

STAFF REPORT*CITY OF OCEANSIDE*

DATE: August 20, 2014

TO: Honorable Mayor and City Councilmembers

FROM: Property Management

SUBJECT: **PROPERTY EXCHANGE AGREEMENT WITH AMB DFS PACIFIC COAST, LLC EXCHANGING PARCEL 11 FOR PARCEL 26 IN THE PACIFIC COAST BUSINESS PARK AND AN AGREEMENT WITH SCANNELL DEVELOPMENT COMPANY TO PROVIDE ADDITIONAL CONSIDERATION**

SYNOPSIS

Staff recommends that the City Council approve a property exchange agreement with AMB DFS Pacific Coast, LLC, exchanging Parcel 11 for Parcel 26 in the Pacific Coast Business Park; approve an agreement with Scannell Development Company to provide additional consideration to effectuate the exchange; authorize the Mayor to execute the agreements; authorize the City Clerk to accept the grant deed; and authorize staff to consummate the transaction.

BACKGROUND

In 2009 the City of Oceanside ("City") acquired Lot 11 of Parcel Map No. 20306, in the Pacific Coast Business Park ("Park") consisting of approximately 1.63 acres ("Parcel 11"). Parcel 11 was donated to the City by RPRN Land Company, LLC, as a future location for Fire Station No. 8. Subsequent to the acquisition of Parcel 11, City staff began developing plans for the construction of Fire Station No. 8, including the hiring of Jeff Katz Architecture for preliminary and final architectural and engineering design services.

Earlier this year, Prologis, successor in interest to AMB DFS Pacific Coast, LLC ("Prologis"), approached the City about an exchange of properties within the Park. Prologis was approached by Scannell Development Company ("Scannell"), the developer for Federal Express ("FedEx"), who was interested in developing a distribution warehouse facility within the Park ("FedEx Facility"). However, in order to provide enough contiguous land within the Park to develop the FedEx Facility it would be necessary for Prologis to either acquire Parcel 11 from the City or exchange Parcel 11 for another lot in the Park.

ANALYSIS

The property exchange agreement ("Exchange Agreement") with Prologis proposes an exchange of Parcel 11 for another lot in the Park, Parcel 26, consisting of approximately 2.15 acres ("Parcel 26"). By entering into the Exchange Agreement, Prologis could assemble the approximate 39 acres needed by Scannell in order to develop an approximate 303,000 SF distribution warehouse building for FedEx.

To date, City has incurred costs related to the planning and designing of Fire Station No. 8 (e.g., architectural and engineering services, staff processing time, etc.) and is anticipated to incur additional costs in the future in order to plan for and design a new Fire Station No. 8 on Parcel 26. To offset City costs and to effectuate the property exchange between the City and Prologis, Scannell is agreeable to an additional consideration payment pursuant to a separate agreement between Scannell and the City ("Consideration Agreement").

By entering into the Exchange Agreement with Prologis and the Consideration Agreement with Scannell, the City is facilitating the development of the FedEx Facility in Oceanside. Additionally, the City retains a parcel of land for future Fire Station No. 8 and receives additional consideration to offset previously incurred and future costs associated with the planning and design of Fire Station No. 8. Further, as a result of the siting and operation of the FedEx Facility, Oceanside would see the addition of approximately 500 new jobs and an increase in property tax revenue as a result of the increased value of the FedEx Facility.

A pertinent term of the Exchange Agreement with Prologis is that the exchange will not be consummated until such time Prologis/Scannell obtains approval of the entitlements associated with the development of the FedEx Facility and the City receives payment of the additional consideration from Scannell. A pertinent term of the Consideration Agreement with Scannell is that Federal Express conducts a job fair in Oceanside to fill the new jobs associated with the FedEx Facility.

FISCAL IMPACT

Under the Consideration Agreement, Scannell will pay the City the sum of \$600,000. A portion of the additional consideration in the amount of \$360,521 will reimburse the City for costs incurred in the planning and designing of Fire Station No. 8 on Parcel 11. Said costs include \$324,894 for architectural and engineering services, \$34,127 for City staff time associated with processing, and \$1,500 in related ancillary costs (e.g., mailings, title services, etc.) for a total of \$360,521.

Approximately \$130,000 of the additional consideration is to offset future costs associated with consummating the property exchange, and the planning, designing and development related to a new Fire Station No. 8 on Parcel 26. As part of the additional consideration, \$100,000 will be paid to the City as opportunity value to effectuate the property exchange.

The additional consideration of \$600,000 less approximately \$9,479 in closing costs associated with the property exchange will be deposited into two different accounts. The \$360,521 and \$130,000 amounts will be deposited into Capital Improvement Project Fund account no. 1503.4501 S100365 miscellaneous income – sale real property. The balance of the additional consideration in the amount of \$100,000 will be deposited into the General Fund account no. 1101.4501 S100365 miscellaneous income – sale real property.

INSURANCE REQUIREMENTS

Does not apply.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

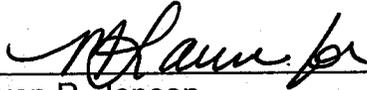
Staff recommends that the City Council approve a property exchange agreement with AMB DFS Pacific Coast, LLC, exchanging Parcel 11 for Parcel 26 in the Pacific Coast Business Park; approve an Agreement with Scannell Development Company for additional consideration to effectuate the exchange; authorize the Mayor to execute the agreements; authorize the City Clerk to accept the grant deed; and authorize staff to consummate the transaction.

PREPARED BY:



Douglas E. Edlow
Real Estate Manager

SUBMITTED BY:



Steven R. Jepsen
City Manager

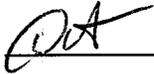
REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Darryl Hebert, Fire Chief

James Riley, Financial Services Director







PROPERTY EXCHANGE AGREEMENT

This PROPERTY EXCHANGE AGREEMENT ("Agreement") is made and entered into as of _____, 2014 ("Effective Date") by and between the City of Oceanside, a California municipal corporation ("City") and AMB DFS Pacific Coast, LLC, a Delaware limited liability company ("AMB").

RECITALS

WHEREAS, the City is the owner of a fee interest in that certain real property situated in the City of Oceanside, County of San Diego, State of California, as more particularly shown on Exhibit "A" attached hereto and incorporated herein by reference ("Parcel 11");

WHEREAS, AMB is the owner of a fee interest in that certain real property situated in the City of Oceanside, County of San Diego, State of California, as more particularly shown on Exhibit "B" attached hereto and incorporated herein by reference ("Parcel 26");

WHEREAS, AMB is also the owner of a fee interest in that certain real property situated in the City of Oceanside, County of San Diego, State of California, as more particularly shown on Exhibit "C" attached hereto and incorporated herein by reference (the "Sale Parcels");

WHEREAS, AMB desires to sell the Sale Parcels to Scannell Development Company, an Indiana corporation, or its permitted assignee (collectively, "Scannell"), and as a condition to closing the aforementioned transaction (the "Scannell Transaction"), AMB is required to cause the City to convey Parcel 11 to Scannell;

WHEREAS, the City and AMB desire to effectuate an exchange of Parcel 11 and Parcel 26 (the "Exchange"), contingent upon and contemporaneous with the consummation of the Scannell Transaction, such that after the simultaneous closing of the Exchange and the Scannell Transaction, Scannell will own Parcel 11 and the Sale Parcels, and the City will own Parcel 26;

WHEREAS, the City and Scannell also desire to enter into an agreement ("City/Scannell Transaction"), contingent upon and contemporaneous with the consummation of Scannell Transaction and the Exchange in order to effectuate the Exchange;

WHEREAS, the City has determined that an exchange of the respective properties is in the best interest of the public;

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained and for other valuable consideration, the parties hereto agree as follows:

AGREEMENT

ARTICLE 1. PURPOSE

- 1.1. Purpose of Agreement. The City and AMB respectively desire to exchange Parcel 11 for Parcel 26 and other valuable consideration on the terms and conditions in this Agreement.
- 1.2. Status and Powers of the City. The City is a California municipal corporation organized and existing pursuant to the Constitution and statutes of the State of California and is authorized to convey Parcel 11 to AMB or its designee and to acquire Parcel 26 from AMB and perform the conditions and covenants to be performed by the City as more particularly described in this Agreement.
- 1.3. Status and Powers of AMB. AMB is a limited liability company organized under and existing pursuant of the laws of the State of Delaware, and is authorized to conduct business in California, to convey Parcel 26 to the City, to acquire Parcel 11 from the City, and to perform the conditions and covenants to be performed by AMB as more particularly described in this Agreement.
- 1.4. Public Benefit. This Agreement is for the benefit of the public and is in the furtherance of the public purposes of the City.

