

## Exhibit G

### Newport Banning Ranch (NBR) Affordable Housing Implementation Plan (AHIP) July 2012

#### **1.0 Introduction**

##### 1.1 Background

This Affordable Housing Implementation Plan (AHIP) has been prepared in order to comply with the Housing Element of the Newport Beach General Plan as well as Chapter 19.54 of the Newport Beach Municipal Code, Inclusionary Housing, which provides that an AHIP must be prepared by Applicant to set forth a plan for meeting the City's goal of providing a balanced residential community comprised of a variety of housing types and opportunities for all social and economic segments of the community including very low, low and moderate income households. This AHIP is provided in fulfillment of those requirements and details Applicant's approved strategies for meeting City requirements.

Chapter 19.54.060 of the Municipal Code provides that "Residential subdivision projects of 51 dwelling units or more shall be required to submit an AHIP." Tentative Tract Map (TTM) 17308 is an element of Applicant's entitlement package. This map provides for a maximum of 1,375 dwelling units and meets the minimum threshold for submittal of a mandatory AHIP for City review and adoption.

##### 1.2 Project Description

The Newport Banning Ranch (NBR) is a 401-acre master planned community regulated by the City of Newport Beach (City) and other stakeholder governments. The master plan, following extensive community outreach and facilitation, was crafted by a multi-disciplinary team of architects, engineers, planners, and environmental specialists to implement the entitlement standards provided under the Alternative Use option of the Newport Beach General Plan as approved by voters in November, 2006.

The Alternative Use option provides for 1,375 dwelling units, 75,000 square feet of retail and convenience commercial, and a 75-room coastal inn with spa facilities and services. More than half of the property is to be set aside for open space for public parks and playgrounds as well as protected areas for environmentally sensitive and other habitats. Oil production facilities now on the site will be consolidated into two drilling and production areas.

## **2.0 Affordable Housing Plan**

### **2.1 Definitions**

The Inclusionary Housing Ordinance provides further guidance on the preparation of an AHIP and the City's published housing guidelines and rules including definitions. A number of those definitions, especially definitions about rentals, are relevant to the NBR AHIP including:

- A. Affordable Housing Agreement. The Agreement entered into is to be in compliance with Section 19.54.080, which provides legal restrictions by which the affordable units shall be restricted to ensure that the unit remains affordable to very low-, low-, or moderate-income households, as applicable. With respect to rental units, rent restrictions shall be in the form of a regulatory agreement recorded against the applicable property. With respect to owner-occupied units, resale controls shall be in the form of resale restrictions, deeds of trust, and/or other similar documents recorded against the applicable property;
  
- B. Affordable Housing Cost. Affordable housing cost for very low income households shall not exceed 30 percent of 50 percent of area median income adjusted for family size. Affordable housing cost for low income households shall not exceed 30 percent of 70 percent of area median income adjusted for family size. Affordable housing cost for moderate income households shall not be less than 28 percent of the gross income of the household, nor exceed 35 percent of 110 percent of area median income adjusted for family size. In determining the maximum household income for a given affordable unit, it shall be assumed that each bedroom is occupied by two persons, except for efficiency units (one person).

- C. Affordable Rent. An annual rent that does not exceed 30 percent of maximum income levels for very low-, low-, and moderate-income households, as adjusted for household size. In determining the maximum household income for a given affordable unit, it shall be assumed that each bedroom is occupied by two persons, except for efficiency units (one person).
- D. Affordable Unit. An ownership or rental housing unit, including senior housing, affordable to households with very low-, low-, and moderate income as defined in Section 9.54.020 of the Newport Beach Municipal Code.
- E. Applicant. Newport Banning Ranch LLC, including any successor(s)-in-interest.
- F. City. The City of Newport Beach.
- G. Low-Income. Income between 50% and 80% of the Orange County median income, adjusted for actual household size, as established annually by the California Department of Housing and Community Development.
- H. Moderate Income. Income between 80% and 120% of the Orange County median income, adjusted for actual household size as established annually by the California Department of Housing and Community Development.
- I. Very Low Income. Income 50% or less of the Orange County median income, adjusted for actual household size, as established annually by the California Department of Housing and Community Development.

