and are shown on Exhibit "D" as being outside the limits of grading for the Map ("Undisturbed Open Space"), will be conveyed to MRCA within thirty (30) days after PCP's recordation of the Map. PCP shall cause a grant deed, in substantially the form of attached Exhibit "E" to be executed, acknowledged, and recorded, at PCP's sole expense, conveying the Undisturbed Open Space to MRCA. PCP shall cause Title Company to issue to MRCA, at PCP's sole expense, a CLTA standard coverage form policy of title insurance ("Open Space Title Policy"), with liability limits of Fifty Thousand Dollars (\$50,000.00), insuring title to the Undisturbed Open Space as vested in MRCA in fee simple absolute, free and clear of any liens or other monetary encumbrances, and insuring MRCA's title against any recorded or, to the extent insurable by endorsement to the Open Space Title Policy, unrecorded easements affecting the Undisturbed Open Space.

(c) **Grants of Conservation Easements.** If PCP records the Map, PCP will grant to MRCA conservation easements in substantially the form of attached Exhibit "F" (collectively, "Conservation Easements") encumbering those portions of the PCP Property which are open space areas subject to the Los Angeles County Fire Department Zone "C" fuel modification requirements as depicted on Exhibit "D" and identified as "Zone C Fuel Mod. Areas." Additional areas of the PCP Property may be identified by PCP and included within the areas to be encumbered with Conservation Easements if PCP determines and MRCA concurs with such determination, that such additions are necessary or desirable. Within sixty (60) days after PCP's recordation of the Map, PCP shall cause a registered civil engineer or a professional land surveyor to prepare legal descriptions for the Conservation Easement Property. Within thirty (30) days after receiving such legal descriptions from the surveyor or engineer, PCP shall cause to be recorded, at PCP's sole expense, all Conservation Easements.

(d) **Weed Abatement.** It is the intention of the parties that the cost of any weed abatement required by the Los Angeles County Fire Department or the City of Los Angeles Fire Department to be completed on the Conservation Easement Property will be borne by the homeowners' association(s) to be established in conjunction with the development of the Map

**EXHIBIT "B"**

**STANDBY LETTER OF CREDIT**

**\_\_\_\_\_ BANK  
IRREVOCABLE STANDBY LETTER OF CREDIT  
LETTER OF CREDIT NO. \_\_\_\_\_**

PLACE AND DATE OF ISSUE:  
\_\_\_\_\_, CALIFORNIA, ON \_\_\_\_\_, 200\_\_

BENEFICIARY:

APPLICANT:

Mountains Recreation and Conservation Authority  
5750 Ramirez Canyon Road  
Malibu, CA 90265

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Gentlemen:

We hereby authorize Beneficiary to draw on \_\_\_\_\_ Bank,  
\_\_\_\_\_ [address] ("Bank") at sight, for the account  
of Applicant, an aggregate amount equal to \_\_\_\_\_ Dollars  
(U.S. \$ \_\_\_\_\_), available upon presentation, at our address above, of Beneficiary's draft  
at sight, to be accompanied by written notification by Beneficiary, signed by a duly authorized  
officer of Beneficiary and stating that funds are being drawn pursuant to the provisions of a  
\_\_\_\_\_ Agreement between Applicant and Beneficiary, dated \_\_\_\_\_,  
200\_\_.

Drafts under this Letter of credit must bear the clause "drawn under \_\_\_\_\_  
Bank Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, 200\_\_." Drafts under this  
Letter of Credit, accompanied by the above-described document, must be presented no later than  
\_\_\_\_\_ p.m., Bank's local time, on \_\_\_\_\_ [insert date], or as automatically  
extended as follows: It is a condition of this Letter of Credit that it shall be automatically  
extended without amendment for one (1) year from the present or any future expiration date  
hereof, unless at least ninety (90) days prior to any such expiration date, we shall notify the  
Beneficiary and the applicant by registered letter that we elect not to renew this Letter of Credit  
for such additional one (1) year period.

This Letter of Credit is not transferable.

This Letter of Credit is subject to the "Uniform Custom and Practice for Documentary  
Credits (1993 Revision) International Chamber of Commerce Publication No. 500."

We hereby undertake to Beneficiary that drafts drawn and negotiated strictly in  
compliance with the terms of this Letter of Credit shall meet with due honor upon presentation to  
us.

EXHIBIT "B"

B-I

\_\_\_\_\_ BANK

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "B"  
B-2