ARTICLE 2. DEFINITIONS AND GENERAL PROVISIONS

- 2.1. Agreement. For good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as set forth herein.
- 2.2. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement. The term “party” shall refer to each of AMB and the City, and the term “parties” shall refer to both of AMB and the City, collectively.

ARTICLE 3. EXCHANGE OF PROPERTY

- 3.1. Exchange of Property and Consideration. The City agrees to convey Parcel 11 to AMB or its designee and, in exchange, AMB agrees to convey Parcel 26 to City on the terms and conditions set forth in this Agreement. The parties agree that the consideration for each respective property is the exchange of the other respective property.

ARTICLE 4.
CONDITIONS PRECEDENT

- 4.1. Conditions Precedent to Closing. Each party's obligation to convey its respective property to the other party is subject to the following conditions precedent set forth in Sections 4.2 through 4.13, inclusive (collectively, the "Conditions Precedent"). Subject to the other party's rights under Article 7 "ESCROW", if any of the Conditions Precedent have not been fulfilled within the applicable time periods or if the other party disapproves, pursuant to this Article 4, a matter for which the other party's approval is required, each respective party may:
- (a) Waive the condition or disapproval and close escrow with respect to the applicable property in accordance with this Agreement, without any adjustment in the consideration; or
 - (b) If such non-fulfillment has not been cured by the party responsible for fulfilling such condition within thirty (30) days after written notice by the other party, then the other party may cure such non-fulfillment and be reimbursed for the reasonable actual out-of-pocket expenses incurred to effect such cure; or
 - (c) Terminate this Agreement by written notice to the other party.
- 4.2. Title. The City shall convey title of Parcel 11 to AMB or its designee by grant deed and AMB shall convey title of Parcel 26 to the City by grant deed (collectively, the "Grant Deeds"), subject to the following: each party will provide to the other party access to all documents in its possession regarding each party's property, but makes no representations or warranties as to the accuracy or reliability thereof. Each party makes no representations or warranties, expressed or otherwise, regarding the condition of title to their respective property or the condition of the property. Each party or its agent is obligated to investigate, inspect and analyze the condition of the other property and the condition of title to the other property to its own satisfaction and expressly agrees that in entering into this Agreement, it is relying on its own investigation as to the condition of the property to be conveyed and condition of title to the property to be conveyed, except as expressly provided herein.
- 4.3. Preliminary Title Report. Upon ordering the escrow, each party shall request a preliminary title report for their respective property ("Preliminary Report") issued by First American Title Insurance Company ("Title Company") containing such exceptions as the Title Company would specify in a California Land Title Association ("CLTA") standard policy of title insurance (or, provided the other party so requests in writing, as the Title Company would specify in an American Land Title Association ("ALTA") extended owner's policy of title insurance), together with copies of all exceptions and plotted easements and the documents supporting the exceptions (hereinafter collectively called "Supporting Documents").

On or prior to the date that is fifteen (15) days after the Effective Date, each party shall give written notice to the other party of its approval or disapproval of the Preliminary Report, any part thereof, or of any exceptions, or of the condition of title reflected in the Preliminary Report or the Supporting Documents. If either party gives written notice of disapproval as provided in this paragraph, then the other party may elect, at its sole cost and expense, to remove or cure any disapproved item or items by delivering written notice thereof to the other party within ten (10) days following the date of written notification of the disapproval (and failure to deliver such notification shall be deemed such party's election not to remove or cure such disapproved items). If a party elects or is deemed to have elected not to remove or cure such disapproved items, then such party shall have until the end of the Feasibility Period to elect to terminate this Agreement or to accept title to the Property subject to such disapproved items. If a party fails to terminate this Agreement pursuant to Section 8.1, then such party shall be deemed to have elected to accept title subject to such disapproved items.

The parties recognize that certain encumbrances such as existing deeds of trust and the like will be discharged through escrow as provided in this Agreement. Notwithstanding the giving of any notice or any failure to give any notice with respect to these items, they shall be discharged (i) with respect to Parcel 11, by the City and (ii) with respect to Parcel 26, by AMB, through escrow as provided in this Agreement.

From and after the effective date of the Preliminary Report, each party shall not alter the condition of title of their respective property without the express written consent of the other party.

4.4. Title Policies. On or before the close of escrow, each party shall have received evidence that Title Company is ready, willing, and able to issue, upon payment of the Title Company's regularly scheduled premium a California Land Title Association (CLTA) standard policy of title insurance, or, if requested by the other party, an American Land Title Association (ALTA) extended owner's policy of title insurance in the face amount directed by each party (with respect to the property such party is acquiring hereunder) showing title to each respective property vested in the applicable party subject only to:

- (a) Non-delinquent general, special, and supplemental property taxes or assessments constituting a lien at close of escrow, if applicable; and
- (b) The matters described in the printed form portion of the Policy of Title Insurance to the extent that such matters do not conflict with the provisions of this Agreement; and
- (c) Covenants, conditions, reservations, restrictions, easements or other matters appearing as exceptions in the Preliminary Report as approved by each respective party pursuant to this Agreement; and

- (d) Any lien voluntarily imposed by each party with respect to the property to be conveyed by the other party as of the close of escrow.
- 4.5. Physical Condition of Parcel 11. AMB accepts the physical condition of Parcel 11. AMB agrees that Parcel 11 is being exchanged in an “As-Is” and “Where-Is” condition, except as expressly provided for elsewhere herein. The City shall not cause the physical condition of Parcel 11 to deteriorate or change after the date of the inspection, normal wear and tear excepted, without the prior written consent of AMB.
- 4.6. Physical Condition of Parcel 26. The City accepts the physical condition of Parcel 26. The City agrees that Parcel 26 is being exchanged in an “As-Is” and “Where-Is” condition, except as expressly provided for elsewhere herein. AMB shall not cause the physical condition of Parcel 26 to deteriorate or change after the date of the inspection, normal wear and tear excepted, without the prior written consent of the City.
- 4.7. Property Documents. Within ten (10) working days after the date of this Agreement, each party shall make available for inspection by the other party current copies of all permits, soils tests, hazardous or toxic waste reports, geological studies, environmental impact studies, topographical maps, licenses, maintenance contracts, utility contracts, operating contracts, leases, maintenance contracts, service contracts, and other documents pertaining to the applicable property (“Property Documents”). Prior to the close of the Feasibility Period pursuant to Section 8.1 herein, each respective party shall review and approve or disapprove each respective set of Property Documents. On or before the close of escrow, where applicable, each respective party shall assign to the other party all of its rights and remedies under the Property Documents, to the extent assignable, pursuant to an assignment of contracts, warranties, guarantees, and other intangible property in the form of Exhibit D attached hereto. At the request of each respective party, the assignment of contracts shall exclude the other party’s rights under any Property Documents as designated by said respective party. At the request of the other party, each respective party shall use its best good faith efforts to obtain the consent to assignment of any other parties to the Property Documents as specified by the other party. At the request of the respective party, the other party shall terminate any Property Documents designated by said respective party (as authorized by the Property Documents), by delivering notices to the other party under the Property Documents in sufficient time to terminate the respective Property Documents prior to the close of escrow.
- 4.8. Non-foreign Affidavit. If applicable, on or before the close of escrow, AMB shall deliver to the City (i) a non-foreign affidavit as required by the Foreign Investment In Real Property Tax Act (FIRPTA) [42 USC § 1445] and (ii) a California Form 593-C Real Estate Withholding Certificate, each executed by AMB.