## 2.1 Affordable Housing Obligation

- A. Number of Units/Income Levels. The City's Housing Element includes a goal that 15% of all new housing units in the City be affordable to very low, low and moderate income households. A maximum of 1,375 units are proposed<sup>1</sup>. The Affordable Units shall be comprised of either:

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<sup>1</sup> The unit count may vary based on final project approvals. The relative percentage of affordable units shall remain the same.

1. Five Percent Very Low Income (69 units); or
2. Ten Percent Low Income (138 units); or
3. Fifteen Percent Moderate Income (206 units); or
4. A combination of the above.

For the purpose of calculating the number of affordable units in the event a combination of units is to be provided, a Very Low Income Unit shall be deemed to be the equivalent of three Moderate Income Units and two Low Income Units. A Low Income Unit shall be the equivalent of 1.5 Moderate Income Units. For example if 20 Very Low Income Units are provided either 146 Moderate Income Units or 98 Low Income Unit would be required to complete the affordability requirement.

- B. If for any reason the number of approved market rate units authorized is not constructed, or cannot be constructed due to the operation of law or economic conditions, then the number of affordable units provided or the fees paid in-lieu of providing rentals shall be reduced proportionally so that Applicant's obligation does not exceed the percentage requirement.
- C. Excess Affordable Units. In the event that Applicant constructs affordable units in excess of the maximum required amount, Applicant may be entitled to such additional incentives pursuant to the City's Density Bonus ordinance codified in Newport Beach Municipal Code Chapter 20.32, as the same may be amended from time to time. Such incentives shall be proposed and approved through an Affordable Housing Implementation Agreement (See Section 2.5.A).

## 2.2 Methodology

- A. Options. Applicant shall comply with its affordable housing obligation by any combination of the following:
  1. Constructing the new Affordable Units on-site or offsite.

2. The renovation and restriction of existing housing units.
3. The payment of the City's In-lieu Fee.
4. The dedication of land for affordable housing.

- B. Minimum Onsite Requirement. A minimum of 50% of Affordable Housing Obligation shall be provided on Site. Applicant and City agree that regardless of the permissible measures employed by Applicant to meet Affordable housing objectives and the mandates of the AHIP, including fee payments and/or land dedications, Applicant will insure that at least 50% of the AHIP affordable housing will be constructed on site as either for sale housing or rentals.
- C. Off-site Location. Affordable units provided off-site, either through new construction or through renovation and restriction of existing housing units, shall be located within the boundaries of the City of Newport Beach.
- D. Off-Site Renovation. Renovation of existing off-site units to affordable units shall meet the following requirements:
1. The interiors and exteriors of the units shall be substantially renovated to improve the livability and aesthetics of the units for the duration of the affordability period.
  2. The units shall be returned to the City's housing supply as decent, safe and sanitary housing and meet all applicable Housing and Building Code requirements.
  3. Renovations shall include energy conserving retrofits that will contribute to reduced housing costs for future occupants of the units.
  4. The units shall not already be subject to affordability income restrictions unless such restrictions are set to expire in three years or less. In such cases, the affordability covenant shall provide for thirty (30) years in addition to any existing covenant time.

- E. In-Lieu Fee. Applicant shall, at Applicant's election, be permitted to pay an in-lieu fee for each unit constructed in order to fulfill up to 50% of the Inclusionary Housing Program requirements.
1. The per dwelling unit in-lieu fee will be paid at the time each dwelling unit building permit for market rate housing units is otherwise ready to issue.
  2. The per dwelling unit in-lieu fee will be paid in the amount in effect at the time each dwelling unit building permit for market rate housing units is otherwise ready to issue.
  3. There shall be no such Inclusionary Housing Program fees required for Commercial, Institutional, or Resort buildings, including lodging buildings.
- F. Land Dedication. In addition to the provision of on-site affordable units for eligible households provided by Applicant or Applicant's agents, Applicant may also propose to dedicate land to the City or to a City-designated housing developer for the provision of affordable units in lieu of constructing any or all of the affordable units required by City regulations.
1. The land offered for dedication shall be of sufficient size to construct the number of affordable units that Applicant would otherwise be required to construct.
  2. In the event that Applicant cannot dedicate such land in time to fulfill City requirements for a particular sequence of market rate housing, then Applicant shall post improvement security subject to approval by City guaranteeing such dedication by a time certain.
  3. Any land offered for dedication shall be assumed to accommodate 40 units per acre.
  4. Any land offered for dedication shall have suitable topography and sufficient vehicular access and infrastructure to accommodate 40 units per acre.

