

ARTICLE 8 ASSIGNMENT, TRANSFER AND NOTICE

Section 8.1 No Amendment Required. No sale, transfer or assignment of all or a portion of the Property, or creation of a joint venture or partnership, shall require the amendment of this Agreement.

Section 8.2 Assignment.

8.2.1 Because of the necessity to coordinate development of the entirety of the Property pursuant to plans for the Project, particularly with respect to the provision of on- and off-site public improvements and public services, certain restrictions on the right of Developer to assign or transfer its interest under this Agreement with respect to the Property, or any portion thereof, are necessary in order to assure the achievement of the goals, objectives and public benefits of the Project and this Agreement. Developer agrees to and accepts the restrictions set forth in this Section 8.2 as reasonable and as a material inducement to City to enter into this Agreement. For purposes of this Section 8.2, a change in the identity of all managers of Developer, (including the sale or transfer, in the aggregate, of the controlling stock or interest in all managers) shall be deemed a transfer by Developer subject to the provisions of this Section 8.2. Developer shall have the right to sell, transfer, ground lease or assign the Property in whole or in part (provided that no such partial transfer shall violate the provisions of the Subdivision Map Act) to any person, partnership, joint venture, firm, company or corporation (any of the foregoing, an “**Assignee**”) subject to the written consent of City; provided that Developer may assign its rights under this Agreement without the consent of City to any corporation, limited liability company, partnership or other entity which is controlling of, controlled by, or under common control with Developer, and “control,” for purposes of this definition, means effective management and control of the other entity, subject only to major events requiring the consent or approval of the other Developers of such entity (“**Affiliated Party**”). City’s written consent, as required above, shall be provided by City upon Developer’s satisfaction of all of the following conditions:

- (a) Assignee has provided a Letter of Credit, in a form reasonably approved by City, guaranteeing the payment of any outstanding amounts due to City under this Agreement, including without limitation the fees described in Exhibit C;
- (b) Developer is not in Default under this Agreement or the Assignee agrees to cure any Default;
- (c) If the hotel portion of the Project and/or Property is being assigned, the Assignee has agreed to assume the rights and obligations under the Operational Agreement;
- (d) Developer has provided City with written notice and an form of assignment and assumption agreement reasonably acceptable to the City Manager and City Attorney; and
- (e) If applicable, Assignee provides City with security equivalent to any security previously provided by Developer to secure performance of its obligations under the Agreement.

8.2.2 Assignee shall succeed to the rights, duties and obligations of Developer only with respect to the parcel or parcels of all or a portion of the Property so purchased, transferred, ground leased or assigned, and Developer shall continue to be obligated under this Agreement with respect to all portions of the Property retained by Developer.

8.2.3 Subject to City's written consent as provided in Section Section 8.2, City, upon request of Developer or Assignee, and following compliance with the notification provisions above, shall provide Assignee with a certificate of agreement compliance, stating that this Agreement remains valid and in full force and effect and is binding upon City, Developer and the Assignee as of the last Annual Review pursuant to the provisions of Section 9.5, except that if City knows of any non-compliance, City shall not be required to issue a certificate of Agreement compliance but shall provide Developer and Assignee with a written description of the known non-compliance.

Section 8.3 Release of Transferring Developer. Except with respect to a permitted transfer and assignment under Section 8.2 to an Affiliated Party or to a home purchaser as provided in Section 8.4, notwithstanding any sale, transfer or assignment of all or a portion of the Property, Developer shall continue to be obligated under this Agreement as to all or the portion of the Property so transferred unless City has consented to the assignment as provided above.

Section 8.4 Home Purchaser. The burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither an assignment and assumption agreement nor the City's consent shall be required in connection with, any single-family residence conveyed to a purchaser or leased for a period in excess of one year.