- 4.9. AMB's Obligations. The performance by AMB of each and every material covenant, agreement, and promise to be performed by AMB pursuant to this Agreement and the related documents executed or to be executed by AMB shall be a condition for the City's benefit.
- 4.10. City's Obligations. The performance by the City of each and every material covenant, agreement, and promise to be performed by the City pursuant to this Agreement and the related documents executed or to be executed by the City shall be a condition for AMB's benefit.
- 4.11. AMB's Representations. The truth and accuracy of all AMB's representations and warranties as set forth in this Agreement or in documents provided by AMB under this Agreement, subject to the provisions of Section 4.2, shall be a condition for the City's benefit.
- 4.12. City's Representations. The truth and accuracy of all City's representations and warranties as set forth in this Agreement or in documents provided by the City under this Agreement, subject to the provisions of Section 4.2, shall be a condition for the benefit of AMB.
- 4.13. Scannell Transaction. All conditions to the closing of the Scannell Transaction (other than conditions which are to occur simultaneously with the Close of Escrow) shall have been satisfied or waived except for the condition that Parcel 11 be conveyed to Scannell, which condition shall be satisfied simultaneously with the Close of Escrow; it being the intent of the parties that the Close of Escrow shall not occur unless the Scannell Transaction also closes at the same time.
- 4.14. City/Scannell Transaction. All conditions to the closing of the City/Scannell Transaction (other than conditions which are to occur simultaneously with the Close of Escrow) shall have been satisfied or waived.

ARTICLE 5.
REPRESENTATIONS AND WARRANTIES

- 5.1. Time. The representations and warranties by each respective party in this Article are made as of the date of this Agreement and as of the close of escrow and will survive the close of escrow, provided that any party claiming a breach by the other party of its representations and warranties must provide the other party written notice of such claim within one hundred eighty (180) days after the close of escrow. Any claim not asserted by written notice within one hundred eighty (180) days after the close of escrow, and any claim for an aggregate amount of less than Fifty Thousand Dollars (\$50,000) for all liability and losses, shall not be valid or effective, and no party shall have any liability with respect thereto. In no event will the liability of any party hereto for all breaches of representations and warranties exceed, in the aggregate, Three Hundred Thousand Dollars (\$300,000). Notwithstanding the foregoing, in the event that, within one hundred eighty (180)

days after the close of escrow, despite the truth of the representations and warranties set forth in this Article on the date hereof, new facts arise subsequent to the date hereof that result in any representation or warranty made in this Article 5 being untrue as of Closing, the party making such representation or warranty shall not be deemed in breach or default of this Agreement provided that such party promptly gives written notice of such new facts to the other party, and the sole and exclusive remedy of the other party for any such new facts and for the failure of such representation or warranty being correct as of Closing is to agree to accept such representation or warranty as modified by such new facts so disclosed or to terminate this Agreement for a failure of the condition in Section 4.11 or 4.12 above, as applicable.

- 5.2. Title. Each party has obtained (or will obtain as of close of escrow) all required consents, permissions or releases to convey good and marketable title to the other party.
- 5.3. Hazardous Substances. Neither party has received written notice, warning, notice of violation, administrative complaint, judicial complaint, or other formal or informal written notice alleging that conditions on such party's property is or has been in violation of any environmental law, or informing such party that such party's property is subject to investigation or inquiry regarding hazardous substances on such party's property or the potential violation of any environmental law.
- 5.4. Violation of Law. To each party's knowledge, such party has not received written notice that any condition on their respective property violates any health, safety, fire, environments, building, zoning or other federal, state, or local law, code, ordinance, or regulation.
- 5.5. Litigation. To each party's knowledge, such party has not received written notice of pending or threatened litigation, administrative proceeding, or other legal or governmental action or condemnation with respect to such party's respective property or which may adversely affect such party's ability to fulfill the obligations of this Agreement.
- 5.6. Bankruptcy. No filing by AMB or petition under the United States Bankruptcy Law or any insolvency laws, or any laws for composition of indebtedness or for the reorganization of debtors has been filed with regard to AMB.
- 5.7. No Defaults. To each party's knowledge, such party has not received written notice that (i) it is in default of its obligations or liabilities pertaining to such party's property, (ii) there are facts, circumstances, conditions or events, which after notice or lapse of time would constitute default or (iii) there is likely to be any breach or default of any of such party's obligations or liabilities pertaining to such party's property.

- 5.8. Special Studies Zone. To each party's knowledge, neither property is within a special studies zone under the Alquist-Priolo Geologic Hazard Act [Pub. Res. Code §§ 2621.9 et seq.] (which generally requires sellers to inform purchasers if property is within a special studies zone, which zones are generally near potentially or recently active earthquake faults).
- 5.9. Foreign Investment Real Property Tax Act. AMB is not a "foreign person" within the meaning of 42 USC § 1445(f)(3). AMB understands and agrees that the City may disclose the certification made in this section to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment or both. This certification is made under penalty of perjury under the laws of the State of California.
- 5.10. Power to Enter into Agreements.
- (a) AMB is duly authorized to enter into this Agreement. The provisions of this Agreement are and will be the valid and legally enforceable obligations of AMB in accordance with their terms and the terms of this Agreement. AMB has duly authorized and executed this Agreement.
 - (b) The City is duly authorized to enter into this Agreement. The provisions of this Agreement are and will be the valid and legally enforceable obligations of the City in accordance with their terms and the terms of this Agreement. The City has duly authorized and executed this Agreement.
- 5.11. No Violation of Other Agreements. Each party hereby represents that neither the execution and delivery of this Agreement, nor the fulfillment of and compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of terms or violation of any other agreement to which each party is involved or by which each party is bound, or constitutes a default under any of the foregoing.
- 5.12. Payment of Obligations. To the extent each party is authorized by the Property Documents, each party shall discharge all obligations and liabilities under the Property Documents before the close of escrow with respect to each party's respective property.
- 5.13. Brokers. Each party agrees that there are no brokers or real estate agents involved in the transactions contemplated hereby that would be entitled to a fee or commission. Each party shall hold the other party harmless from any claims for such fees or commissions claimed by another broker, real estate agent or other third party claiming through each party.
- 5.14. Knowledge. For the purposes of this Article 5, the term "knowledge" shall refer to the actual knowledge, without investigation, of Scott Irwin, in the case of AMB, and the Real Estate Manager, Property Management Division in the case of the City.

ARTICLE 6.
COVENANTS

- 6.1. Litigation. Each party shall promptly notify the other party of any lawsuits, condemnation proceedings, rezoning, or other governmental order or action, or any threat thereof, of which each party has actual knowledge, which might affect their respective property or any interest of each regarding their property.
- 6.2. Indemnification. The City shall indemnify, defend and hold AMB harmless from all liability, loss, or claim for damages, and any costs and reasonable attorney's fees associated therewith, arising from breach of the City's covenants under this Agreement and any other related documents, or from the City's false representations under this Agreement or in any other related documents, except for any liability, loss, or claims for damages resulting from the sole negligence or willful misconduct of AMB or its officers or employees.

AMB shall indemnify, defend and hold the City harmless from all liability, loss, or claim for damages, and any costs and reasonable attorney's fees associated therewith, arising from breach of AMB's covenants under this Agreement and any other related documents, or from AMB's false representations under this Agreement or in any other related documents, except for any liability, loss, or claims for damages resulting from the sole negligence or willful misconduct of the City or its officers or employees.

The provisions of this Section 6.2 shall survive the close of escrow regarding each respective property.

ARTICLE 7.