5. The location and size of the land to be dedicated shall be subject to the approval of the City Council, which approval shall not be unreasonably withheld.

### 2.3 Term

City and Applicant understand and acknowledge that any affordable units provided as qualified Inclusionary Housing Program units shall be restricted for a period of not less than thirty (30) years; and, that such the Affordable Housing Cost or Affordable Rent can be adjusted annually to reflect any changes to the Median Family Income for Orange County as determined by California HCD. Such requirements shall be recorded in a rental agreement or affordable housing covenant against the applicable property as provided in the Municipal Code.

### 2.4 Regional Housing Needs Assessments (RHNA)

- A. Requirements. City and Applicant agree that any units constructed and or renovated to meet City Inclusionary Housing Ordinance Requirements shall also meet Southern California Association of Governments (SCAG) Regional Housing Needs Assessments (RHNA) specifications for qualified affordable housing.
- B. Income Limits for California. The California Department of Housing and Community Development (HCD) publishes income limits for California counties adjusted for family size. The most recent edition of the Income limits was published June 13, 2011 and established an Orange County Area Median Income of \$84, 200 for a family of four (4) persons. HCD further adjusted permissible income limits for the various income categories defined by HCD including:
  - Extremely Low \$27,700
  - Very Low Income \$46,150
  - Lower Income \$73,850
  - Median Income \$84,200

- Moderate Income \$101,050

## 2.5 Implementation

- A. Affordable Housing Implementation Agreement. An Affordable Housing Implementation Agreement (AHIA) will be executed and recorded at each development phase of development for any affordable units to be constructed within that phase, or for land proposed to be dedicated, or for any in-lieu fees to be paid, or for any other permissible measure or measurers for compliance with City's Inclusionary Housing Program.
- B. Authority. Each AHIA shall be approved by the Community Development Director in conjunction with the approval of any Tract Map and/or Site Development Review for NBR development phases.
- C. Timing. AHIA shall be executed and recorded at each appropriate final map.

## 2.6 Sequencing

- A. The affordable units provided or arranged for to be phased as follows:
  - 1. Certificate of use and occupancy for Fifty percent of market rate units: commence construction on, or payment for fees/dedication of lands for one-third of required units.
  - 2. Certificate of use and occupancy for Seventy Five percent of the market rate units commence construction on, or payment of fees/dedication of lands for the next one-third of required units.
  - 3. After issuance of certificate of occupancy for Seventy Five percent of the market rate unit, a reconciliation process will be created to determine the final number of affordable housing units required to be constructed and/or payment of fees/dedication of land
  - 4. At the earlier to occur of certificate of use and occupancy for the last market rate: commence construction on, or payment of fees/dedication of lands for final required units.

### **3.0 Administration**

#### **3.1 Modification of Requirements**

If the requirements of Chapter 19.54 of the Newport Beach Municipal Code are modified by the City Council during the term of the AHIP agreement to eliminate the requirement for the payment of in lieu affordable housing fees for the privilege of constructing market rate housing, then Applicant shall be entitled to a waiver of any further fee obligations for the provision of affordable housing units for fees not already paid, or for buildings not already constructed and/or renovated and occupied.

#### **3.2 Amendments**

This AHIP may be amended by mutual agreement of the City and Applicant. Such an amendment, so long as it is consistent with the Housing Element of the General Plan and with the Development Agreement, shall not require an amendment to the General Plan itself, the Coastal Development Permit or to the Development Agreement.