ESCROW

- 7.1. Establishment of Escrow. Within seven (7) days after the date this Agreement is approved by the Oceanside City Council, the parties shall establish an Escrow for the close of the exchange of the properties with the escrow department of the Title Company at 1850 Mt. Diablo Boulevard, Suite 300, Walnut Creek, CA 94596, Attn: Shirley Fox, Phone (925) 927-2137, Fax (714) 481-8972, Email: shirleyfox@firstam.com ("Escrow Agent"). If the Escrow Agent is unwilling or unable to perform, the parties shall designate another escrow agent. Escrow Agent shall notify both parties in writing of the specific date on which the escrow has opened. This Agreement shall constitute escrow instructions, provided however, that Escrow Agent shall prepare general instructions as may be deemed necessary by the Escrow Agent for the fulfillment of this Agreement and deliver those general instructions to the parties. The parties shall each execute the general instructions, or propose changes thereto, within five (5) working days after receipt of the instructions. If there is any conflict between the terms of the general instructions and this Agreement, the provisions of this Agreement shall

prevail unless the conflicting provision is specifically identified as an amendment to this Agreement.

- 7.2. Closing. Subject to the provisions of Section 4.1 herein, the closing shall occur on the closing date of the Scannell Transaction (the “Closing” or “Close of Escrow”).
- 7.3. Closing Deposits. On or before the Close of Escrow, each party shall deposit with Escrow Agent the following documents and shall close Escrow as follows:
- (a) AMB shall deposit with Escrow Agent the following:
 - (i) The original executed and acknowledged grant deed conveying Parcel 26 to the City;
 - (ii) The original Non-Foreign Affidavit and California 593-C form executed by AMB;
 - (iii) Additional cash in the amount necessary to pay AMB’s share of the closing costs as set forth in this Agreement or the escrow instructions and the cost of the Title Policy for Title Insurance with respect to Parcel 11; and
 - (iv) Any other documents or funds required of AMB to close Escrow in accordance with this Agreement.
 - (b) The City shall deposit with Escrow Agent the following:
 - (i) The original executed and acknowledged grant deed conveying Parcel 11 to AMB or its designee;
 - (ii) The original Non-Foreign Affidavit and California 593-C form executed by the City;
 - (iii) Additional cash in the amount necessary to pay the City’s share of the closing costs as set forth in this Agreement or the escrow instructions and the cost of the Title Policy for Title Insurance with respect to Parcel 26; and
 - (iv) Any other document or funds required of the City to close Escrow in accordance with this Agreement.
- 7.4. Closing Costs. The parties shall pay the real property transfer taxes and documentary transfer taxes (if any) payable upon recordation of the Grant Deeds for the respective parcel each party is conveying, and any sales, use or ad valorem taxes connected with the Close of Escrow for each such parcel. The parties shall equally pay the Escrow Agent’s fee. The City and AMB shall each pay the premiums for the CLTA Standard Policy of Title Insurance for the property it is

acquiring. If either the City or AMB requests an ALTA extended owner's policy, the requesting party shall pay the excess premium for said title policy.

- 7.5. Property Taxes and Prorations. AMB shall be solely responsible for bringing the Parcel 26 real property taxes current as of the Close of Escrow and the City shall have no liability for payment of AMB taxes. It is recognized that the City is a tax-exempt governmental agency. It is recognized that the City is a tax-exempt governmental agency. Each party shall continue to be obligated to pay for gas, electricity, water or other utility charges applicable to each party's respective property and will be responsible for the cost of all such utilities used before Close of Escrow.
- 7.6. Possession. Right to possession of each property, or the applicable parcel, shall transfer at Close of Escrow free of all tenancies.

ARTICLE 8.

MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

- 8.1. Inspection and Feasibility Period. Each party hereby consents to entry upon its respective property by the other party or, in the case of the City, by Scannell, or their respective officers, employees, contractors and agents for the purpose of conducting physical inspections and tests from the Effective Date of this Agreement to the Close of Escrow. The City shall have forty-five (45) calendar days from the Effective Date of this Agreement and AMB shall have until ten (10) business days prior to the Close of Escrow (each such period being herein referred to as the "Feasibility Period" as it applies to each such party) in which to complete its inspections, testing and feasibility studies of the other party's property, including but not limited to, inspection and examination of soils, environmental factors, hazardous substances, if any, and archeological information relating to the other party's property; and a review and investigation of the effect of any zoning, map, permits, reports, engineering data, regulations, ordinances, and laws affecting the other party's property. Within ten (10) working days following the full execution of this Agreement, each party shall make available for inspection by the other party copies of all architectural plans, surveys, specifications, and other documents pertaining to its respective property that are owned by or in the possession of each respective party. If either party disapproves of the results of the inspection and review, either party may elect, prior to the last day of the Feasibility Period, to terminate this Agreement by giving the other party written notification prior to the last day of the Feasibility Period. If either party fails to properly notify the other party of its intent to terminate this Agreement, said party shall be deemed to be satisfied with the results of the inspection and shall be deemed to have waived the right to terminate this Agreement pursuant to this provision. Notwithstanding the foregoing, if the Scannell Transaction terminates or the closing of the Scannell Transaction fails to occur, for any reason whatsoever, then AMB may terminate this Agreement, and, unless such failure was the result of the City's default under this Agreement, neither party shall have any further rights or obligations hereunder. Further,

notwithstanding the foregoing, if the City/Scannell Transaction terminates for any reason whatsoever, then City may terminate this Agreement, and, unless such termination was the result of AMB's or City's default under this Agreement, neither party shall have any further rights or obligations hereunder.

- 8.2. Further Assurances. Whenever requested by the other party, each party shall execute, acknowledge, and deliver any further conveyances, assignments, confirmations, satisfactions, releases, instruments of further assurance, approvals, consents and any other instrument or document as may be reasonably necessary, expedient or proper to complete the transaction contemplated by this Agreement, and to do any other acts and to execute, acknowledge, and deliver any requested document to carry out the intent and purpose of this Agreement.
- 8.3. Assignment. Neither party shall have the right, power, or authority to assign or mortgage this Agreement or any portion of this Agreement, or to delegate any duties or obligations arising under this Agreement, voluntarily, involuntarily, or by operation of law, without the prior written consent of the other party. Neither party shall unreasonably withhold approval to any assignment. Notwithstanding the foregoing, AMB may assign any or all of its rights and benefits hereunder, including, without limitation, its surviving remedies, with respect to Parcel 11 to Scannell, without the consent of the City.
- 8.4. Preservation and Inspection of Documents. Documents received by either party under the provisions of this Agreement shall be retained in their respective possessions and shall be subject at all reasonable times to the inspection of the other party hereto and its assigns, agents and representatives, any of whom may make copies thereof.
- 8.5. Parties of Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or party other than each respective party (and, to the extent provided in this Agreement, Scannell) any rights, remedies or claims under or by reason of this Agreement or any covenants, condition or stipulation hereof; and all covenants, stipulations, promises and agreements in this Agreement made by or on behalf of each party shall be for the sole and exclusive benefit of the other party (and, to the extent provided in this Agreement, Scannell). For the avoidance of doubt, Scannell's consent shall not be required to amend, modify, terminate or waive this Agreement or any provision contained herein.
- 8.6. No Recourse under Agreement. All covenants, stipulations, promises, agreements and obligations of the parties hereto contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the parties hereto, respectively, and not of any member, officer, employee or agent of the parties hereto in an individual capacity, and no recourse shall be had for any claim based on or under this Agreement against any member, officer, employee or agent of the parties hereto.

8.7. Notices. Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered in person to an officer or duly authorized representative of the other party, deposited in the United States mail, duly certified or registered (return receipt requested), postage prepaid, or delivered by Express Mail of the U.S. Postal Service or Federal Express or any other courier guaranteeing overnight delivery, charges prepaid. Notices, requests, demands, consents, approvals and other communications may also be transmitted by telecopy or electronic mail. If any notice, request, demand, consent, approval or other communication is sent by mail as aforesaid, the same shall be deemed fully delivered and received two (2) business days after mailing as provided above. Any notice, request, demand, consent, approval or other communication sent by overnight service shall be deemed delivered one (1) business day after delivery of the same, charges prepaid, to the U.S. postal service or private courier. If any notice, request, demand, consent, approval or other communication is sent by telecopy or electronic mail, the same shall be deemed served or delivered upon successful transmission thereof. Any notice, request, demand, consent, approval or other communication sent by any other manner shall be effective only upon actual receipt thereof. All notices, requests, demands, consents, approvals and other communications shall be addressed to the party for whom intended, as follows:

If to the City:

CITY OF OCEANSIDE
Property Management Division
ATTN: Real Property Manager
300 North Coast Highway
Oceanside, CA 92054
Email: deddow@ci.oceanside.ca.us

Copy to:

City Attorney's Office
CITY OF OCEANSIDE
300 North Coast Highway
Oceanside, CA 92054
Email: bhamilton@ci.oceanside.ca.us

If to AMB:

AMB DFS Pacific Coast, LLC
c/o Prologis, L.P.
17777 Center Court Drive, Suite 100
Cerritos, CA 90703
Attn: Scott Irwin
Email: SIrwin@prologis.com

Copy to:

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94303
Attn: Philip J. Levine, Esq.
Email: PLevine@mof.com

The parties hereto, by notice given hereunder, may, respectively designate different addresses to which subsequent notices, certificates or other communications will be sent.

- 8.8. Binding Effect. Without waiver of Section 8.3, this Agreement shall inure to the benefit of and shall be binding upon each party, and its respective successors and assigns.
- 8.9. Severability. If any one or more of the covenants, stipulations, promises, agreements or obligations provided in this Agreement on the part of each party to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant, stipulation, promise, agreement or obligation shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, agreements and obligations herein contained and shall in no way affect the validity of the other provisions of this Agreement.
- 8.10. Headings. Any headings preceding the text of the several Articles and Sections hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience or reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.
- 8.11. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- 8.12. Each Party's Representatives. Whenever under the provisions of this Agreement the approval of each respective party is required, or each respective party is required to take some action at the request of the other, such approval of such request may be given for each party by an authorized officer of said party, and any party hereto shall be authorized to rely upon any such approval or request.
- 8.13. Amendment. This Agreement may be amended, modified, or changed only in writing as mutually agreed to and duly executed by the parties hereto.
- 8.14. Counterparts. This Agreement may be executed in counterparts by PDF copy, and all such counterparts together shall constitute one and the same document.
- 8.15. Time of the Essence. Time is of the essence in this Agreement and every provision contained in this Agreement.
- 8.16. Integration. This Agreement, and all attachments and exhibits hereto constitute the entire agreement of the parties. There are no oral or parol agreements, which

are not expressly set forth in this Agreement or the related documents being executed in connection with this Agreement.

- 8.17. Waivers. No waiver or breach of any provision shall be deemed a waiver of any other provision, and no waiver shall be valid unless it is in writing and executed by the waiving party. No extension of time for performance of any obligation or act shall be deemed an extension of time for any other obligation or act.
- 8.18. Attorneys' Fees, Litigation Costs and Related Matters. If any legal action or other proceeding, including arbitration or an action for declaratory relief, is brought to enforce this Agreement or because of a dispute, breach, default, or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and other costs in addition to any other relief. Venue for enforcement of this Agreement shall be in the Superior Court of San Diego County, North County Branch. The parties agree that before either party commences any legal or equitable action, action for declaratory relief, suit, proceeding, or arbitration that the parties shall first submit the dispute to mediation through a mutually acceptable professional mediator in San Diego County, or if a mediator cannot be agreed upon by a mediator appointed by the Judicial Arbitration and Mediation Service in San Diego County. The parties shall share the cost of mediation equally.
- 8.19. Exhibits. All exhibits referred to in this agreement and attached hereto are made a part hereof and are incorporated herein by this reference.
- 8.20. Survival. Each party's representations and warranties, all covenants and obligations to be performed at a time or times after Close of Escrow, and indemnities shall survive the Close of Escrow, subject to the limitations set forth in Section 5.1.
- 8.21. Merger. All of the terms, provisions, representations, warranties, and covenants of the parties under this Agreement shall survive the Close of Escrow and shall not be merged in the Grant Deeds or other documents.
- 8.22. AMB's Default. If the Close of Escrow does not occur due to a default under this Agreement by AMB (provided that AMB shall not be in default hereunder if the Scannell Transaction fails to close for any reason whatsoever), the City may terminate this Agreement by delivery of notice of termination to AMB, and AMB shall reimburse the City for the out-of-pocket expenses incurred by the City, up to a maximum amount of Fifty Thousand Dollars (\$50,000.00), in connection with the transaction contemplated and the City/Scannell Transaction hereunder, provided the City submits to AMB evidence reasonably satisfactory to AMB that the City has incurred and paid for such expenses, and all parties hereto shall be relieved of all further obligations hereunder (other than obligations which by their terms survive such a termination).

8.23 City's Default. If the Close of Escrow does not occur due to a default under this Agreement by the City, AMB may (i) terminate this Agreement by delivery of notice of termination to the City, and the City shall reimburse AMB for the out-of-pocket expenses incurred by AMB, up to a maximum amount of Fifty Thousand Dollars (\$50,000.00), in connection with the transaction contemplated hereunder and the Scannell Transaction, provided AMB submits to the City evidence reasonably satisfactory to the City that AMB has incurred and paid for such expenses, and all parties hereto shall be relieved of all further obligations hereunder (other than obligations which by their terms survive such a termination); or (ii) commence an action for specific performance.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement constitutes offers to exchange the respective properties on the terms and conditions contained in this Agreement and the parties hereto have caused this Agreement to be executed in their respective names by their duly authorized officers as of the date first above written.

CITY:

City of Oceanside,
a California municipal corporation

By: _____
Mayor

Date: _____

APPROVED AS TO FORM
CITY ATTORNEYS' OFFICE

By: Robert Hamilton, ASST.
City Attorney

AMB:

AMB DFS Pacific Coast, LLC,
a Delaware limited liability company

By: Prologis DFS Fund 1, LLC,
a Delaware limited liability company
its sole member

By: Prologis Logistics Services
Incorporated,
a Delaware corporation,
its manager

By: ASL

Name: ANDREW SCOTT LEWIN

Title: VICE PRESIDENT

Date: JULY 22, 2014

State of California)

) ss.

County of _____)

On _____ before me, _____, 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 signature(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)

State of California)

) ss.

County of _____)

On _____ before me, _____, 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 signature(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)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

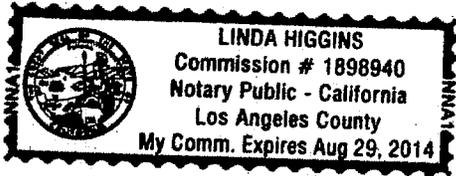
State of California

County of Los Angeles

On July 22, 2014 before me, Linda Higgins, Notary Public

personally appeared Andrew Scott Inman, Jr.

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 signature(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: Linda Higgins

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Property Exchange Agreement

Document Date: Signed 7-22-14 Number of Pages: 18 w/ exhibits A-D

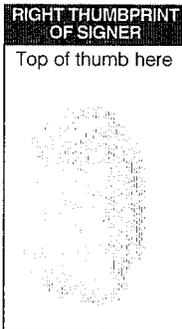
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

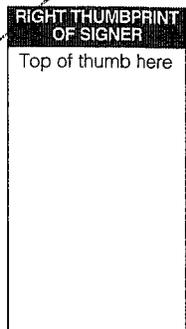
Signer's Name: Andrew Scott Inman, Jr. Signer's Name: _____

Corporate Officer — Title(s): Vice President Corporate Officer — Title(s): _____

- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: AMB DFS Pacific Crest, LLC

Signer Is Representing: _____

EXHIBITS

Exhibit A	Parcel 11
Exhibit B	Parcel 26
Exhibit C	Sale Parcels
Exhibit D	Assignment and Assumption of Contracts, Warranties and Guaranties and Other Intangible Property

EXHIBIT A

Legal Description of Parcel 11

PARCEL 11 OF PARCEL MAP NO. 20306, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY JULY 24, 2007 AS INSTRUMENT NO. 2007-0494309, OF OFFICIAL RECORDS.

EXHIBIT B

Legal Description of Parcel 26

PARCEL 26 OF PARCEL MAP NO. 20306, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY JULY 24, 2007 AS INSTRUMENT NO. 2007-0494309, OF OFFICIAL RECORDS.

EXHIBIT C

Legal Description of Sale Parcels

PARCELS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 12 OF PARCEL MAP NO. 20306, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY JULY 24, 2007 AS INSTRUMENT NO. 2007-0494309, OF OFFICIAL RECORDS.

EXHIBIT D

Assignment and Assumption of Contracts, Warranties and Guaranties and Other Intangible Property

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACTS, WARRANTIES AND GUARANTIES AND OTHER INTANTIBLE PROPERTY (the "Assignment") dated as of _____, 201_, is between _____, a _____ ("Assignor"), and _____, a _____ ("Assignee").

A. Assignor owns certain real property and certain improvements thereon located in the City of Oceanside, County of San Diego, State of California, and more particularly described in attached Exhibit A (the "Property").

B. Assignor and Assignee have entered into a Property Exchange Agreement dated as of _____, 2014 (the "Agreement"), pursuant to which Assignor agreed to convey the Property to Assignee, and Assignee agreed to accept such conveyance, on the terms and conditions contained therein.

C. Assignor desires to assign to Assignee its interest in certain warranties, guaranties, and intangible personal property with respect to the Property, and Assignee desires to accept the assignment thereof, on the terms and conditions below.

ACCORDINGLY, the parties hereby agree as follows:

1. As of the date on which the Property is conveyed to Assignee pursuant to the Agreement (the "Conveyance Date"), Assignor hereby assigns without recourse or warranty of enforceability all of its right, title and interest in and to the following:

(a) any warranties and guaranties ("Warranties and Guaranties") made by or received from any third party with respect to any improvements owned by Assignor on the Property; and

(b) any other intangible property now owned by Assignor in connection with the Property.

2. In the event of any dispute between Assignor and Assignee arising out of the obligations of Assignor under this Assignment or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's costs and expenses of such dispute, including, without limitation, reasonable attorneys' fees and costs.

3. This Assignment shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

4. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

5. The obligations of Assignor are intended to be binding only on the property of the Assignor and shall not be personally binding upon, nor shall any resort be had to, the private properties of any of its trustees, officers, directors or shareholders, its investment manager, the partners, officers, directors or shareholders thereof, or any employees or agents of the Assignor or the investment manager. The obligations of Assignor are subject to the limitations on liability contained in Sections 5.1 and 8.6 of the Agreement.

Assignor and Assignee have executed this Assignment the day and year first above written.

ASSIGNOR:

By: _____

Name: _____

Title: _____

ASSIGNEE:

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM
CITY ATTORNEYS' OFFICE

By: _____

Name: _____

Title: City Attorney

AGREEMENT

This AGREEMENT ("*Agreement*") is made and entered into as of the ___ day of _____, 2014 (the "*Effective Date*") by and between the CITY OF OCEANSIDE, a California Municipal corporation (the "*City*"), SCANNELL DEVELOPMENT COMPANY, an Indiana corporation ("*SDC*") and SCANNELL PROPERTIES #190, LLC, an Indiana limited liability company ("*SP190*").

RECITALS

WHEREAS, SDC and AMB DFS Pacific Coast, LLC, a Delaware limited liability company ("*AMB*") entered into a certain Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions dated February 25, 2014, as amended by First Amendment to Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions dated March 27, 2014 (collectively, the "*Purchase Agreement*") covering (i) certain real property consisting of approximately 34 acres at the corner of Old Grove Road and Avenida del Oro in Oceanside, California 92056, as more particularly described in the Purchase Agreement (the "*34 Acre Tract*"); and (ii) certain real property situated in the City of Oceanside, County of San Diego, State of California, as more particularly shown on Exhibit A, attached hereto and incorporated herein by reference ("*Parcel 11*" with the 34 Acre Tract and Parcel 11 being hereinafter sometimes collectively referred to as the "*Sale Property*");

WHEREAS, the City and AMB are, concurrently herewith, entering into a Property Exchange Agreement (the "*Property Exchange Agreement*");

WHEREAS, the Property Exchange Agreement provides for the conveyance of Parcel 11 by the City to AMB and for the conveyance of certain real property situated in the City of Oceanside, County of San Diego, State of California, as more particularly shown on Exhibit B, attached hereto and incorporated herein by reference ("*Parcel 26*") by AMB to the City, all upon terms which will facilitate closing on the transactions contemplated in the Purchase Agreement;

WHEREAS, SDC intends to assign the Purchase Agreement to its affiliate, SP190 and both SDC and SP190 (collectively referred to herein as "*Scannell*") will benefit from the terms of the Property Exchange Agreement; and

WHEREAS, in order to induce the City to enter into the Property Exchange Agreement, Scannell has agreed to provide certain consideration to and for the benefit of the City, as more particularly provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and for other valuable consideration, the parties hereto agree as follows:

1. **Obligations of Scannell.** Subject to, and conditioned upon, the satisfaction of the Conditions set forth in Section 3 of this Agreement (the "*Conditions*"), Scannell covenants and agrees as follows:

- a. Reimbursement of Expenses. Within five (5) business days of the satisfaction of all Conditions, Scannell will pay to the City the sum of Six Hundred Thousand and no/100 dollars (\$600,000.00) as a reimbursement to the City for expenses incurred and/or for future development costs that may be incurred by the City with respect to Parcel 26.

- b. Employment Opportunities. Scannell intends to develop a “build-to-suit” facility (the “*Facility*”) for its prospective tenant, FedEx Ground Package System, Inc. (“*FedEx Ground*”) on the Sale Property. The development of the Facility may necessitate hiring of new full or part time employees (with any positions for any such employees being referred to herein as “*New Employment Position(s)*”). Scannell intends to enter into a lease agreement with FedEx Ground for the Facility (the “*Lease*”) but will not have any right or authority under that Lease to participate in any employment or hiring processes or decisions that FedEx may make with respect to any such New Employment Positions. In this regard, however, SP190 will procure an agreement on the part of FedEx Ground under the Lease to:
 - (i) Hold a job fair in the City that is open to the general public contemporaneously with FedEx Ground’s public posting of advertisements for its New Employment Positions;
 - (ii) Advertise the availability of its New Employment Positions in up to three (3) local publications that are selected by the City;
 - (iii) Work with the Oceanside Chamber of Commerce to advertise its New Employment Positions and to encourage Oceanside residents to apply for those New Employment Positions;
 - (iv) Advertise the availability of the New Employment Positions at (A) the City’s internet website; (B) the City’s Facebook page; and/or (C) or other similar internet sites designated by the City.

Nothing contained herein will be deemed or construed to create any obligation for FedEx Ground to ultimately make any hiring or other employment related decision with respect to the Facility or its operations based upon the fact that the individual being considered for any such New Employment Position is or is not a resident of the City.

2. Obligations of City. The City covenants and agrees that it shall execute and fully perform the Property Exchange Agreement in exchange for and as a condition to Scannell’s performance of the terms provided herein.

3. Conditions. The obligations of Scannell provided in Section 1 of this Agreement shall be conditioned upon and subject to the full and completed performance of the following Conditions:

- a. The City shall have performed all of its obligations under Section 2 of this Agreement;
- b. The transaction contemplated in the Purchase Agreement shall have closed and title to the Sale Property shall have been conveyed to SP190.
- c. Scannell shall have obtained and/or received any and all entitlements, permits, authorizations and approvals for the development and construction of the Facility from the City and from any other governmental authority having jurisdiction, with each and all of those entitlements, permits, authorizations and approvals being final, and un-appealable.

In the event the Conditions contained in this Section 3 are not fully and completely satisfied or, in the event the Purchase Agreement and/or the Property Exchange Agreement are terminated in any form or fashion, the terms of this Agreement shall be null and void and of no further consequence.

4. **No Violations.** The parties hereto each represents to the other that neither the execution and delivery of this Agreement, nor the fulfillment of and compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of terms or violation of any other agreement to which each party is involved or by which each party is bound, or constitutes a default under any of the foregoing.

5. **Miscellaneous.**

- a. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- b. This Agreement may be amended, modified, or changed only in writing as mutually agreed to and duly executed by all of the parties hereto.
- c. This Agreement may be executed in counterparts by PDF copy, and all such counterparts together shall constitute one and the same document.
- d. Time is of the essence in this Agreement and every provision contained in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date first set forth above.

[SIGNATURES ON NEXT PAGE]

“CITY”

City of Oceanside,
a California municipal corporation

By: _____
Mayor

Date: _____

APPROVED AS TO FORM
CITY ATTORNEYS’ OFFICE

By: *Antonia Hamilton, ASST.*
City Attorney

2577544_1

“SDC”

Scannell Development Company,
an Indiana corporation

By: *James C. Carlino*
James C. Carlino, General Counsel

Date: *July 1, 2014*

“SP190”

Scannell Properties #190, LLC,
an Indiana limited liability company

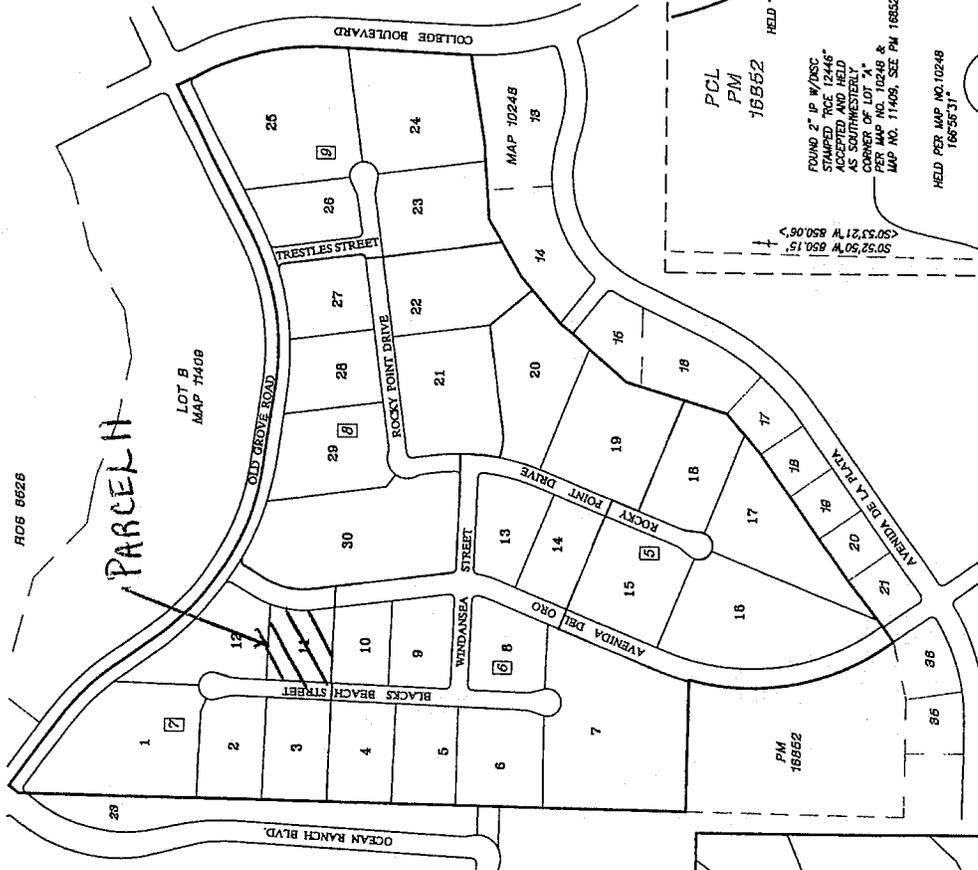
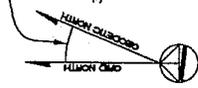
By: *James C. Carlino*
James C. Carlino, Manager

PARCEL MAP NO. 20306

PACIFIC COAST BUSINESS PARK INDEX AND DETAIL SHEET

SHEET 4 OF 10 SHEETS
P-8-04/D-17-04

AT STATION 114+00.00
MAPPING ANGLE = -00°35'22.5"

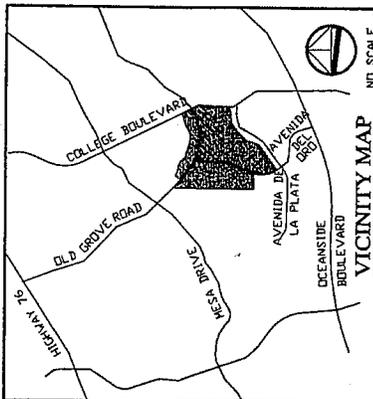
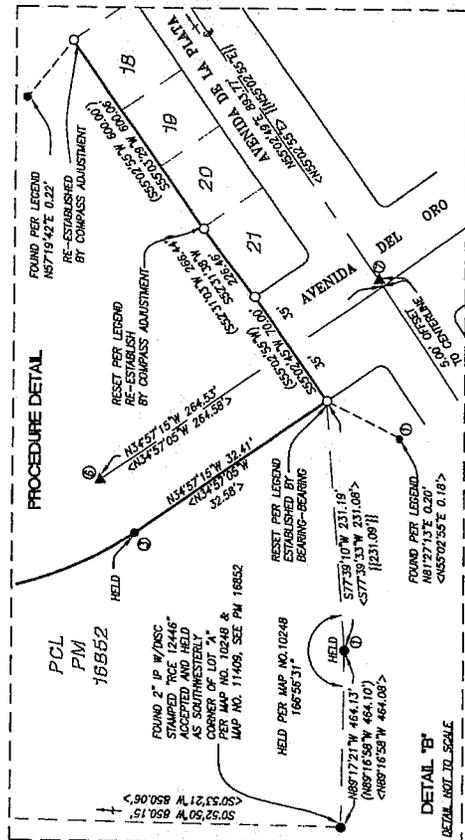
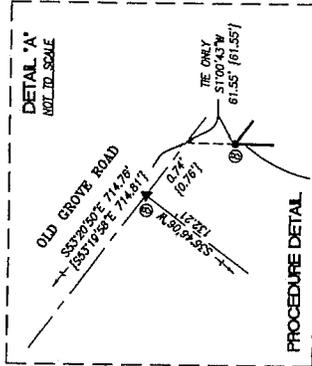


INDEX LEGEND

- INDICATES SHEET LIMITS (INDEX SHEET ONLY)
- ⑤ INDICATES SHEET NO. (INDEX SHEET ONLY)
- //// INDICATES VEHICULAR ACCESS RIGHTS WAVED AND DEDICATED HEREON.

NOTES

- THE TOTAL NUMBER OF PARCELS= 30
- INDUSTRIAL PARCELS= 30 (PARCELS 1 THROUGH PARCEL 30)
- TOTAL GROSS AREA= 120.57 ACRES
- UNLESS OTHERWISE SHOWN ON THIS MAP, PARCEL CORNERS WILL BE MONUMENTED BY A 3/4" X 18" GALVANIZED PIPE WITH DISC STAMPED "L.S. 5941".
- UNLESS OTHERWISE SHOWN ON THIS MAP, ALL PARCEL MAP CORNERS WILL BE MONUMENTED BY A 2" GALVANIZED PIPE WITH DISC STAMPED "L.S. 5941".
- ALL DISTANCES AND/OR STREET WIDTHS SHOWN WITHOUT DECIMALS REPRESENT THAT DISTANCE TO ZERO HUNDRETHS.
- ANY CURVE SHOWN IN THIS MAP IS TANGENT TO ITS ADJACENT COURSES; UNLESS A RADIAL BEARING IS SHOWN AT ITS POINT-OF-CURVATURE.
- THE SIDELINES OF ALL STREETS ARE CONCENTRIC AND OTHERWISE SHOWN.



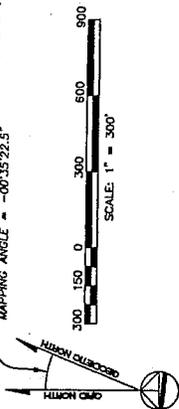
bHA, Inc. 5415 W. Oceanview Blvd., Suite 200, San Diego, CA 92121 (619) 531-5920

PARCEL MAP NO. 20306

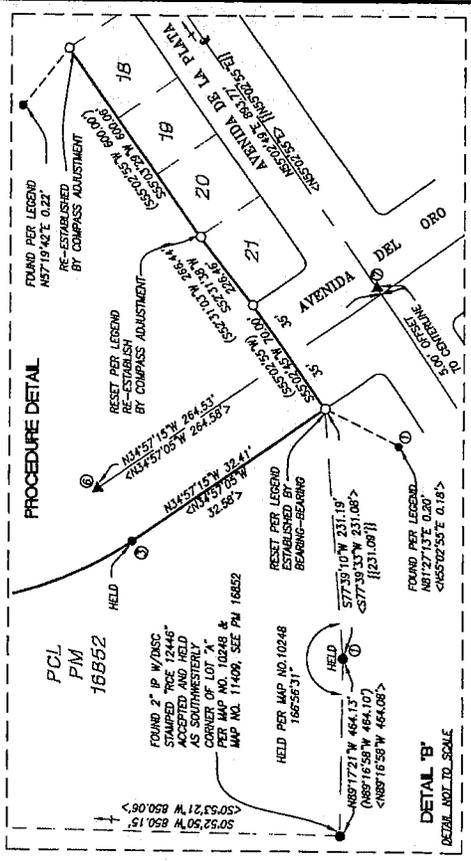
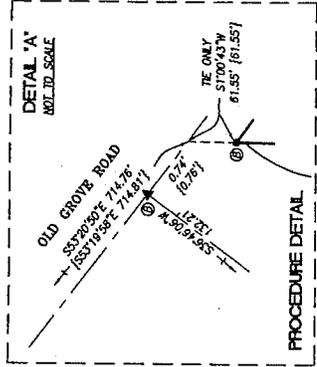
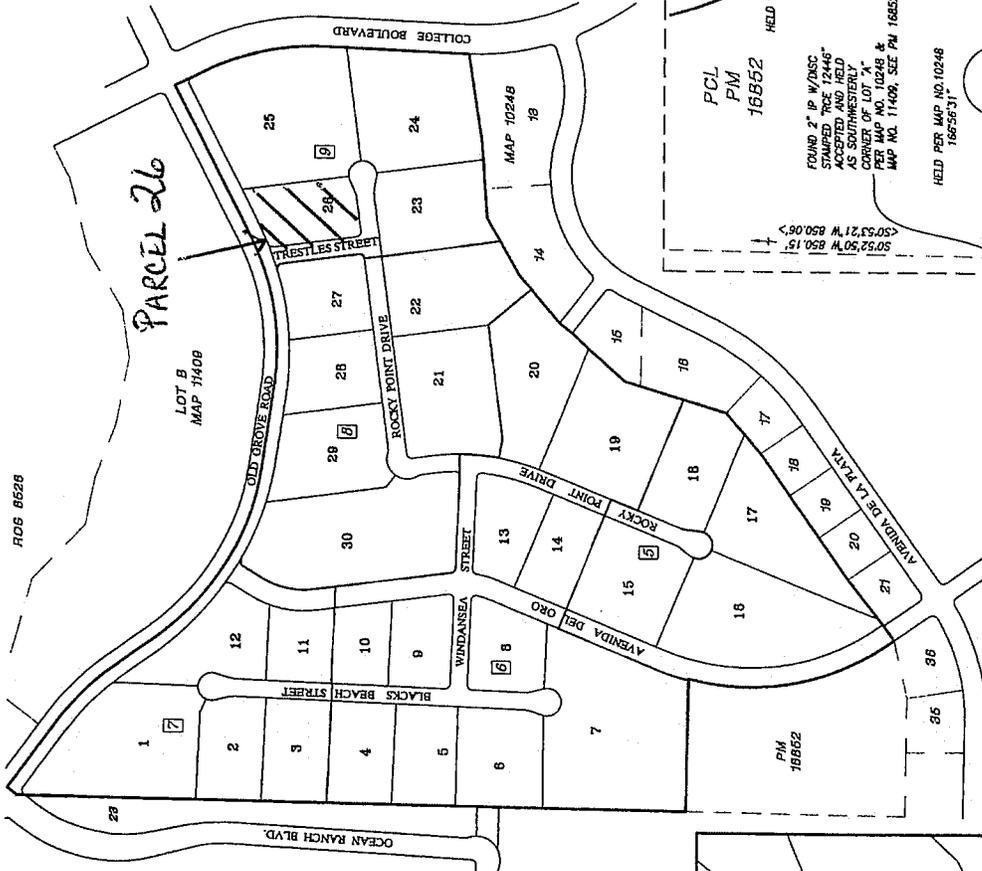
EXHIBIT B

SHEET 4 OF 10 SHEETS
P-8-04/D-7-04

AT STATION 11+000CS2
MAPPING ANGLE = -00°35'22.5"



PACIFIC COAST BUSINESS PARK INDEX AND DETAIL SHEET

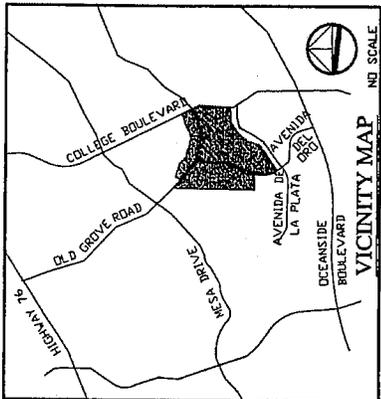


INDEX LEGEND

- INDICATES SHEET LIMITS (INDEX SHEET ONLY)
- 5 INDICATES SHEET NO. (INDEX SHEET ONLY)
- /// INDICATES VEHICULAR ACCESS RIGHTS WAIVED AND DEDICATED HERETO.

NOTES

- 1. THE TOTAL NUMBER OF PARCELS= 30
- 2. INDUSTRIAL PARCELS= 30 (PARCELS 1 THROUGH PARCEL 30)
- 3. TOTAL GROSS AREA= 120.57 ACRES
- 4. UNLESS OTHERWISE SHOWN ON THIS MAP, PARCEL CORNERS WILL BE MONUMENTED BY A 3/4" X 16" GALVANIZED PIPE WITH DISC STAMPED "L.S. 5941".
- 5. UNLESS OTHERWISE SHOWN ON THIS MAP, ALL PARCEL MAP CORNERS WILL BE MONUMENTED BY A 2" GALVANIZED PIPE WITH DISC STAMPED "L.S. 5941".
- 6. ALL DISTANCES AND/OR STREET WIDTHS SHOWN WITHOUT DECIMALS REPRESENT THAT DISTANCE TO ZERO HUNDRETHS.
- 7. ANY CURVE SHOWN IN THIS MAP IS TANGENT TO ITS ADJACENT CURVES, UNLESS A RADIAL BEARING IS SHOWN AT ITS POINT-OF-CURVATURE.
- 8. THE SIDELINES OF ALL STREETS ARE CONCENTRIC AND PARALLEL TO THE CENTERLINE OF THAT STREET UNLESS OTHERWISE SHOWN.



bHA, Inc. 2112 AVENUE 21, SUITE 2000 (760) 841-4700